

Dismissal and public demotion of professors: An empirical analysis of structural commonalities in apparently different ‘cases’¹

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The article examines dismissals and public demotions of (female) professors in Germany, Austria and Switzerland. Through media analyses, standardised questionnaires and qualitative interviews, structural similarities and differences are sought out. With the aim to identifying constitutive patterns. The results show (a) three clearly distinguishable media narratives, (b) that none of the professors were dismissed or demoted due to scientific misconduct, (c) anonymous accusations often formed the basis for escalation, (d) women and foreigners were particularly affected, (e) the number of ‘cases’ has markedly increased since 2015, (f) procedures that were used within the science institutions to clarify the circumstances of the case do not meet legal requirements, and (g) management in particular acted in an unacceptable way as both plaintiff and judge.

1 Introduction: Individual cases or structural commonalities?

In the recent past, more and more cases have come to light in which professionally recognised (female) professors have been removed from their positions through dismissal or public demotion (e.g., Buchhorn & Freisinger, 2020; Rubner, 2020). When we look at the various cases, they initially appear to be individual cases that are independent of each other: the way a person (professor) dealt with staff and students was apparently so inappropriate and intolerable that ‘courageous whistleblowers’ made this public anonymously and higher-level authorities (rectorates, presidencies of research institutions) put a stop to the unacceptable conditions. But if several of these individual cases are compared, commonalities become visible. What is striking about the dismissals and demotions is that (a) the reasons given were neither scientific misconduct nor professional incompetence, but mostly ‘*misconduct in leadership*’, (b) the escalation often took place on the basis of anonymous accusations in which the person concerned was described as ‘difficult’, accused of ‘abuse of power’ and creating an

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'atmosphere of fear', (c) female professors in particular were affected, (d) the number of cases have apparently been increasing since 2015, and (e) procedures used within the institutions to clarify the circumstances of the case did do not meet legal requirements. Hence, the extensive and careful research on the most recent prominent case in a series of articles in the Swiss newspaper *Republik* 2019 exposed an important aspect of practically all the 'cases': a story in which the power interests of the diverse actors, from the university management to the ombudsman's office and any commissions appointed, took precedence over rule-of-law principles, so that the accused (female) professor was not given the opportunity to clarify the facts at hand. Instead, she was dismissed under intense media scrutiny.

The research on other publicly available cases revealed similar procedures. They refer not only to anonymous accusations, but also to cases in which banalities such as errors in administrative conduct were used as reasons for dismissal, including forms submitted to the wrong place or missing administrative data. Regardless of the seemingly different circumstances, the dismissals and public demotions show striking similarities in the structure of the procedures and even the argumentation.

The article takes these observations as a starting point and pursues the research question of *what patterns can be identified in the dismissals and public demotions that have become known*. In addition to some other aspects, the focus here is primarily on the *procedures* within the university or research institution that led to the decision to remove the professor from her position. In principle, it can be assumed that procedures carried out inside academic institutions on the basis of decision-making are as legitimised by the rule of law as procedures in similar environments, especially (but not only) because they have the most drastic consequences for the accused (female) professors. How else should the facts of the case be clarified? And how else could a learning experience be triggered in those involved? The idea of 'legitimation through procedure' (Luhmann, 1969) is one of the central ideas of a liberal society. On the one hand, the participation of those affected in the procedural roles, as provided in constitutional procedures, serves to ensure and improve the quality of the decision-making process; on the other hand, it offers the only inherent possibility of convincing the parties of the correctness (truth, justice) of the decision, also in the sense of a learning aid (Kieserling, 2012, p. 145 f.). Nevertheless, the results of the present survey show that in all the cases investigated, strong doubts are raised as to whether the procedures used prior to dismissal or demotion satisfy the principles of the rule of law. The obvious question of whether the affected professor could be justifiably accused of the (often anonymously reported) actions is therefore irrelevant for this study - this should have been investigated in the procedures

preceding the dismissal or demotion decision. Against the background of the overwhelming impression of systematic disregard for the principles of the rule of law in the intra-institutional proceedings, we apply the principle of the presumption of innocence here. As a signal for this doubt, we put the term ‘case’ in inverted commas.

Thematically, the present study enters new academic territory. There is a large body of literature on the specifics of destructive behaviour within the sociotopes of academic institutions, which can be summarised by keywords such as *academic mobbing or bullying in higher education* (e.g. Crawford, 2019; Lester, 2013; Prevost & Hunt, 2018; Westhues, 2006a) or more generally by the concept of *academic incivility* (e.g. Itzkovich et al., 2020; Twale & De Luca, 2008). However, we are not aware of any specific studies on dismissals or public demotions at the leadership level of academia.

2 Data basis and methodology

The starting point for the empirical analysis were the ‘cases’ documented by the ‘Network of Dismissed Women Professors’² on the basis of media reports from Germany, Austria and Switzerland (D-A-CH countries) at the beginning of 2020. Our research revealed further examples, so that as of June 2020 we were aware of a total of 23 ‘cases’ from the past twenty years³; 7 of them in Germany, 4 in Austria, 8 in Switzerland, and 4 outside the German-speaking part of the EU⁴ (Table 1). Only the data of those 19 ‘cases’ that occurred in the D-A-CH countries are included in the further analysis.

Methodologically, we use the case analysis approach, in which typical cases are described and analysed in order to develop categories and explanatory approaches for hitherto largely ignored social circumstances (cf. Bude, 2003; Lamnek & Krell, 2016, p. 285 ff.), which also include the dismissal or public demotion of leading professionals in research institutions.

2 <https://twitter.com/NepNetzwerk>.

3 We assume that we have by no means succeeded in covering all dismissals or public demotions. In addition to media reports, which do not exist in every “case”, we received indications of further “cases” through the interviews.

4 The research focus was on D-A-CH, the four ‘cases’ from other EU countries came to our attention rather by chance. These are four female professors, all foreigners in the country where they were dismissed or demoted, three of them of German origin.

For the implementation of the case analyses, a mixed-method approach was used, which included three different approaches of quantitative and qualitative surveys:

1. *Qualitative content analysis of media reports*: In order to ascertain the external perspective, we conducted a qualitative content analysis (according to Mayring, 2016) of media reports on selected 'cases'. A total of 18 articles were analysed, which referred to 7 individuals. For each 'case', at least two contributions, if possible, from different sources, were to be considered; in three 'cases', contributions from two countries respectively were included. Contributions from the following media were analysed (in brackets: number of contributions):
 - a. APA – Austrian Press Agency (2)
 - b. Der Beobachter (1)
 - c. DER TAGESSPIEGEL (1)
 - d. Die ZEIT (3)
 - e. Forschung & Lehre (1)
 - f. Kleine Zeitung (1)
 - g. manager magazin (1)
 - h. NZZ – Neue Zürcher Zeitung (3)
 - i. PNN – Potsdamer Neueste Nachrichten (1)
 - j. Republik (3)
 - k. Spiegel online (1)
2. *Standardised questionnaire*: In addition to the external view of the media, the perspective of the affected professors regarding the circumstances of their dismissal or public demotion was systematically surveyed by means of a questionnaire. Questions were asked about the rule of law of the procedure, and about the actors involved, as well as about aspects of the professor's position and self-image. Of the 17 questionnaires sent out, 15 were returned fully completed (response rate 88 %). The 13 questionnaires relating to the events in the D-A-CH countries were included in the analysis.
3. *Qualitative interviews*: The circumstances that led to dismissal or public demotion are very complex in each individual 'case'. The search for patterns, differences and commonalities therefore requires approaches that go beyond the possibilities of standardised surveys on the one hand and media analyses on the other. Against this background, 13 in-depth interviews were conducted with dismissed or demoted (female) professors, of which those 12 interviews are included in the analysis in which the experiences of the interviewees relate to one of the D-A-CH states.

Each approach in itself seems to us to be only partially adequate as a source for social-empirical comparison: Media reports are naturally incomplete in their presentation (as they pick out specific aspects that seem interesting from the media's point of view), as well as biased in various respects and already construed (as a result of their investigations of different sources). The internal views of the affected (female) professors are partial in other ways, as they focus on individual experience and report on the process of dismissal or public demotion from the personal view of the accused. The methodological mix of an (already interpreted) external view and a (structurally biased) internal view seems to us well-suited to the specific research question, providing a means to investigate possible patterns as well as differences and similarities based on different perspectives.

Limitations: in the examination of 'cases', establishing contact with those affected, and encouraging them to participate in the survey, proved to be a challenge. A dismissal or public demotion is extremely stigmatising and traumatising. While this is true for any dismissal or public demotion, it is especially true for people in science, as their 'reputation' is the currency of their work: trust in the results of their scientific work requires trust in the person doing the science. Dismissal or public demotion therefore not only has a massive impact on the reputation of the person accused ('stigma of honour', Goffman, 1967), but also constitute a quasi 'professional murder'. The dismissal or demotion experience led many of those affected to be very hesitant to participate in the study. Some refused to participate altogether, partly because of fears of re-traumatisation and re-stigmatisation, partly because they signed a confidentiality agreement (in the case of public demotion) in order to keep their jobs. Those who eventually handed in a completed questionnaire often only decided to do so after a detailed interview.

In view of the trust placed in us, we present the findings below only in summarised and anonymised form. This also applies to the media analysis, in which we do not specifically name the sources (with title, date and medium of the individual contributions), knowing full well that this is a rather unusual procedure in social science analysis, which can, however, be necessary for sensitive research questions (cf. Ellard-Gray et al., 2015).

3 Differences and commonalities of dismissals/demotions

This chapter presents the findings of the research and discusses them against the background of selected theoretical-conceptual perspectives.

3.1 Media analysis: Narratives about power, abuse of power and victims worthy of protection

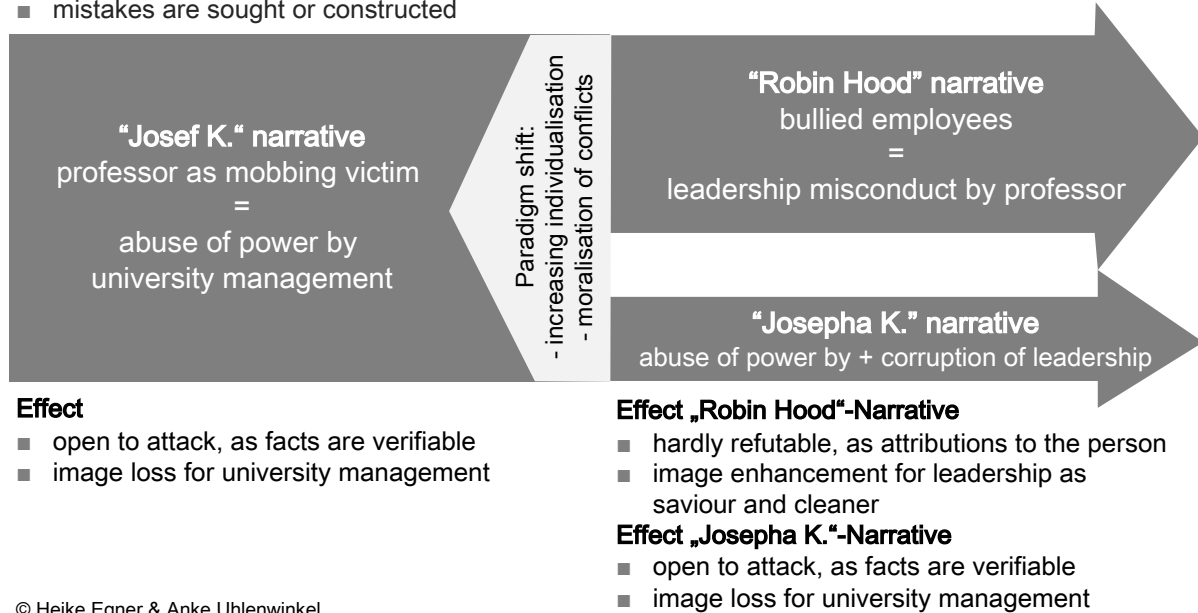
For almost two thirds of the D-A-CH 'cases' there is more or less detailed media coverage. These media reports look at the 'cases' primarily from a journalistic rather than a scientific point of view. This opens up the opportunity of scrutinizing the contributions scientifically, as an observation of the observation (Luhmann, 1992, von Foerster, 1984). The focus here is on the social narratives that are partly created, and partly taken up and retold by the media in order to meet the audience view, or at least the journalist's image of that view. Narratives are understood as stories that give individual statements an inner coherence and thus allow relationships or processes to be presented as consistent in themselves (Keller, 2011). Two major narratives can be identified in the corpus of analysed newspaper articles: the 'Josef K. narrative' and the 'Robin Hood narrative'. Both can be clearly distinguished from each other in terms of content and time, whereby the Joseph K. narrative changes slightly over time, which we indicated by the label 'Josepha K.' for the third identified narrative (Figure 1).

Figure 1: Model of the narratives of dismissals/public demotions of professors in media coverage.**Dismissals/Public Demotions in Media Coverage****Depiction before 2015**

- bullying as a personnel policy
- reason: competition on the same level, competition for resources, profile areas
- mistakes are sought or constructed

Depiction since 2015

- bullying as a personnel policy
- reason: protection of young scientists
- feelings are asserted

**3.1.1 Josef-K.**

The Josef K. narrative is constitutive for the first ‘cases’ of dismissed professors. Some early papers already draw on the character from Kafka's novel ‘The Trial’ in their titles (Sapere aude, 2002; Simon, 2011). The underlying conflict in this narrative is between a professor who is described in all ‘cases’ as academically outstanding, who has relevant publications, acquires third-party funding and is held in high esteem by students, staff and colleagues outside the institution in question and the management of her own institution. According to the narrative, the conflict is ultimately about resources, e.g., in the form of capacities for the expansion of certain research foci or the development of profile areas; or in the form of a position that was perhaps intended internally for a competitor, but which was filled by the professor in question. In this narrative, the university management decides against the outstanding professor and begins to support the competitors and their sponsors by deliberately searching for suitable facts or even producing them themselves. The facts cited in the media coverage are mainly from the area of administrative conduct at the level of the professorship; they relate, if at all, at best peripherally to research or to teaching. In some cases, reference is made to written accusations by staff members, but the accused professors were usually refused access to these documents. Sometimes, it is described how the university administrations

deprived affected professors of administrative and financial resources, thus rendering them unable to work.

Interpretation

In line with other academic finding on the topic, the Josef K. narrative in media coverage refers to a classic micro-politically motivated (Neuberger, 2015) mobbing situation, the target of which is the high-performing professor. In this context, mobbing is defined as repeated negative actions by several people, which are directed against one person with the aim of psychologically destabilising and isolating that person and ultimately removing him or her from the work environment (Kolodej, 2017; Smutny, 2017). Empirical studies also show that the targets of bullying in the university context are often employees with integrity, innovative ideas and high motivation (Westhues, 2006a; Zapf & Einarsen, 2020).

In accordance with the basic constellation of the Josef-K. narrative, university administrations often appear in a bad light: they are the ones who engage in intrigue, prevent transparency, do not follow procedural paths and ignore everything that would speak for the accused. They appear as plaintiffs⁵ and judges at the same time, sometimes also as perpetrators who actively construct mistakes.

3.1.2 Robin Hood

From around 2015 onwards, a different narrative has been gaining ground in the media, which we call Robin-Hood on the basis of the literary subject matter. It identifies an altered basic constellation: the supposed conflict is now being played out between the professor who excels in research and teaching and the young academics assigned to her. In the media reports, the young academics are almost always described as underachieving or unable to meet the requirements. They do not complain about the lack of professional support from their

⁵ In the English context, one would perhaps use the term 'prosecutor' instead of 'plaintiff'. In the German context the 'prosecutor' (Staatsanwalt, "state attorney") is also legally obliged to actively investigate circumstances in favour of the accused. This is exactly what one would expect from the management of scientific institutions, and which they have not done. That is why we use the term 'plaintiff' instead of 'prosecutor' (Staatsanwalt) in this context.

supervisors, but about ‘too much pressure’, an ‘atmosphere of fear’ and ‘psychological terror’. The supervisors are not seen as supportive, including when the supervisor takes the legal requirements for the exercise of her professorship seriously and implements them, for example, setting deadlines for the submission of work or making objective criticisms of performance. The complaints culminate in accusations of mobbing and abuse of power by the professor. The accusations are made credible primarily by referring to the largest possible number of people affected, who have to remain anonymous for ‘protection reasons’. In this narrative, the professor is no longer confronted with an invincible institution, but she herself is portrayed as a ‘perpetrator’ who ruthlessly abuses the power attributed to her by virtue of her position, harms others and makes it more difficult for the less capable junior staff to advance.

Interpretation

In contrast to the Joseph K. narrative, a bullying concept is used here in which a single person (instead of a group) is bullying an undefined number of others. The person allegedly bullying is then the person who is isolated and ultimately removed from the employment relationship. In psychology, such a constellation is called mental perpetrator-victim reversal or victim blaming, defined as the attempt to process a negative event by blaming the victim (Yeung & Lun, 2020). This reversal of blame also shifts the explanatory context: instead of external and possibly structural deficiencies (here: the university itself), the focus is now on the personality traits of the target person (professor) (ibid.).

In this narrative, the university administrators appear in a positive light: as a seemingly neutral and objective authority, they try to resolve the conflict from a superior position. This happens both in the present, when the accused professor is demoted or dismissed, and in the future, when they propose the installation of new commissions and contact points for the suffering young academics.

3.1.3 Josepha K.

Alongside the Robin Hood narrative, a modified Joseph K. narrative developed in the media around the same time, which we call the ‘Josepha K. narrative’ in recognition of the now overly clear affectedness of women. In this narrative, the basic conflict over resources between the outstanding female professor and her colleagues remains. The management, however, now uses new possibilities to resolve the conflict in its own interest: it stands up for the

interests of young academics, who in this narrative (as in the Robin Hood narrative) are mostly seen as rather underachieving. Here, too, the supervisors are accused of misusing their power in actions relating to genuine area of responsibility, such as assessing work, setting deadlines or outlining working hours. At the same time, the media cite accusations, some of them serious (ranging from libel to slander), that could also have been prosecuted, but which were not brought to trial in any of the observed 'cases'.

Interpretation

The accusation of abuse of power now seems to be readily formulated: A survey at ETH Zurich found that 24% of the doctoral students questioned believe they have already experienced abuse of power or at least leadership misconduct (Fehrenbach, 2020). Often, however, the accusations simply concern the use of legitimate power, which is quite necessary for steering organisations (ibid., p. 322). From the perspective of a business enterprise, abuse of power begins where the use of power 'has nothing to do with the interests of the company' (Novartis, 2001, p. 14). Accordingly, abuse of power occurs when superiors use the dependent person for private interests, when they do not adhere to regulations and bylaws to the detriment of dependent persons, or when they assign the dependent person unchallenging work⁶ that does not correspond to his or her job profile (cf. ibid.).

The university administrations that take up the often undifferentiated accusations of mobbing and abuse of power again appear in a bad light in the Josepha K. narrative: they regard every complaint as an unchecked fact and often conduct further, highly one-sided investigations by searching for further negative statements. They thus depart from a neutral position and become an interest-driven actor. Positive statements from other, usually more successful, members of the junior academic staff, students or colleagues are systematically ignored. Already with this one-sided presentation of the case and the way it is dealt with in the media, university administrations disregard the principle of the presumption of innocence. In addition, regular procedural steps are disregarded: Since junior academics are guaranteed anonymity, the accusations of the professor in question are only mentioned in generalised terms, and access to the files and the opportunity to comment are denied. If a professor thus approached denies the crime, she is accused of 'intransigence', which only confirms the initial suspicion in the

6 It is worth noting in this definition that only 'unchallenging' tasks are mentioned as a form of abuse of power, while being 'over-demanding', as it was often formulated in the anonymous accusations of young academics against (female) professors, does not appear as an aspect at all.

eyes of the university administration. A picture of old boy networks and corruption emerges, and above all a systematic repeal of the rule of law within the walls of institutions that are actually committed to the search for truth as part of their core mission.

3.2 Who was dismissed or publicly demoted for what reasons?

Based on the survey data, the first question to clarify is whether the dismissed or demoted (female) professors have similar socio-statistical characteristics (Table 1). To begin with, it is striking that this way of dealing with conflicts seems to be increasing: more than half of all 'cases' of dismissal or demotion have occurred since 2015. Also, there is a remarkably high proportion of affected women (74 %) and of foreigners (70 %); the high proportion of dismissed and demoted women is almost inversely proportional to the still low proportion of women within the professoriate in general (25 %, WBS Group, 2019). Or to put it another way, it is mainly those who belong to a minority who are affected (Westhues, 2006b, p. 18).

Table 1: Overview of the known 'cases' (a), those from D-A-CH (b) as well as those collected by means of questionnaires (c).

	(a) known 'cases'		(b) D-A-CH		(c) questionnaire	
	n	%	n	%	n	%
Country						
Germany	7	30	7	37	5	38
Austria	4	17	4	21	4	31
Switzerland	8	35	8	42	4	31
other EU-country	4	17				
	23	100	19	100	13	100
Type of escalation						
Dismissal	13	57	10	53	7	54
Denied tenure (no comprehensible reason)	4	17	4	21	2	15
Public demotion	6	26	5	26	4	31
	23	100	19	100	13	100
Time						
< 2005	4	17	4	21	1	8
2005–2014	6	26	4	21	3	23
since 2015	13	57	11	58	9	69
	23	100	19	100	13	100
Sex						
Female	17	74	13	68	11	85
Male	6	26	6	32	2	15
	23	100	19	100	13	100
Foreigner						
Yes	16	70	12	63	7	54
No	7	30	7	37	6	46
	23	100	19	100	13	100
First generation academic						
Yes					6	46
No					7	54
					13	100

Source: survey of present study

This picture is maintained in examining other factors: almost half of the (female) professors affected are first generation academics, i.e., they do not come from an academic milieu. Despite lacking social and cultural capital (Bourdieu, 2010), they have reached the position of professor and proved to be very successful there (measured by the official performance parameters of academia such as research funds awarded and publications). Due to their experiences as early educational achievers, all of them developed a strong work and performance ethic, which also feeds into their expectations of staff and students. The fact that such women, of all people, are affected by dismissal/public demotion corresponds to the finding that elites reproduce themselves primarily through habitus (and thus origin), while the narrative of science as a meritocratic system is ostensibly maintained (cf. Hartmann, 2002; Möller, 2015).

Looking at the reasons given for dismissal or demotion (Table 2), it is surprising to find that in no (!) 'case' did scientific misconduct (i.e., deception, plagiarism, scientific fraud or the like) or a finding falling under criminal law lead to the termination of the employment relationship. Rather, in all 'cases', the accusation of misconduct referred either to no apparent reasons or to personally attributed aspects, which can be distinguished as follows:

- misconduct in leadership = mobbing, psychological pressure, atmosphere of fear or terror;
- poor performance = misconduct in the performance of professorial duties, e.g., evaluation of teaching, publishing on the 'wrong' research topic or in low-level journals; and
- misconduct in executing tasks = misconduct in relation to administrative activities performed in a managerial capacity.

Table 2: Reasons for dismissal or demotion.

Reason given (generalized)	(a) D-A-CH		(b) questionnaire	
	n	%	n	%
Personally attributed reasons	13	68	10	77
Misconduct in leadership	7	37	5	38
Poor performance	4	21	3	23
Misconduct in executing tasks	2	11	2	15
Manifest reasons	0	0	0	0
Scientific misconduct	0	0	0	0
Criminal reasons	0	0	0	0
Not apparent or other reasons	6	32	3	23
	19	100	13	100

Source: survey of present study

Surprisingly, there are a relatively high number of 'cases' that fall into the category 'not apparent' (media analysis) or 'other reasons' (questionnaire). This includes statements such as 'bad behaviour' (!) or 'inadequate fulfilment of formal requests without evidence being provided'.

3.3 Rule of law procedures

The question of the rule of law of those procedures that led to the decisions of the management of universities or research institutions to dismiss or publicly demote (female) professors was a focus of research interest in the present study. In procedures that (would have to) precede a decision with such serious consequences for the affected (female) professor, it is to be expected that generally applicable laws (e.g., criminal law, labour law, employment law, higher education law) are also valid in the field of science, and the underlying principles of the rule of law are also observed in university proceedings. These include:⁷

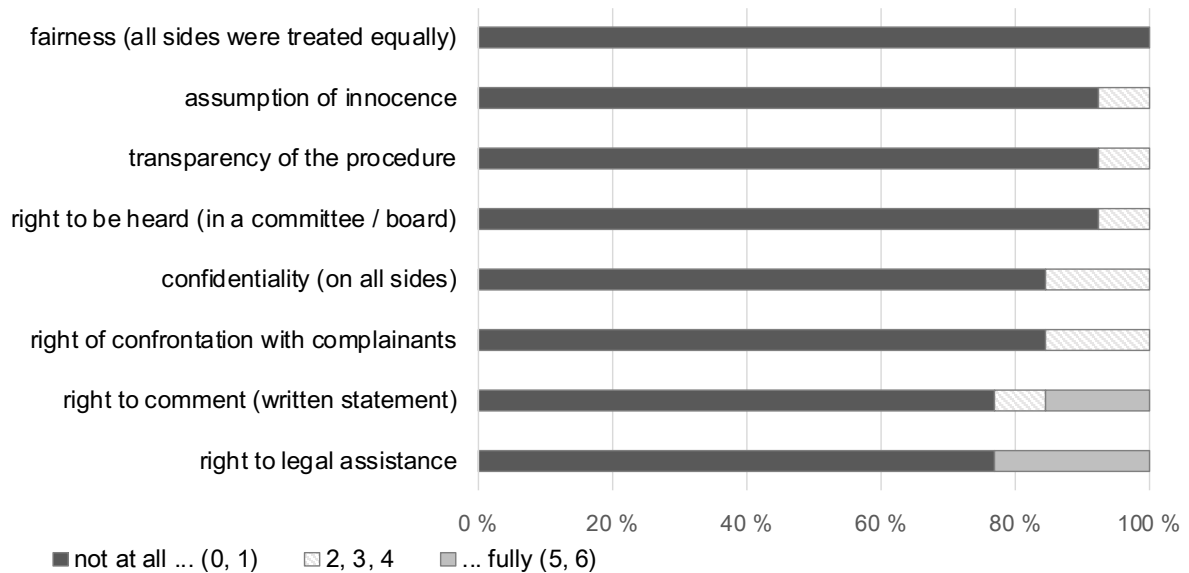
- *fairness* - all sides are treated equally;
- *transparency* - of the procedure as a whole, of the individual procedural stages, of the criteria used at each stage, etc;
- *confidentiality* - which applies equally to all sides;
- *presumption of innocence* - as a central fundamental principle of criminal proceedings under the rule of law;
- *right to be heard* - in any committee dealing with the facts of the case;
- *right to make a statement* - this requires that the allegations are being made known in writing and that sufficient time is given to provide a written statement;
- *right to confront complainants* - this requires the removal of their anonymity granted in the sense of a privilege against the accused;
- *right to legal counsel* - in all oral communications concerning one's employment.

The media reports on the dismissals and public demotions already give clear indications that the internal procedures need to be regarded minimally as opaque or even incomprehensible. The results of the data collection clearly support this impression. Figure 2 summarises the answers from the standardised questionnaires and shows that, from the point of view of those affected, all given principles of the rule of law were disregarded to a considerable extent. Only

⁷ All principles in italics were mentioned by various speakers at the conference "Accusations without sender" (20/21 February 2020 in Passau), rather in passing and as self-evident elements of the rule of law.

Figure 2: Observance of the principles of the rule of law in the internal procedures that preceded dismissal or public demotion. In the questionnaire, the principles were surveyed with a seven-point Likert scale; in the evaluation, this scale is condensed to three values.

"The following aspects are regarded as fundamental principles of the rule of law. Please indicate which principles have been respected in the run-up to and in the course of your dismissal / public demotion procedure."



n=13

in the case of two of the eight principles did respondents state that they were respected in their proceedings: three of the total of thirteen respondents answered that they were granted the right to legal assistance in interviews to an extent that seemed sufficient to them; two others stated that they had received the right to a written statement. All thirteen respondents answered that the proceedings were unfair from their point of view; twelve out of thirteen (92 %) missed the presumption of innocence, the transparency of the proceedings and the right to be heard respectively. Confidentiality in the proceedings as well as the possibility of confrontation with the complainants were found to be lacking by eleven out of thirteen (85 %). Ten out of thirteen interviewees (77 %) were denied the right to comment and the right to legal advice in discussions concerning their employment.

Therefore, in the procedures that preceded dismissal or public demotion, the management of the science institutions in question systematically disregarded or actively overruled fundamental principles of the rule of law. The experiences behind these assessments, which are rather disastrous for a scientific institution in a constitutional state, are shown by some examples from the interviews:

The professor threatened with dismissal asks the dean's office for the legal basis for the preparation of a teaching evaluation demanded at short notice. A few days later she enquires about the whereabouts of the information and is told by return of post that she will receive it the next day. What arrives the next day is a decision dated from the day before. The legal basis for the demand for the evaluation was therefore a resolution that was only passed after the demand for the legal basis had been voiced.

The institute's board awards teaching assignments that offer alternatives of identical content parallel to the courses of the professor in question. The students are told that only these parallel courses are relevant to their studies. Consequently, the professor's courses remain empty without her intervention. The reason for dismissal is then constructed as the accusation that she did not spend the time scheduled for the courses in the empty seminar room for the entire semester.

The university management asks staff members to formulate evaluations and statements about a professor. Several of the professor's requests to inspect files are refused. When she finally gets access to the file, several passages are blacked out. In the file there is also a reference to 'language regulations' for the external presentation of the case.

Interpretation

In all three examples, the respective university management acts as a perpetrator in the run-up to the decision. They use procedures in order to be able to enforce the views they want. Not entirely surprisingly, such patterns of action are more often found in 'cases' in which accusations of mobbing (= 'misconduct in leadership') play only a subordinate role or no role at all. However, they illustrate particularly clearly the less than constitutional attitude of the university administrations with which affected professors are confronted.

It is characteristic of *all* 'cases' examined here that the management combines the roles of plaintiff and judge in one person, by siding with the complainant without making an effort to clarify the facts, and even by actively undertaking to strengthen the accusations. The interviews also show a clear picture here: those who made accusations were heard; those who spoke for the accused were ignored, as were the accused themselves. However, the successful exercise of the function of judge, which a rector/president adopts, requires that those affected by the decisions *'have a certain degree of confidence in the correctness'* (Hörnle, 2017). To this end, they must have a chance to be convinced of the judge's neutrality, which

is not the case if the judge acts as a plaintiff for a party or as a perpetrator in advance. This approach draws on the notion of 'legitimacy through procedure' (Luhmann) by employing procedures, but undermines the procedural principle, since the decision on the outcome of the proceedings has been made elsewhere already.

Against the background of these results, the question arises as to the legal understanding possessed by the universities and scientific institutions involved. De Sousa Santos' (1987) distinction between *Homeric* and *biblical* jurisprudence can help here. Homeric jurisprudence is abstract and distinguishes between facts and law; it arrives at a judgement by subsuming the facts under the legal rules. Biblical jurisprudence, on the other hand, is situational, oriented towards everyday life, evaluates primarily narrated facts (Ford, 1999) and is oriented towards the shared moral ideas of a community. The heterogeneous societies of modern constitutional states are assumed to have installed a largely Homeric jurisprudence (De Sousa Santos, 1987; Ford, 1999). The findings from this study on the treatment of (female) professors, on the other hand, seem to show a relapse into a biblical understanding of law in the university context, in which narrated perceptions are evaluated as facts, contrary accounts are ignored, issues are attributed to supposedly personal problems (of the female professor) and decisions are oriented in favour of those in power or of particular interests.

3.4 Stakeholders in the dismissals/demotions

Like other organisations, universities have a number of identifiable *stakeholders*. Unlike *shareholders*, who pursue an interest that is aligned with the company's objective (Friedman, 1970), stakeholders are said to have their own intrinsic interests that they wish to assert in relation to the company (Donaldson & Preston, 1995). In the context of universities, there have been significant shifts in the description of and interaction with different stakeholders over the last twenty years. For example, students are now understood as customers in many places (Crouch, 2017); at the same time, the new customers' fundamental ability to study is increasingly questioned (Aeschlimann et al. 2019; Ladenthin, 2018), which significantly changes the tasks of teachers. PhD students in German-speaking countries, on the other hand, are now not only employees but also students, which in turn makes them customers: they are thus in an ambivalent role as both employees and employers.

Equally serious changes affect the role and understanding of the management of universities and scientific institutions. Although the typical university has always been a '*tension-laden organisation*' (Schimank, 2017, p. 50), the expectations and understanding of both

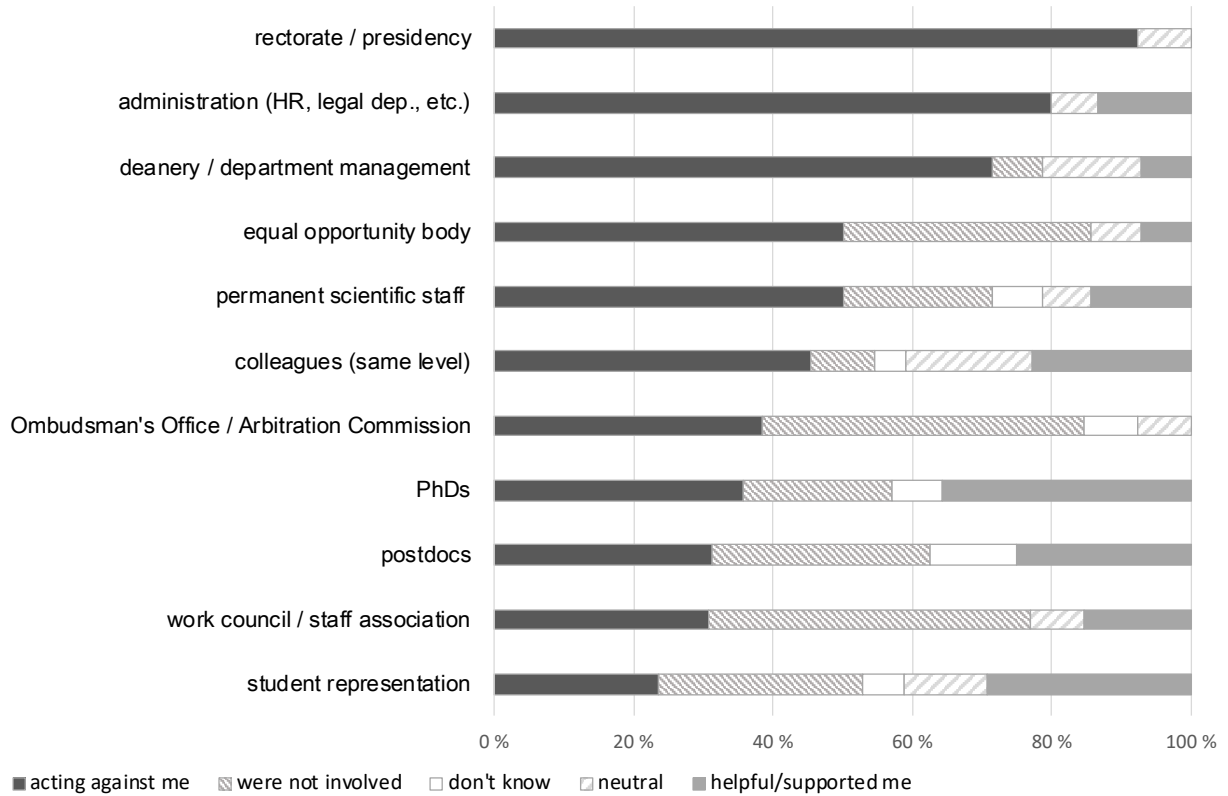
universities and science have fundamentally changed since the Bologna reform and the roughly simultaneous release of universities into so-called 'autonomy' together with the development of new forms of governance. Scholz and Stein (2010) see a shift in the basic understanding of universities from a kind of *'faculty federalism'* (before Bologna, *ibid.* p. 26) to a more *'presidential feudalism'* (*ibid.*), in which presidents act as 'headmasters' and all other units have to subordinate themselves as their 'agents' (subordinates and protectors).

It is within this mesh of changes and conflicting interests that dismissal and demotion decisions are made. We asked about the experiences of those affected with different groups of actors: whether they were perceived as helpful/supportive, neutral or acting against the accused, or whether they were not involved in the processes prior to dismissal/demotion. On the one hand, the results shed light on the complexity of the employment situation in science organisations; on the other hand, clear patterns emerge, three of which are surprising (Figure 3).

- *Interaction of management (rector/president), administration and lower management levels (dean's office/department management):* Due to their offices and roles, it is to be expected that the institutional actors take a neutral stance in the internal clarification of situations, regardless of personal sympathies/antipathies and regardless of existing self-interests. Furthermore, rectors/presidents have a duty of care for their employees, and this includes professors. The survey nevertheless revealed that the presidency/rectorate took a position against the accused professor in almost all 'cases' - only one respondent stated that the university management had taken a neutral position in the internal proceedings. The two other groups of actors at the management level (deaneries and administration) were attested similar behaviour, only slightly less pronounced. Here, the uniting of the roles of plaintiff and judge by university management, which is contrary to the rule of law, can be found again, reinforced once more by the conspicuous partisanship of the actors of the administration and lower management levels.
- *Involvement of staff or works councils, ombudspersons and equal opportunities officers:* By virtue of their office and mandate, these groups of actors are to be involved in cases of conflict; at the same time, their members are obliged to be objective and neutral. In terms of their basic mandate, these bodies are essential elements of the procedures through which decisions are legitimised in liberal democracies. Nevertheless, in 77% (staff/works council) and 85 % (equal opportunities commissioner and ombudsman's

Figure 3: Perception of the involvement of different groups of actors in the preparation of the dismissal/public demotion. In order to do justice to the diversity of scientific work situations, several answers could be ticked if, for example, there were those among the colleagues who supported, those who remained neutral, as well as those who actively acted against the accused person.

How did you experience the following internal bodies / actors in connection with your dismissal / public demotion?



n=13, multiple responses possible

office) of the 'cases', the respondents stated that the respective bodies were either not involved in the proceedings or took sides and thereby took a position against the accused professor.

- *The role of students, doctoral students and postdocs:* In the media reports, it is mainly the accusations and complaints from these groups that are cited as reasons for dismissal or demotion. The results of our study show a more differentiated picture: although students, doctoral students and postdocs were involved in some 'cases', often they were not involved at all. In the 'cases' where they were involved, they acted in roughly equal measure as complainants and supporters of the accused.

4 Conclusion: Analysis of a structure of failure

Debate in a flat-sharing community:

'Who cares. Anyway, the point is that I can't stand Ralf Müller any more.

I really can't stand him anymore. It was a mistake from the start to move in with him. He has to go. Will you take his room?'

'Well, I'd love to, but that's not why I have to...'

'Then it's settled. I'll take care of it. Demoralisation is the order of the day.

Tactics, strategy and that's it.'

(Sven Regener (2004). *Neue Vahr Süd*, p. 209)

Every dismissal or public demotion of a professor initially appears as an individual case that is complex, multi-layered and difficult to penetrate from the outside. Rectors and presidents of academic institutions are considered to have a high degree of rationality, objectivity and reason- and evidence-based judgement. It is generally assumed that they make their decisions after careful consideration and follow - as the head of a scientific institution - what the German Federal Constitutional Court has defined as scientific procedure, namely 'what is to be regarded as a serious and planned attempt to investigate the truth in terms of content and form' (Wernsmann, 2020, p. 585). This suggests that a dismissed or publicly demoted professor must indeed have done something serious that justifies such an escalation of the employment relationship - where there's smoke, there's fire, as the old saying goes. This is also true in the cases under investigation, but in a different way than expected.

Contrary to the first impression of seemingly different individual cases, the results of this study on dismissals and public demotions of female professors show surprisingly frequent commonalities on a structural and argumentative level. The greatest commonality is found in the systematic disregard of rule-of-law principles in the internal procedures of relevant academic institutions in relation to all the 'cases' investigated. This sheds light on the one hand on the personnel management in dealing with (female) professors at universities and research institutions, and on the other hand on the expressed legal understanding of the management. The procedures in the 'cases' investigated appear arbitrary and opaque, and the reasons given for dismissal or demotion constructed with detrimental intent, strategically and tactically designed for elimination and disastrous in their effect on those affected. The results suggest that the above-mentioned fire, which underlies all smoke, is to be found above all in the university structures and the socio-political setting in which research and teaching currently

operate. They obviously allow the kind of decisions that can be found in abbreviated form in the epitaph to this chapter: someone 'doesn't fit' and must leave.

What practical conclusions can be drawn from the findings of this study? The answer to this question is anything but trivial, as it touches on a complex web in which the demands and roles of professorships, students and young academics, universities and research institutions, institutions and society are up for discussion anew. The way in which institutions, structures, processes and procedures are understood in a society depends largely on the underlying idea of that society. The findings of this study demonstrate that the transformed conditions under which science and its institutions operate have opened up new scope for change can be used to the disadvantage of (female) professors. It seems urgent to remedy this situation.

Literature

- Aeschlimann, S., Bühler, D. & Osswald, D. (2019). „Als wären Studierende zarte, schwache, hilflose Wesen“. Interview mit Kenneth Westhues. *Republik*, 25.03.2019.
- Bourdieu, P. (2010). Ökonomisches Kapital – Kulturelles Kapital – Soziales Kapital. In D. Kimmi-sch, S. Schahadat. & T. Hauschild (eds.), *Kulturtheorie* (S. 271–287). Bielefeld: transcript.
- Buchhorn, E. & Freisinger, G. M. (2020). Mission: Rufmord. *manager magazin*, 2, 84–88.
- Bude, H. (2003). Fallrekonstruktion. In R. Bohnsack, W. Marotzki & M. Meuser (eds.), *Hauptbe-griffe Qualitativer Sozialforschung* (S. 60–61). Opladen: Leske + Budrich.
- Crawford, C. M. (ed.). (2019). *Confronting academic mobbing in higher education*. Hershey, PA: IGI Global.
- Crouch, C. (2017). Die bezifferte Welt. Wie die Logik der Finanzmärkte das Wissen bedroht. Ber- lin: Suhrkamp.
- De Sousa Santos, B. (1987). Law: A Map of Misreading. Towards a Postmodern Conception of Law. *Journal of Law and Society*, 14(3), 279–302.
- Donaldson, T. & Preston, L. (1995). The stakeholder theory of the corporation. Concepts, evi- dence and implications. *Academy of Management Review*, 20(1), 65–91.
- Ellard-Gray, A., Jeffrey, N. K., Choubak, M. & Crann, S. E. (2015). Finding the hidden participant. Solutions for recruiting hidden, hard-to-reach, and vulnerable populations. *International Journal of Qualitative Methods*, 14(5), 1–10.
- Fehrenbach, H. G. (2020). Machtmissbrauch in der Wissenschaft. Fünf Mythen. *Forschung & Lehre*, 27(4), 322–324.
- Ford, R. T. (1999). Law's territory. A history of jurisdiction. *Michigan Law Review*, 97(4), 843–930.
- Friedman, M. (1970). The social responsibility of business is to increase its profits. *New York Times Magazine*, 13.09.1970.

- Goffman, E. (1967). *Stigma*. Über Techniken der Bewältigung beschädigter Identität. Frankfurt am Main: Suhrkamp.
- Hartmann, M. (2002). *Der Mythos von den Leistungseliten. Spitzenkarrieren und soziale Herkunft in Wirtschaft, Politik, Justiz und Wissenschaft*. Frankfurt/New York: Campus.
- Hörnle, T. (2017). Warum Vertrauen in die Neutralität der Justiz ein schützenswertes Verfassungsgut ist. *Verfassungsblog | On matters constitutional*. Abgerufen am 18.06.2020 von <https://verfassungsblog.de/warum-vertrauen-in-die-neutralitaet-der-justiz-ein-schuetzenswertes-verfassungsgut-ist/>.
- Izkovich, Y., Alt, D. & Dolev, N. (2020). *The challenges of academic incivility*. Cham: Springer Nature Switzerland.
- Keller, R. (2011). *Diskursforschung*. Wiesbaden: VS Verlag für Sozialwissenschaften.
- Kieserling, A. (2012). Legitimation durch Verfahren (1969). In O. Jahraus, A. Nassehi, M. Grizelj, I. Saake, C. Kirchmeier & J. Müller (Hrsg.), *Luhmann Handbuch. Leben – Werk – Wirkung* (S. 145–150). Stuttgart: J.B.Metzler.
- Kolodej, C. (2017). Mobbing. Ein Phänomen im Wandel der Zeit. *WISO*, 40(4), 71–86.
- Ladenthin, V. (2018). Studierfähigkeit. Da läuft etwas ganz schief. *Forschung & Lehre*, 25(7), 624–628.
- Lamnek, S. & Krell, C. (2016). *Qualitative Sozialforschung* (6. ed.). Weinheim: Beltz.
- Lester, J. (ed.). (2013). *Workplace bullying in higher education*. New York: Routledge.
- Luhmann, N. (1969). *Legitimation durch Verfahren*. Frankfurt am Main: Suhrkamp.
- Luhmann, N. (1992). Die Beobachtung der Beobachter im politischen System. Zur Theorie der öffentlichen Meinung. In J. Wilke (ed.), *Öffentliche Meinung* (S. 77–86). Freiburg (Breisgau) u.a.: Alber.
- Mayring, P. (2016). *Einführung in die qualitative Sozialforschung* (6. ed.). Weinheim: Beltz.
- Möller, C. (2015). Herkunft zählt (fast) immer. Soziale Ungleichheiten unter Universitäts-professorinnen und -professoren. Weinheim: Beltz.
- Neuberger, O. (2015). *Mikropolitik und Moral in Organisationen* (2. ed.). Stuttgart: Lucius & Lucius.
- Novartis (2001). *Sexuelle Belästigung und Machtmissbrauch am Arbeitsplatz*. Basel: Selbstverlag.
- Prevost, C. & Hunt, E. (2018). Bullying and mobbing in academe. A literature review. *European Scientific Journal*, 14(8), 1–15.
- Rubner, J. (2020). Die Angeklagten. *DIE ZEIT*, 30.01.2020, 39.
- Sapere aude (2002). „Jemand muss Josef K. verleumdet haben“. Wie Wissenschaftler um ihre Existenz gebracht werden können. *Forschung & Lehre*, 9(10), 518–523.
- Schimank, U. (2017). Universitätsreformen als Balanceakt: Warum und wie Universitäts-leitungen Double Talk praktizieren müssen. *Beiträge zur Hochschulforschung*, 39(1), 50–60.

- Scholz, C. & Stein, V. (2010). Bilder von Universitäten. Ein transaktionsanalytisch- agenturtheoretischer Ansatz. *Betriebswirtschaftliche Forschung und Praxis*, 62(2), 129–149.
- Simon, R.-M. (2011). „Jemand muss Professor S. verleumdet haben ...“. Über einen Schweizer „Forschungsskandal“. *Forschung & Lehre*, 18(5), 378–380.
- Smutny, P. (2017). Mobbing – rechtliche Überlegungen. *WISO*, 40(4), 87–104. Twale, D. J. & De Luca, B. M. (2008). *Faculty incivility. The rise of the academic bully culture and what to do about it*. San Francisco: Wiley.
- von Foerster, H. (1984). *Observing systems* (2. ed.). Seaside: Intersystems Publications.
- WBS Gruppe. (2019). Frauenquote an deutschen Hochschulen und Universitäten. Hier arbeiten die meisten Professorinnen. Abgerufen am 03.08.2020 von www.wbs-gruppe.de/index.php?id=116.
- Wernsmann, R. (2020). Systematische Kontrolle. Braucht Wissenschaft Compliance? *Forschung & Lehre*, 27(7), 584–585.
- Westhues, K. (2006a). Envy of excellence. Administrative mobbing of high-achieving professors. Lewiston, New York: Edwin Mellen Books.
- Westhues, Kenneth (2006b). The unkindly art of mobbing. *Academic Matters*, (Fall 2006), 18–19.
- Yeung, J. C. & Lun, V. M.-C. (2020). Uncritical use of non-evidence-based self-help materials induces victim-blaming on the depressed. *Journal of Positive Psychology*, DOI:10.1080/17439760.2020.1752780.
- Zapf, D. & Einarsen, S. (2020). Individual antecedents of bullying. In S. Einarsen, H. Hoel, D. Zapf & C. Cooper (eds.), *Bullying and harassment in the workplace* (S. 294–304), Boca Raton: CRC Press.

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