

DOI: [10.20472/TE.2016.4.1.004](https://doi.org/10.20472/TE.2016.4.1.004)

CHALLENGES TO ACADEMIC FREEDOM AND INSTITUTIONAL AUTONOMY IN SOUTH AFRICAN UNIVERSITIES

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Abstract:

Academic freedom can be defined as the absence of outside interference, censure or obstacles in the pursuit and practice of academic work. This freedom is embedded in the right to education. The United Nations Committee on Economic, Social and Cultural Rights views education as a window to other rights. Institutional autonomy speaks to self-regulation or the right of self-government; self-determination; autonomy with respect to local or internal matters. Academic freedom (and institutional autonomy) is a constitutional right in South Africa. There is debate whether there is a threat to the constitutionally guaranteed academic freedom in South Africa. This comes from the background that universities often function as centres of political and intellectual dissent, and regimes are thus reluctant to allow institutions the freedom and autonomy that may contribute to instability. This paper looks at academic freedom and institutional autonomy in South Africa before and after 1994. The pre-1994 era grouped the universities into two - the open universities, which enjoyed many privileges and the "other" universities which were tightly controlled by the government. The post-1994 era saw the national Constitution guaranteeing academic freedom. The new government adopted new policies creating a unitary tertiary education system. This was built around the "cooperative governance" framework. However, with dynamics in the higher education system, this framework had to be amended. The amendments give the government more powers to intervene where necessary. Whatever justification, increased government involvement has implications on academic freedom and institutional autonomy.

Keywords:

freedom; autonomy, academic, university; higher education

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Citation:

EDMORE KORI (2016). Challenges to academic freedom and institutional autonomy in South African universities . International Journal of Teaching and Education, Vol. IV(1), pp. 45-53., 10.20472/TE.2016.4.1.004

Introduction

Academic freedom is a constitutional right in South Africa (Republic of South Africa, 1996; Department of Education, 1997). The White Paper defines academic freedom as the absence of outside interference, censure or obstacles in the pursuit and practice of academic work. It is a precondition for critical, experimental and creative thought and therefore for the advancement of intellectual inquiry and knowledge. Higgins (2000a) and Robinson and Moulton (2002) define academic freedom as the liberty to teach and do research in any area without constraint, to discover and promulgate new ideas no matter how controversial.

Internationally academic freedom is imbedded in the right to education. The United Nations Committee on Economic, Social and Cultural Rights (UN CESCR) (1999) describes education as an inalienable human right that enables access to other human rights, including academic freedom. Academic freedom in this vein is linked with human rights such as freedom of speech, association and freedom of thought. Consequently the right to education can only be enjoyed if accompanied by the academic freedom of staff and students (UN CESCR, 1999). Members of the academic community, individually or collectively, should be free to pursue, develop and transmit knowledge and ideas, through research, teaching, study, discussion, documentation, production, creation or writing. Academic freedom includes the liberty of individuals to express freely opinions about the institution or system in which they work, to fulfil their functions without discrimination or fear of repression by the State or any other actor, to participate in professional or representative academic bodies, and to enjoy all the internationally recognized human rights applicable to other individuals in the same jurisdiction (UN CESCR, 1999).

Academic freedom and institutional autonomy represent the unique social treaty between the state and the institution(s) of higher education (Pityana, 2010). It represents a relationship of mutual benefit. The omnipresent use of institutional autonomy alongside academic freedom has created an impression that the two notions are conceptually and practically similar (SASCO, 2006). Institutional autonomy is not synonymous with academic freedom.

Conceptually, institutional autonomy and academic freedom are distinct, although used alternatively to defend the same phenomena and practices. The relationship between the two, sometimes inseparable, notions is complicated. There is a thin line between them. The existence of one, though, does not guarantee the presence of the other. For instance, there are possibilities of democratic nations with autonomous institutions that do not necessarily promote the principle and practice of academic freedom (SASCO, 2006, Webbstock, 2008). Students and academics may be coerced within an autonomous institution to teach, learn and understand particular and specific creeds, without inquiry and questioning.

Strictly speaking, however, academic freedom is imbedded in an autonomous academe (community of teachers and students) dedicated to the search for, or service of, truth. This tradition is based on the interdependency of academic freedom and institutional autonomy. Institutional autonomy is the right of institutions to decide for themselves on core academic concerns (Jansen, 2004).

Institutional autonomy speaks to self-regulation or the right of self-government; self-determination; autonomy with respect to local or internal matters (Kaya, 2006). An autonomous institution is, fundamentally, one able to act according to own discretion, able to regulate its own affairs. Ideals about institutional autonomy are closely linked to conceptions of academic freedom (Webbstock, 2008). Institutional autonomy is the freedom to decide academic issues like curriculum, instructional material, pedagogy, techniques of students' evaluation (Robinson and Moulton, 2002).

Academic freedom and university autonomy have a long, controversial history. For centuries, church, political and civil authorities attempted to restrict teaching, research, and public expression by the academic community. The idea of university autonomy, enshrined in the Cordoba Reforms of 1918, is a powerful force in Latin America. In Europe Institutional autonomy was introduced in the Bologna Declaration with a reference to the 1988 Magna Charta Universitatum, which stated that the university is an autonomous institution at the heart of societies differently organised because of geography and historical heritage; it produces, examines, appraises and hands down culture by research and teaching. To meet the needs of the world around it, its research and teaching must be morally and intellectually independent of all political authority and intellectually independent of all political authority and economic power.

Academic freedom and institutional autonomy – a general perspective

As a general concept, academic freedom is inextricably linked with the notion of institutional autonomy (du Toit, 2004; Kaya, 2006; Webbstock, 2008). In a climate of contested rights and diminishing values it has to be asserted that higher education institutions thrive best where more spaces are provided to be self-governing than otherwise, where scholars enjoy freedom for scientific research and free enquiry. However, academic freedom is far from secure in many parts of the world, and in some places is under attack (Altbach, 2007). Universities often function as centres of political and intellectual dissent, and regimes are thus reluctant to allow institutions the freedom and autonomy that may contribute to instability. This repression has been in existence since historic times. Socrates (c. 470-399 B.C.) was put to death for "corrupting" the youth of Athens with his ideas. Galileo (1564-1642) was sentenced to life imprisonment for advocating the Copernican view of the solar system. Descartes (1596-1650) suppressed his own writing to avoid similar trouble. Teachers were fired for telling their students about Darwin's (18-90-1882) views. In modern times Iraq during Saddam's reign, in Egypt before the Arab spring and Ethiopia, Indonesia, Serbia (Altbach, 2007, Kaya, 2006) all suppressed academic freedom and autonomy. Establishing academic freedom under politically unstable conditions faces considerable challenges.

The father of academic freedom in South Africa Davie in the 1950s summed up academic freedom as “our freedom from external interference in a) who shall teach, b) what we teach, c) how we teach, and d) whom we teach” (cited in Higgins 2000a). The quest for academic freedom and institutional autonomy in higher education has had fewer defenders in Africa. There is a widespread belief, especially among African leaders that it is wrong for students and African academics in general, to live in a hazy mist of intellectual detachment and to appear unaware of the fact that they are a privileged little group in an unprivileged and unequal society (Blomqvist, 1997; Mazrui, 1978; Nyerere, 1974).

Many public universities are by law and tradition autonomous. An autonomous institution may have the right to determine its organisational and administrative structure, decide its priorities, manage its budget, hire its personnel and admit its students, decide the content and forms of its teaching and research - or at least a number of these rights (Robinson and Moulton, 2002; Pityana, 2010). These freedoms are regarded as the precondition to empower universities to advance knowledge, to transmit it effectively to their students and the public at large, and to be the catalyst for new and constructive ideas.

Robinson and Moulton (2002) posit that the central principle about institutional autonomy emphasises that higher education institutions should be accountable to society at large, not essentially and exclusively political structures. Society in this instance does not however exclude political structures and/or government, as important sectors of society. On the basis that institutional autonomy commits HEIs accountability to society as a whole; it must be and should be aggressively guarded by all sections of society, including government, students, academia, and higher education administrators.

Institutional autonomy is that condition which permits a Higher Education Institution (HEI) to govern itself without external interference, particularly from government. However, the notions are contextual. The implication of this consideration is that concepts such as ‘academic freedom’ and ‘institutional autonomy’ have different meaning in all countries, educational systems and institutions (du Toit, 2004). The South African higher education system is also characterised by its own distinctive institutional formations, mix and different institutional capacities and interests derived from the colonial and apartheid history and current developmental and transitional challenges and goals.

Academic freedom and institutional autonomy in South Africa

The main debate regarding academic freedom and institutional autonomy in South Africa revolves around whether there currently exist threats to academic freedom. One school of thought, exemplified in the writings of Higgins and Jansen, argues that there are indeed threats, and that these emanate primarily from increasing regulation by the

state. The substantiating circumstances lie in an account of higher education policy post-1994, which has witnessed a trend from conceptualising the roles of institutions and state as mutually beneficial and working together towards common goals, to one in which the relationship has become characterised by power and control by the state over the institutions (Webbstock, 2008).

The deliberation about universities in South Africa can be divided into two large periods, viz, pre- and post-1994, for the higher education policy context changed dramatically in the post-apartheid era. Moodie (1994) studied the “open universities” under apartheid South Africa, that is, the University of Cape Town (UCT), the University of Natal (Natal), the University of the Witwatersrand (Wits) and Rhodes University. The study found that these universities enjoyed a very high level of institutional autonomy. He argues that, for the most part, these institutions were able to manage their own internal affairs, determine their curriculum, research what they wanted to, and teach in the manner that they saw fit. However, Moodie’s hypothesis misses that these institutions were not allowed to teach whom they chose (as espoused by Davie), with ever-more repressive legislation excluding black students from them, or requiring such students to obtain ministerial permission to study there. This meant government interference – no institutional autonomy and academic freedom.

Fast-forward to 1994. The Bill of Rights in the South African Constitution (1996) lists “academic freedom and freedom of scientific research” among the fundamental rights of South African citizens. The post-apartheid era can be divided into two distinct phases – the 1994- 2001 and the post 2001 periods.

The immediate post 1994 era was seized with restructuring. Kraak (2001) notes five key pillars of the new framework: a single nationally coordinated system of higher education; increased access and raised participation rates; increased responsiveness to societal and economic needs; programme differentiation and the development of institutional niche areas; and a planning and coordination imperative. In short, a new unified higher education system, catering for the needs of a newly democratised society, and redressing the remnants of the apartheid system, was to be developed. This is termed the first phase which was grounded on cooperative governance. Cooperative governance premised that institutions were to remain autonomous and to participate in a power-sharing model of governance in higher education.

The central tenets of cooperative governance are recurring in the early policy documents. However, policy studies reveal that later policy formulation gradually accumulated powers to the state, to the extent that the early vision of cooperative governance has become somewhat undermined (Winberg, 2004). In the first instance, the Higher Education Act of 1997 gave the Minister more extensive powers to establish a higher education institution, to “merge two or more public higher education institutions into a single public higher education institution”, or to close an institution after consultation with the Council on Higher Education. That same Act also required that up

to five council members of each university be ministerial appointees, signifying a certain level of control over the institutions.

In the early phase policy documents, higher education institutions are seen as partners in creating a new democratic order, and the values of democracy, academic freedom, freedom of speech and expression, creativity, scholarship and research are affirmed (Barend, 2010).. The National Plan for Higher Education of 2001 concludes the planning phase which began in 1998 with the submission of the first set of institutional three-year rolling plans. It signals the start of the second phase. This is where the planning process and funding framework are aligned, and in which, specifically, the allocation of funds was linked to the approval of institutional plans.

In the second phase, the focus of transformation shifts. The universities are no longer perceived to be partners with the policy makers to transform society. The higher education institutions are themselves the problem (Winberg, 2004). A tone of censure has entered the discourse, as in “the Ministry will not however, allow institutional autonomy to be used as a weapon to prevent change and transformation. This change was largely precipitated by the crisis in governance in many of the historically black institutions, by dubious entrepreneurial practices of some institutions, poor graduation rates and poor outputs altogether, as well as a change of Minister of Education” (Cloete, 2006:62).

The Council on Higher Education (CHE) (2005) argues that cracks began to appear in the consensus on cooperative governance bringing different interpretations of institutional. The amendments to the Higher Education Act arose in response to governance crises and mismanagement. The 1999 amendment allowed for the Minister to appoint an administrator for a distressed institution for six months, with a permissible extension of a further six months. In 2001, this was further amended to allow the Minister to appoint an administrator to take over the authority of the council or management of the institution for a period not exceeding two years. In 2000, the Act was amended to require public institutions to secure council approval, and under certain circumstances, the Minister’s concurrence, to enter into loan or overdraft agreements or to develop infrastructure.

Concern arose within the higher education sector around these amendments because they were seen to limit institutional autonomy. Apart from the increase in the Minister’s powers to intervene directly in institutions, the National Plan sought to establish regulation in what had been seen as a policy implementation vacuum, in a way that emphasise efficiency and responsiveness goals at the expense of democratisation, equity and redress goals. There is an increase in steering mechanisms such as new funding formulae that allow the Minister a large degree of latitude to change the definitions and values of all the framework’s components and to significantly curtail autonomous choices on the part of institutions (CHE, 2005), a new enrolment planning

framework, new quality assurance and accreditation requirements, control over an institution's programme and qualification mix, restructuring through mergers and incorporations and a proposed central applications process.

The defining trend in governance from 1999 has been a systematic increase in direct state control over higher education (Lange, 2013). For many, this has been contrary to their expectations. Many educational institutions had been focal points of opposition to the apartheid state through the 1970s and 1980s and many believed that the post 1994 higher education sector would be shaped around the model of the liberal South African university, with a high degree of institutional autonomy (particularly in the use of funds and the determination of the curriculum) and a national Department of Education that would apply a light hand in steering the public higher education system (Hall and Symes, 2005).

Despite the failure of the cooperative governance framework, serious incidences at institutions of higher learning have created fertile ground for increased government interference. In 2008 a racist incident was reported at the University of the Free State. The then Minister of Education responded by setting up an investigative task team on transformation in higher education institutions. The Vice Chancellors were not consulted about this initiative, and its terms of reference were never discussed with Vice Chancellors. The task team visited universities and published a report.

An unprecedented campaign was mounted by groups aligned to the African National Congress (ANC) to force the resignation of the Vice Chancellor of Unisa because he had expressed political views which they believed were sympathetic to another political party. The Vice Chancellor of Free State University announced at his inauguration that former students who had been accused of racist conduct would be allowed back into the university as a gesture of goodwill and reconciliation. That was received by a barrage of attacks and visits to the university, among them the ANC Youth League, COSATU, and demands for reports by the Ministry of Higher Education and Training. This is largely seen as state interference at worst and steering at best.

The government through various bureaucratic structures decides on what can be taught; which institutions will offer what programmes; who can be taught; how students will be taught; which programmes will be funded at what levels; and can now displace a Vice-Chancellor on the basis of a review and install its own Administrator to run the institution. It is a matter of record that academic freedom has not been defended or advanced with the same vigour post 1994 as it was when the liberal university was at loggerheads with the apartheid state (Higgins, 2013). The term 'academic freedom' has become something of a 'received idea' in South Africa; there is a tendency to label whoever is defending it as 'reactionary' or 'conservative'. The 1997 Higher Education Act, and particularly its series of subsequent amendments which have considerably extended the authority of the state, and diminished the autonomy of the institution, have not been protested.

Whatever one's view of academic freedom and institutional autonomy, it must be acknowledged that the position of the university relative to the state was less complex before 1994 than after the inauguration of a democratic – and legitimate – political order. The call for state intervention and interference into higher education is not totally unjustifiable, in the face of an education system that is not responsive to the knowledge and skills needs and slowly transforming to reflect the realities of society.

Conclusion

Because the great majority of universities around the world are public institutions or are dependent on government funding, governments have considerable power to influence what takes place on campus. Robinson (2002) points out that even if we take human welfare to be primary, we can still defend the principle of academic freedom. It is too dangerous to allow some people to decide what may be studied and what may not, what information should be available and what should be suppressed. In general, the larger benefit of supporting the principle of unconstrained research and teaching seems to be worth the risk of occasional harmful effects. Therefore, we should support the principle of academic freedom.

Autonomy, when exercised with the sense of responsibility and accountability will inevitably lead to excellence in academics, governance and financial management of the institutions. If it does not lead to this, it can be safely concluded that autonomy has been misused. South African higher education system transformed from the apartheid era with the government following the cooperative governance approach. This prompted the government to shift to the more influential role. Consequently, South African education is to cost the state less, and deliver more: academic staff is to do more work as teachers, researchers, community activists and administrators; they are to be monitored and evaluated, and made accountable upwards to management, downwards to students, and outwards to communities.

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