Academic Freedom, Institutional Autonomy in Higher Education Institutions in Uganda: Policy, Legal and Ethical Tensions

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Abstract

The higher education landscape has greatly metamorphosed in the recent past and higher education institutions (HEIs) are feeling the pressures coming from multiple corners. Because the challenges facing HEIs are multidimensional, academic freedom and institutional autonomy have become victims of political, geopolitical, policy, and ethical tensions. On one hand, institutions are working excruciatingly hard to assert their authority and on the other hand faculty are claiming their academic freedom, which has been largely misconstrued as freedom of speech and expression. Using qualitative research methods, particularly literature review and empirical documents, the paper argues that HEIs are facing a dilemma of ensuring peace, order, safety and tranquility (POST) within institutions and at the same time allow faculty to exercise and enjoy their academic freedom without caveats. To reconcile the two twin-concepts, the paper deconstructs academic freedom and delineates it from freedom of speech and expression and rather advocates for a utilitarian procedural academic freedom (UPAF). Further, the paper recommends a police-power-like institutional autonomy that plays a guardian role of facilitating faculty to exercise and increase their intellectual fecundity and at the same time retain the power to prevail whenever academics and students cross redlines.

Keywords: higher education, utilitarian procedural academic freedom, police-power institutional autonomy, freedom of speech and expression

1. Introduction

Within the Uganda Constitution of 1995 [As amended, 2020], academic freedom is inscribed in Article 29 (1) (b) stipulating that, "Every person shall have the right to freedom of thought, conscience and belief which shall include academic freedom in institutions of learning" (Republic of Uganda, 1995, p.51). In essence the Uganda Constitution offers protection against infringement on academic freedom in HEIs. The Uganda government ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 1987 (Office of the United Nations High Commissioner for Human Rights in Uganda [OHCHR], 2010). The ICESCR (under Article 15) mandates all member States to "respect the freedom indispensable for scientific research and creative activity" (Craciun, & van der Meulen, 2024, p.24). Further, the concept of academic freedom was subtly promoted by the Final Declaration of the 6th European Union-African Union Summit of February, 2022 (Africa-Europe Foundation [AEF], 2024). Specifically, commitment 4 of the ten Commitments of the Final Declaration of the 6th EU-AU Summit aspires to promote and facilitate "Scientific and technological cooperation, student, research and cultural exchanges, restitution of cultural assets and promotion of cultural heritage" (AEF, 2024, p.9). This paper delves into the discourse of academic freedom by delineating it from the conventional freedom of speech and expression. The paper also shows that policy, legal and ethical (PLE) dynamics have proven to be a serious clog to the enjoyment of academic freedom and institutional autonomy in HEIs within the Ugandan context thereby creating a new point of tension of how HEIs can allow academic freedom to flourish while at the same time holding on to their institutional autonomy.

1.1 Conceptualizing Academic Freedom

As nations have come to recognize the central role of higher education (HE) in achieving sustainable social, economic, political, and technological transformations, HEIs have been called upon to widely open the doors for those aspiring to access HE. This has ultimately culminated into global HE expansion, which has now led to the

"creation, legitimation, and expansion of new forms of knowledge" (Fernandez et al., 2024, p.2). Traditionally, universities have been thought of as platforms for the creation, articulation and supply of well researched knowledge and a marketplace for ideas "which are vital to the development of a well-functioning society" (Karimi, 2021, p.1). Critical to this revered, are academic freedom and institutional autonomy. Academic freedom is "an essential mechanism that safeguards and facilitates the ability of educators to pursue truth and advance knowledge without fear of institutional reprisal" (Karimi, 2021, p.1). Promoting and protecting academic freedom is fundamental to ensuring that academics, students, and HEIs can explore new ideas, offer insightful critique, and provide innovative solutions to complex problems. Academic freedom relates to the "right of universities and individual scholars to conduct research, to teach and to communicate, even on matters that may be politically sensitive, without being targeted for suppression" (Kariuki et al., 2022, p.3).

Perhaps the most dominant authority on academic freedom is the United Nations Committee on Economic, Social, and Cultural Rights (CESCR) which defines academic freedom as 'the liberty of individuals to express freely opinions about the institution or system in which they work, to fulfill their functions without discrimination or fear of repression by the State or any other actor' (UN CESCR, 1999). Similarly, the UNESCO Recommendation concerning the Status of Higher Education Teaching Personnel adopted in 1997, specifies academic freedom as:

the right [of academics], without constriction by prescribed doctrine, to freedom of teaching and discussion, freedom in carrying out research and disseminating and publishing the results thereof, freedom to express freely their opinion about the institution or system in which they work, freedom from institutional censorship and freedom to participate in professional or representative academic bodies (UNESCO, 1997).

Academic freedom and institutional autonomy are regarded as exclusive virtues for HE systems (Council on Higher Education [CHE], 2008) and virtually the heart of any HEI and thus a value that is pivotal to the "modern academy's identity" (Belluigi, 2023, p.3) and a "fundamental norm" for HE and quality research (Spannagel et al. 2020, p.5). The value of academic freedom in HEIs closely relates to participative democratic imperatives in a free society (Kapit, 2023) particularly because any sound accountability and decision-making in institutions as well as Government sector "requires freedom of expression, public access to knowledge and freedom to generate evidence-based knowledge" (Kratou & Laakso, 2022, p.5). It is imperative to note that for HEIs to properly analyze and effectively respond to national and global issues and find sustainable solutions to the problems and challenges facing our societies "requires that higher education institutions, faculties and students have the freedom and the will to consider issues both in the short term and in a broader and longer-term perspective, as well as in relation to their values" (Bergan & Harkavy, 2020, p.17).

HEIs, particularly universities serve as centers for generating, incubating, and testing ideas and actions that can be used to change society (Pinheiro & Antonowicz, 2015) through development of knowledge, transmission of ideas, and critical debates (Kapit, 2023). Accordingly, academic freedom in HEIs allows faculty to inculcate among students, active citizenship and allow them to engage in political and civic activism by inducing their minds to contemplate and interrogate in an analytical manner the social, economic, political, policy, and legal issues within their vicinities (Klemenčič, 2015). In doing so, HEIs seek to fulfil the democratic mission of HE, which according to Bergan and Harkavy (2020) is to "motivate young people to exercise their voting rights and to do so on the basis of a considered and coherent view of how they want society to develop... and to provide young people with the competences to do so" (p.18). This implies that universities should be actively engaged insofar as executing their core mandate is concerned. Bergan and Harkavy (2020) call upon universities not to be so much of entrepreneurial universities. Rather universities should embrace moral and intellectual imperatives that make them "engaged universities" (p.18). To them, an engaged university:

is an institution that fulfils its broader societal role as an independent institution, drawing on its research, teaching and institutional resources. It is neutral in the sense of being non-partisan, but it is far from neutral in the sense of being devoid of values or convictions. It is committed to the public good, to democracy and human rights, and to basing policies and decisions on facts established through study, research and critical reflection —as well as to challenging received wisdom based on new discoveries (Bergan & Harkavy, 2020, p.18).

Thus, it is imperative to note that the ability of HEIs to engage in real scholarship and foster academic rigour among students and research productivity by faculty is of great significance to the quality of teaching and research (American Council on Education [ACE], n.d.). ACE highlights nine premises upon which academic freedom and institutional autonomy are justified.

Table 1. Premises to justify Academic freedom and Institutional Autonomy in HEIs

Premise

- Premise 1: In order to support and facilitate the development of democracy and permit the enjoyment of right to freedom of thought, conscience and belief which includes academic freedom in institutions of learning guaranteed under Article 29 (1) (b) of the Uganda Constitution, there is need for both university leadership and the State to allow free, and open academic inquiry and debate within the university.
- Premise 2: Universities are called upon to examine complex issues, challenges, and ideas and provide a forum in which issues and opinions can be explored and openly debated. Thus, universities are committed to transparent intellectual inquiry and academic excellence, free speech, and civil discourse.
- Premise 3: Fostering a rigorous and civil exchange of ideas is a linchpin to democratic leadership and governance. Thus, there is need for universities in Uganda to graduate students with the skills needed to be productive citizens who can contribute to engaged communities and to produce scholarship and research that boosts our national economy and cultural offerings and that leads to life-altering technologies and life-saving medical advances that benefit all of Ugandan society.
- Premise 4: University students are adults who should be exposed to all topics on campus, including controversial and contentious ideas, presented in an intellectually rigorous way that encourages critical discourse. In the lecture room, this means that lecturers and professors should present views on a topic that are accurate, non-doctrinaire, and consistent with curricular requirements. Under the principles of academic freedom and shared governance, faculty are charged with being the main decision-makers shaping syllabi and curricula.
- Premise 5: Higher education institutions are committed to the idea that more speech is good speech and to ensuring that all members of the university community feel comfortable expressing their ideas and views.
- Premise 6: All university students should be able to speak their minds freely, even if some have opinions that others find wrong, objectionable, factually unsupportable. Part of growing up and becoming an adult is being exposed to uncomfortable ideas different from one's own. Having to weigh multiple points of view about controversial topics helps students learn to think critically. It is fundamental to university experience and, more generally, to growing into adulthood.
- Premise 7: The best cure for bad speech is more speech, not restrictions on speech. There are limits to this—but only those that contravene Article 43 (1) of the Uganda Constitution, which stipulates that, "in the enjoyment of the rights and freedoms prescribed in this Chapter [Chapter Four of the Constitution], no person shall prejudice the fundamental or other human rights and freedoms of others or the public interest" (Republic of Uganda, 1995, p.57). When speech violates the law, defames individuals, or threatens violence, it crosses the redline implied in the aforementioned Constitutional provision and need not be tolerated. These exceptions, and the circumstances in which they are invoked, should be communicated in a clear and transparent manner to the entire university community and other external stakeholders.
- Premise 8: Government officials and political elites and architects of State craft should not make decisions about what can or cannot be taught or discussed on university campuses or impose restrictions or conditions on campus speech or curricula. University faculty and university leaders are best situated to make these decisions, not the Government.
- Premise 9: Universities and political elites should work in partnership to study social challenges and propose actionable solutions. Currently, particularly in autocratic regimes which are common in Africa (and Uganda is not an exception), there are a lot of challenges to free speech and open dialogue within HEIs, coupled with concerns from students (e.g. sexual harassment, dilapidated lecture rooms and halls of residence, etc.), and faculty (e.g. poor remuneration, over workload and burnout, overcrowded lecture rooms, etc.) and across the political spectrum that academic environments do not feel hospitable to their viewpoints. University leadership should be keen to work in partnership with government officials as well as private sector on studying these challenges and proposing and implementing solutions. Additional efforts to control how ideas are shared on campuses from any source could have a deleterious effect on achieving this mutual goal.

Source: Adapted from ACE, (n.d, pp 1-2): Making the Case for Academic Freedom and Institutional Autonomy in a Challenging Political Environment: A Brief Overview for Campus Stakeholders.

Academic freedom is protected by different pieces of legislation. These include the 1948 UN Universal Declaration for Human Rights (UDHR) particularly the right to freedom of expression and opinion (Article 19); the Scholars at Risk Network's Academic Freedom Monitoring Project which extensively tracks cases where free speech and opinion in HEIs is suppressed; the Global Coalition to Protect Education from Attack (GCPEA) which monitors and reports on attacks, arrests and violations against university faculty and students (Kapit, 2023). Situating the university in its rightful position requires that institutional autonomy allows the university to assert itself and enjoy intellectual power within the HE space. On the other hand, academic freedom allows the university to execute its mandate without undue constraint either by the Government or by geopolitical actors including donors. It is not uncommon to find the HE space flooded with publications about institutional autonomy and academic freedom. Indeed, much is being said and written about these twin concepts. In order to evaluate academic freedom and institutional autonomy, this paper aims to emphasize five concepts which relate to (a) what a university tries to do and (b) how it decides to do it. The concepts that relate to what a university tries to do are; order, freedom of academics, diversity, inclusion, and equity. Thus, the first dilemma that universities face is to reconcile the conflicting values of order within the institution, guaranteeing academic freedom to both faculty and students and at the same time achieve diversity, inclusion and equity.

2. Literature Review

2.1 Academic Freedom

There is a general lack of clarity and philosophical basis for academic freedom and what it entails (Kirsten, et al., 2023). Many scholars and HE policymakers have tried to define academic freedom but the confusion about what it is and what it is not continues insofar as it is not "directly included in any international human rights convention as a standalone right" (Kirsten, et al., 2023, p.2). Rather, academic freedom has been embedded and infused in the different human rights statutes and conventions (Kinzelbach et al., 2021) and this has ended up creating a definitional jumble every time someone tries to define academic freedom. Kratou and Laakso (2022) argue that the relationship between HE and democracy is indisputable as it "relates to cognitive and motivational attributes" (p.4), which allow faculty in HEIs to "speak the truth to power" (Said, 1994, p.97). Some scholars have posited that the role of HEIs, particularly universities in promoting and shaping democratic leadership and practice goes beyond those studying in them at a particular time (Bryden & Mittenzwei, 2013; Cole, 2017; Post, 2012). University faculty and students are called upon to engage in thoughtful, properly researched and logically sound debates and theorization about issues that affect society nationally, regionally and globally. However, as argued by Kratou and Laakso (2022) universities can effectively execute this mandate "only if academic expertise is protected, appreciated and utilized" (p.4).

Paradoxically, Nhemachena and Mawere (2022) lambaste African scholars for failing to utilize academic freedom to the benefit of Africa, particularly because they have failed to develop actionable solutions to the African social, political, economic, and technological problems. The authors take critical issue with academics in African HEIs and ridicule them for posturing like "colossuses standing on clay feet, engaging in captivating academic pageantries each year but fail to innovatively generate vaccines and even original ideas, models and theories relevant to the African continent on which we stage the academic pageantries, yearly" (Nhemachena & Mawere, p.2). Despite this bullying, the authors acknowledge that "academic freedom is central to democracy" (p.3). Spannagel et al. (2020) contend that academic freedom is important for "scientific progress, the pursuit of truth, research collaboration, and quality HE" (p.25) and as such should permit academics; a) the freedom to conduct research and teach; b) the freedom to academic exchange and dissemination; c) the institutional autonomy of universities; and d) campus integrity (Spannagel et al., 2020, p.9).

2.2 Delineating Academic Freedom from Freedom of Speech and Expression

Many scholars on HE have indicated that academic freedom is synonymous with the right to freedom of speech and expression guaranteed by international law and domesticated in the Constitutions of most countries, including Uganda. Article 29 (1) (a) of the Uganda Constitution states that "every person shall have the right to freedom of speech and expression which shall include the freedom of the press and other media" (Republic of Uganda, 1995, p.51). Kratou and Laakso (2022) posit that "freedom of speech for researchers is the best protection for the public interest" (p.9). Indeed, many scholars have treated academic freedom and freedom of speech and expression as synonyms (Alain-Marc, 2021; Belluigi, 2023; Deniset et al., 2021; Fernandez, 2024; Kratou & Laakso, 2022; Kirsten & Suba, 2019; Nhemachena & Mawere, 2022; Saliba, 2020; Spannagel et al., 2020). To strengthen this comparison, Cole (2017) contends that the presence and enjoyment of academic freedom by academics is prima facie evidence that democracy and individual liberties in a particular society are flourishing because the existence of academic freedom "allows us to measure whether democratic ideals and adherence to principles of individual liberty and free

expression really exist within a society" (p.862).

However, this paper argues that freedom of speech and expression and academic freedom are not whanau and thus should be treated differently. Right to freedom of speech and expression as it is granted by international law (Article 15 of the International Covenant on Civil and Political Rights of 1966) (United Nations [UN], 1966) and domesticated in national Constitutions of most countries, largely relates to the political realm and has often become a symbol of political tension. Right to freedom of speech and expression is premised on the illusion that power belongs to the citizens of a country and thus citizens ought to determine what leaders choose to do. Article 1 (1) of the Uganda Constitution stipulates that, "All power belongs to the people who shall exercise their sovereignty in accordance with this Constitution" (Republic of Uganda, 1995). This illusion is premised on the hypothesis that people have inherent rights that are inalienable and thus cannot be taken away by anyone (Janda et al., 2004). Thus, according to the English philosopher John Locke, legitimate political authority derives from the people who consent to be governed and thus political leaders should always aim to protect these natural rights. According to the social contract theory, "people agree to establish rulers for certain purposes and have the right to resist or remove rulers who violet those purposes" (Plamentz, 1992, pp.216). Thus citizens often express their grievances through demonstrations, protests and public assemblies on issues like election results, tax increments, high cost of living, climate change, wars, LGBTO+, among others. This is where politicians, civil society and human rights activists and citizens usually find themselves in direct confrontation with police and military whenever governments attempt to curtail this freedom usually by arresting, imprisoning or shooting those involved.

A recent example of the conception of freedom of speech and expression in HEIs occurred in the United States of America (USA) where college and university students staged protests against Israel's war on Gaza. These pro-Palestine protests dubbed "we stand with Palestine/Gaza" begun on April 15, 2024 at Columbia university and spread across many universities and colleges in the U.S, United Kingdom (U.K), Germany, France, Australia, Canada, among other countries. Protesting students showed solidarity for Palestine by encamping at their different university/college campuses since April 15 through the month of May (BBC, CNN, Aljazeera News networks, April/May, 2024). In some universities in the U.S and the U.K scenes of clashes between pro-Palestine and pro-Israel students were seen. Students accused Israel for allegedly committing atrocities of genocide in Gaza and also accused U.S and President Joe Biden for supporting and heavily arming Israel to commit the alleged genocide. Police and military in all these countries heavy-handedly cracked down on these student protests, arrested hundreds of them and charged them with anti-Semitism yet in some cases university leaders threatened to dismiss the protesting students. On the other hand, students and their supporters found these police crackdowns as an abuse to free speech and freedom of expression and an assault to democracy.

Academic freedom on the other hand relates to allowing faculty in institutions of higher learning to execute their mandate, which is the creation of knowledge, dissemination of that knowledge through teaching, publication, expert opinions, and consultancy, as well as meaningfully engaging with communities. Also, academic freedom is aimed at allowing faculty and HEIs to engage with the entire HE community through knowledge transfer partnerships and meaningful collaborations, international mobility exchange of students and faculty as well as engaging in debates on contemporary issues in HE. This paper argues that without undue institutional, Government, and geopolitical restraint, academic freedom should permit faculty in HEIs to; a) design and implement curricular; b) engage in researches of their interest; c) disseminate research findings to the targeted audience; d) engage in knowledge knowledge partnerships; and e) create collaborations with national, regional and international communities.

In their study, Kratou and Laakso, (2022) argue that there is a positive and statistically significant relationship between academic freedom and levels of democracy. They posit that the higher the willingness of Government to maintain democratic leadership and governance the "stronger its respect of academic freedom and cultural expression and respect for the [country's] Constitution" (p.24). This implies that the survival (or non-survival) of academic freedom in HEIs is dependent upon the leader's political ideology and the politics of the day. To strengthen their argument, Kratou and Laakso (2022) call upon academics in HEIs to engage in political discussions in their home countries because such engagements "contribute not only to the competence of decision-making but also to the quality and resilience of democratic institutions" (p.1). However, this paper argues that given the divisive nature of politics characterised by cut-throat competition and uncouth political theatricals, it is fatally flawed to invite academics to actively publicly engage in such political debates as this is likely to adversely affect their analytical and logical reasoning about issues of political contention and accordingly lose intellectual credibility. Moreover, an emerging and most severe risk to academic freedom is the era of misinformation and disinformation (World Economic Forum [WEF], 2024), where in some countries academics are hired by political and policy elites to publicly distort facts, disguised as expert opinion about highly contentious political and geopolitical issues. Such

intellectual dishonesty characterized by academic capitalism by faculty amidst simmering political tensions is usually intended to "widen societal and political divides and further deepening polarization of society" (WEF, 2024, p.8).

2.3 Three Dilemmas of HEIs

In theory HEIs possess and enjoy the freedom to make decisions regarding their internal operations—admission of students, governance, recruitment, finances, curriculum, staff appraisal and promotions, among others. However, in practice HEIs face three real dilemmas that have understandably put a caveat to academic freedom and institutional autonomy. The three dilemmas that HEIs face are: order, academic freedom, equity, diversity and inclusion (EDI).

2.3.1 Maintaining Order

Universities, according to UNESCO are "communities of scholars preserving, disseminating and expressing freely their opinions on traditional knowledge and culture, and pursuing new knowledge without constriction by prescribed doctrines" (UNESCO, 1997, para.4). A university contributes to the cultivation of an ideal product by providing faculty "who are well versed in their disciplines, who remain in collaborative contact with other similar minds, and who belong to an institution that is allowed to define its own interrelationships, establish its own rules and gain its own tone and character" (O'Hear, 1988, p.9-10). Academics in universities must do this in a safe, secure and orderly environment. This implies that academic freedom comes with policy and legal caveats. Thus academics must not act in a manner that is detrimental to fellow academics, students, or the institution in general under the guise of academic freedom. Thus the first mandate that leaders in HEIs should perform is to ensure peace, order, safety, and tranquility (POST) within HEIs and outside HEIs when academics and students are engaged on official duties, say study tours or conducting research projects.

As argued by Janda et al. (2004), the construct of *order* can be viewed in two ways. First, viewed in a narrow perspective of "preserving life and protecting property" (p.8) in which case individuals would concede the importance of maintaining order and thus allow the establishment of a higher authority say university council at a macro level (top management) or Deans and Principals of colleges or faculty (middle management) or heads of departments or units (lower-level management) to maintain order in their respective jurisdiction. The second and broader view of *order* relates to "preserving the social order" (Janda et al., 2004, p.8). *Social order* in this case refers to "established patterns of authority in society and to traditional modes of behaviour" (Janda et al., 2004, p.8). In this case, most individuals would not willingly welcome legislative, regulatory and prohibitive actions or policies from top university leadership. This paper considers the second construct of *order*. Thus, maintaining order in this sense relates to leadership in HEIs formulating and implementing policies, rules, and regulations that guide the modus operandi of academics and students in their bid to exercise academic freedom. The postulation here is that in the exercise and enjoyment of their academic freedom, faculty and students must operate within the ambit of institutional rules of engagement. This is ultimately aimed at protecting the life and dignity of individuals as well as property and sanctity of the institution.

The seventeenth-century English philosopher, Thomas Hobbes (1588–1679) revitalized the importance of preserving life by both government and institutions. Hobbes in his philosophical treatise, *Leviathan*, described life without Government as a life in a "state of nature" (Hobbes, 1651, p.35 in Janda et al. 2004). In this paper the word government has a broader sense to mean a governing body within an institution with legislative power (policies, rules and regulations), executive power (university top administrative body) and even judicial power (university disciplinary and appeals tribunals). Within the university context these powers are vested in for example, the university council— which is the university's supreme governing body and university senate— which is the university's supreme academic body (Government of Uganda, 2001). Thus, without policies, rules, regulations and laws, "people would live as predators do, stealing and killing for their personal benefit" (Janda et al., 2004, p.4). In the opinion of Hobbes, life without such rules of engagement would be "solitary, poor, nasty, brutish, and short" (p.35). Keeping in faith with Hobbes' hypothesis, it implies that leaders in HEIs have the mandate to guarantee safety of the weak and vulnerable (e.g., students, and students with disabilities, minority groups, or participants in research); to protect them from potentially unprofessional or unethical conduct of the superior (e.g., lecturers, professors, researchers and other university staff in positions of power and influence).

2.3.2 Guaranteeing Academic Freedom

HEIs, particularly universities are established to perform unique roles: a) creating knowledge through research, b) disseminating knowledge through teaching, publications and knowledge transfer partnerships, and c) meaningfully engaging with the community in a manner that is valuable and supportive. In 1915, the Committee on Academic Freedom and Academic Tenure of the American Association of University Professors (AAUP) enacted a statement of

canons on academic freedom and academic tenure known as the 1915 Declaration of Principles on Academic Freedom and Academic Tenure, which was officially ratified by the Association at its Second Annual Meeting held in Washington, D.C. on December 31, 1915 (Seligman et al. 1915). According to the Declaration, one of the key functions of HEIs is "to promote inquiry and advance the sum of human knowledge" (Bloom & Young, 2023, p.3). The Declaration pointed out that these functions are advanced and protected through academic freedom not in "the absolute freedom of utterance of the individual scholar, but [in] the absolute freedom of thought, of inquiry, of discussion, and of teaching, of the academic profession" (Bloom & Young, 2023, p.3).

Later in 1940, the 1940 Statement of Principles on Academic Freedom and Tenure declared that:

Institutions of higher education are conducted for the common good and not to further the interest of either the individual teacher or the institution as a whole. The common good depends upon the free search for truth and its free exposition. Academic freedom is essential to these purposes and applies to both teaching and research. Freedom in research is fundamental to the advancement of truth. Academic freedom in its teaching aspect is fundamental for the protection of the rights of the teacher in teaching and of the student to freedom in learning. It carries with it duties correlative with rights (AAUP, 1940, p. 14).

To understand academic freedom in its proper right, it is necessary to define freedom in its broader sense. Freedom can be conceptualized in two major senses: freedom of and freedom from. Freedom of is the absence of restrictions on behavior and conduct (Janda et al., 2004). That is, it is the freedom to do something without external constraints. In this sense, freedom is synonymous with liberty. Freedom from implies "immunity from something undesirable or negative" (Janda et al., 2004, p.8). However, in the context of academic freedom in HEIs, both freedom of and freedom from seem a fantasy. This ultra-libertarian version of academic freedom is likely to cause institutional anarchy whereby academics defy policy and legal ramifications that try to draw redlines on how they are supposed to fulfil their mandate-teaching, conducting research, supervising students, engaging with communities. As argued by Nordenstreng (2016), academics should avoid falling into the trap of conceptualizing academic freedom as a "pervasive ideology rather than of a rational doctrine" (p.61). In the opinion of Nordenstreng (2016), it would be fatal to support the "simple notion of negative liberty" (freedom from) (p.61). Instead, academics and HEIs should embrace a "notion of positive liberty" (freedom for), whereby "freedom is not an end product to be protected as such but a means to ensure other more general objectives" (Nordenstreng, 2016, p.61) such as peace, safety, morality, professionalism, ethical conduct, and general institutional order so as to enable institutions achieve their mission and vision aspirations. For this reason, it is prudent that academics and scholars in the field of HE are invited to take critical excursions into the concept of freedom in general, and academic freedom in particular.

Thus, institutional establishments such as research ethics committees, quality assurance departments, policies requiring graduate students to run anti-plagiarism tests before they submit their dissertations, among others, are intended both to aid academic freedom and at the same time tame its potential misuse. This is why universities in Uganda are required to enact policies on different issues and even "upload those policies on the university website and sensitize students and staff on the key policies, including the anti-sexual harassment policy" (Nawangwe, 2021, p.6), which is aimed at ensuring students' safety by "stamping out sexual harassment between or among students, academic staff, support staff, contractors, partners, visitors and researchers" (Mugisha, 2021, p.16). Thus, policy practice is one of the avenues through which practitioners in HEIs and Government seek to influence policies regarding educational matters. This practice relates to activities undertaken by leaders in HEIs "as an integral part of their job" (Weiss-Gal et al., 2023, p. 2). Thus, this paper argues that in the enjoyment of academic freedom, academics should be cognizant of institutional peace, order, safety, tranquility (POST), professionalism and ethical conduct, as well as the broader vision and mission aspirations of a particular institution.

2.3.3 Equity, Diversity, Inclusion

Stewart (2017) argues that diversity in HEIs questions, "who's in the room?"; inclusion asks "have everyone's ideas been heard?"; equity questions "who is trying to get in the room but cannot?" whose presence in the room is under constant threat of erasure?" (Para.10). According to Meyers and Pinnock (2017), "diversity is being invited to the party. Inclusion is being asked to dance" (p.33). Thus equity, diversity and inclusion (EDI) ramifications implore HEIs to have in place "a distinct set of programs aimed at facilitating positive intergroup interactions, reducing prejudice and discrimination, and enhancing the skills, knowledge, and motivation of people to interact with diverse others" (Bezrukova et al. 2012, p.208; Hurtado et al., 2012). The construct of institutional autonomy generally means the powers conferred upon an institution of higher learning to make decisions and choices concerning its internal affairs (Verdenkhofa et al., 2018). Specifically, the definition of institutional autonomy as it relates to universities was given in 1965 by the International Association of Universities (IAU) stating that institutional autonomy refers to

the authority by a university or HEI to "decide on who would teach, what would be taught, who would be trained, and who would receive the degree to be investigated" (IAU, 1965, p.3). Unlike other HEIs, universities in particular are called upon to perform a very important task (O'Hear, 1988) which involves bringing on the academic stage "essential kinds of specialist knowledge and training into effective relation with informed general intelligence, humane culture, social conscience and political will" (Leavis, 1979, p.24).

Although defining and measuring the scope of institutional autonomy is a complex task (Kirsten & Suba, 2019), the concept empowers the university to "remain in charge of decisions regarding its internal governance, finance, administration, and research choices" (Spannagel, et al., 2020, p.13). This empowerment necessitates that universities uphold campus integrity, which relates to the "preservation of an open learning and research environment marked by the absence of a deliberately, externally induced climate of insecurity or intimidation on campus" (Spannagel, et al., 2020, p.13). However, it is difficult to fathom how universities can enjoy true institutional autonomy in a situation where social justice and affirmative action ramifications (EDI) must inform their modus operandi. For instance, in their student admissions policies, HEIs are called upon to focus more on diversity and inclusion of the different categories of students (Goriss-Hunter et al., 2023). This brings into purview a moral thesis that HEIs should formulate policies, rules and regulations with an embedded ethical value that aims to embrace all categories of students. Thus, as voices are becoming louder calling upon HEIs to ensure EDI in their operations (admission of students and recruitment of staff), the ability of universities to exercise institutional autonomy is becoming thin.

2.4 Policy, Legal and Geopolitical Caveats to Institutional Autonomy within the Ugandan Context

At this point it is important to reiterate the definition of institutional autonomy as given by the IAU: the authority by a university or HEI to "decide on who would teach, what would be taught, who would be trained, and who would receive the degree to be investigated" (IAU, 1965, p.3). The power to decide on who would teach or be recruited as staff is no longer entirely the discretion of individual institutions. Rather there are policy and legal ramifications that dictate how HEIs should recruit staff. Thus, affirmative action such as gender and disability inclusion have become a normative practice in HEIs. For instance, Article 21 (2) of the Uganda Constitution (1995) outlaws any form of discrimination stating that "a person shall not be discriminated against on the ground of sex, race, colour, ethnic origin, tribe, birth, creed or religion, social or economic standing, political opinion or disability" (Republic of Uganda, 1995, p.43). Further, according to Section 38 (1) (r) of the Uganda Universities and Other Tertiary Institutions Act (UOTIA), a fully constituted University Council in a public university must include among other members, "two representatives of persons with disabilities, one elected by the members of staff who are persons with disabilities and another by National Organizations of persons with disabilities" (Government of Uganda, 2001, p.11). This implies that in their recruitment processes, universities must deliberately ensure that some of their staff are people with disabilities in order to have a pool of staff who are persons with disabilities from whom to get members to constitute a fully-fledged University Council.

Another aspect of the definition of institutional autonomy regards to what would be taught. The notion that universities decide what to teach, how to teach, to whom and when is impressive albeit utopian. Quality assurance and course/program accreditation requirements as well as statutory requirements for periodical review of courses/programs by universities (Uganda National Council for Higher Education [NCHE], 2022) are all aimed to curtail (at least in a subtle manner) the autonomy of universities to decide what should be taught, to whom and how. Moreover, as governments are increasingly calling on their universities to contribute to national growth and development (Probert, 2016), many universities are increasingly undertaking curriculum and pedagogical reviews and researches aimed at satisfying the demands of their governments, industry and research funders oftentimes Vision 2040, Government aims to "transform the Ugandan society from a peasant to a modern and prosperous country within 30 years" (Government of Uganda [GoU], 2013, p.iii). As a result, universities are required to develop courses/programs that are "responsive to the market demands and produce a human resource that is ready for the workplace" (GoU, 2013, p.92). This also follows a myriad of scholarly publications, radio/television talk shows and newspaper articles lambasting Ugandan universities for engaging in a "deceptive behavior" (Mamdani, 2007, p.133) of duplicating and teaching courses/programs that do not prepare graduates for work readiness and as a result cannot contribute to sustainable socio-economic transformation of the country (Tibendarana, 2013). Consequently, many universities have succumbed to this pressure and have merged or planned a gradual erasure of some courses/programs from their curricular.

The question of who would be trained, relates to admission of students into institutions of higher learning. Again, here universities exercise very minimal discretion and thus institutional autonomy is rarely exercised. In Uganda, admission of students into public universities is guided by law. Specifically, Section 28 of UOTIA states that: 1) admission to a public university shall be open to all qualified citizens of Uganda and without discrimination; 2) the admission committee of a public university shall take into consideration affirmative action in favor of marginalized groups on the basis of gender, disability and disadvantaged schools; and 3) the admission committee of a public university shall take into consideration for admission, persons with special talents in sports, music and other social activities for their enhancement (GoU, 2001, p.8). The spirit of social justice exhibited by UOTIA cannot be disparaged. Nevertheless, from a policy and legal perspective, the use of a higher-affinity word "shall" (instead of a low-affinity word "should" or "may") demonstrates a compelling force by the framers of the law (Parliament) exerted upon universities to admit students according to the ambit of the law which often requires universities to significantly lower their admissions grade-points scored by students in order to meet the policy and legal admissions requirements, hence a miscarriage of institutional autonomy.

2.5 Geopolitical Tensions to Academic Freedom and Institutional Autonomy

In this Twenty-first century, major global powers are more or less in the same race for territories as the case was during the nineteenth century when countries like Britain, France and Germany played a major role in world politics. Now with the emergency of other key players (United States of America, China, Iran, Canada, India, Japan, Israel), the geopolitical theatre has increasingly become intricate and highly institutionalized through agencies such as the United Nations, World Bank, International Monetary Fund (IMF), Multinational Corporations (MNCs) and Non-Government Organizations (NGOs) (Easterly, 2006; Žižek, 2021). Such geopolitical tensions have not spared HEIs both at microscopic (bilateral) and macroscopic (multilateral) levels (Moscovitz & Sabzalieva, 2023; Moscovitz & Sabzalieva, 2021; Oldac, 2022; Trilokekar, 2022; Varrall et al., 2021). In effect the theatre of geopolitics curtails the ability of academics to enjoy academic freedom and HEIs cannot freely exercise institutional autonomy. Such geopolitical tensions have not spared Ugandan universities. For example, in 2017 the United Nations Security Council ordered the Government of Uganda to terminate all the agreements and contracts it had signed with North Korean professors and consultants. Consequently, the Government asked all public and private universities that were employing North Korean professors to terminate their contracts with immediate effect in order to implement the UN Security Council directive. Margaret A. Kafeero the head of public diplomacy at the Uganda Ministry of Foreign Affairs at the time confirmed this directive by stating that "we are under obligation to abide by the terms of all UN Security Council resolutions as per Article 25 of the UN Charter. We complied with the sanctions regime and cancelled all agreements with North Korea as mandated" (New Vision, 2017, p.7). As a result, universities lost a significant number of North Korean professors particularly in the fields of science, technology, engineering and mathematics (STEM). This also means that universities cannot have students or staff exchange programs with universities in North Korea or in countries that are sanctioned by U.S.A hence frustrating international student and staff mobility. Such geopolitical tensions not only thwart academic freedom and institutional autonomy but also impede global knowledge transfer partnerships and collaborations within the HE

2.6 A Clash between Academic Freedom, Institutional Autonomy and Immorality: The Case of Makerere University

The word morality can be traced from the Latin word *moralitas*, which means "a differentiation of intentions, decisions, and actions between those that are distinguished as proper and those that are improper" (Long & Sedley, 1987, p.366). It is the moral beliefs, views, and attitudes of given individuals, societies, and groups (Khatibi & Khormaei, 2016). Described as temperament, character, or manners, morality "expresses the established character structure in humans and the behaviors of individuals that occur under their own will" (Özge, 2021, p.2). Thus, morality concerns itself with what is regarded as proper or improper, right or wrong within a particular context. Hence it can be deduced that any deviance from the established character structure in humans and behavior of individuals within a particular context is referred to as immorality.

At about 8:15 a.m. on the Monday morning of April 18, 2016, something inconceivably strange happened at Uganda's oldest university–Makerere university. Dr. Stella Nyanzi, who at the time was a research fellow at the Makerere Institute of Social Research (MISR) under the College of Humanities and Social Sciences (CHUSS) at Makerere university, decided to strip naked. A scholar in African queer studies, Dr. Stella decided to strip naked due to what she considered to be "maltreatment by her boss" (Tamale, 2016, p.1), Professor. Mahmood Mamdani, who at the time was the Director at MISR (Makerere university, 2016).

The rift between Professor Mamdani and Dr. Stella emanated from the consistent demand by Professor Mamdani that Dr. Stella teaches students on MPhil/PhD program and also participates in MISR research projects, which demand Dr. Stella persistently defied arguing that as a research fellow, she was not supposed to participate in teaching as demanded by the Director of the institute (Makerere university [MaK], 2016). Section 2.2 of the Makerere university Human Resource Manual states that the "academic staff of the university shall be staff engaged in teaching, research and outreach to the community in line with the mission of the University" (MaK, 2009, p.4). Section 2.2 (a) of the same manual gives a list of university employees classified as 'academic staff' including 'research fellows' in section 2.2 (a) (x). Further, the appointment letters of academic staff at MISR required that they "devote 50% of their time to teaching and 50% of their time to research" (MaK, 2016, p.2). Dr. Stella's act was regarded as a breach of the terms of her appointment and accordingly accused of insubordination or disobedience to take lawful orders as per section 5.7 (3) of the Makerere university human resource manual (MaK, 2016). Further, by "stripping and staging a premeditated nude demonstration when she was still in possession of her office keys" (MaK, 2016, p.4) and "yelling profanities, obscenities and vulgarities at the Director of MISR" (Tamale, 2016, p.2), Dr. Stella contravened Section 5.1 (a) of the Makerere University Human Resource Manual which provides that "an employee shall act at all times in a reasonable and responsible manner" and Section 5.1 (b) which stipulates that "an employee [of the university] shall always comply with the laws of Uganda as well as the University's prescribed policies, rules, standing instructions and procedures" (MaK, 2009, p.22).

Consequently, Dr. Stella's services were terminated by the university authority (institutional autonomy) and she decided to become a political and LGBTIQAP+ activist in Uganda and often times confronting and being arrested by police for inciting violence and using utterly blameworthy vulgarities and lewd statements to attack political leaders particularly leaders in the ruling political party (National Resistance Movement [NRM]), including the President of the Republic of Uganda and his wife, the First Lady (Mirembe & Mwesigire, 2020). Using this same case study of Dr. Stella, Kariuki et al. (2022) equate such arrests to "attacks on scholars" which in their considered view are a "threat to democracy" (p.3) since "academic freedom has a strong and positive impact on the quality of [a country's] elections" (Kariuki et al. 2022, p.7). Similarly, Sylvia Tamale, a Professor of Law at Makerere university School of Law and a renowned feminist who combines academia and activism, supported the acts of Dr. Stella and lambasted the top leadership at Makerere university (an attack on institutional autonomy) for taking a tough action against Dr. Stella because her protest was shallowly perceived in a manner that is "sexualized and sensationalized" (Tamale, 2016, p.2). In other words, in Tamale's view, Dr. Stella's naked protest was justified because there is a myriad of evidence in the different parts of the world, including in Sub-Saharan Africa where "protesting women deployed the diffuse power located in their naked bodies to engender social and political transformation and their actions doubtlessly subverted patriarchal-capitalist power dynamics and discontent with the existing order" (Tamale, 2016, p.12).

This paper aims to deconstruct the concept of academic freedom and delineate it from the highly contested freedom of speech and freedom of expression and thus suggest a procedural academic freedom (PAF), which relates to allowing academics in HEIs the right to perform their defined obligations in a manner that is consistent with institutional policy and regulatory frameworks aimed at enabling the institution to achieve its vision and mission. PAF enables academics to exercise and enjoy academic freedom with professional, moral and ethical responsibility. This suggests that academics should conduct researches, teach and supervise students, disseminate knowledge, and interface with the community in a manner that is acceptable and demonstrably justifiable in line with defined policies and laws governing the institution and such tasks should aim at supporting the institution or individual units within the institution to achieve their defined mandate. Thus, policy orthodoxy presents policy as objective and neutral that establishes rights and at same time curtails action and behavior. On the other hand, this paper emphasizes a police-power-like construct of institutional autonomy, which is facilitative to enable academics exercise their academic freedom as redefined in this paper, but at the same time retain such institutional authority to promote and ensure POST within the institution, safeguard students against any form of exploitation and harassment, enforce morals and ethics and also protect academics against unjustified internal and external attacks pertaining to the performance of their institutional obligations in order to harness their scholarly power and intellectual fecundity. Thus, institutional autonomy should take on a guardian role to academics, students, other staff and visiting faculty of the institution.

3. Conclusion

The labyrinthine nature of HEIs particularly universities make them complex and dynamic academic organizations with no one specific and fixed mode of operation. The traditional notion of institutional autonomy holds that each HEI is free to govern itself and make decisions on any issue affecting it without undue influence both from within

and outside. Thus, in theory universities are organized academic institutions since their mandate is largely known. However, in reality universities operate in an anarchical manner: as collegial systems (sharing power and values in a community of equals); as bureaucratic institutions (rationalizing structure and decision-making); as political institutions (competing for power and resources); as anarchical institutions (finding meaning in a community of autonomous actors); and as cybernetic systems (providing direction through self-regulation) (Birnbaum, 1988). Pressures namely; internationalization of HE, quality assurance requirements, regional and international university rankings, the concept of entrepreneurial university, loud voices calling universities to contribute to national development agendas, geopolitical tensions, among others, have understandably changed the HE landscape. Thus, HEIs are called upon to execute their mandate with considerable aplomb. One part of the solution is to promote a better and unambiguous understanding of HE as a field of study, and the mandate of HEIs, particularly universities.

4. Contribution of the Study

This paper has contributed to the existing literature on HE by indicating that freedom of speech and expression in its conventional understanding is not synonymous to academic freedom and should not be used interchangeably. Also, the paper has contributed to the HE discourse by advocating for a utilitarian procedural academic freedom (UPAF) that promotes the intellectual fecundity of faculty anchored in policy, legal, ethical and moral imperatives. In other words, once scholars have a nuanced understanding of UPAF and delineate it from the contested freedom of speech and expression, it will help faculty to remain in their academic lane where their intellectual productivity is guaranteed to survive and thrive. The paper has indicated that the traditional notion of institutional autonomy (freedom of HEIs to determine the academic content and intellectual rigour of what takes place in lecture rooms and across campus without internal or external constraints) though impressive, it is a fantasy and at worst illusionary. The equity, diversity, and inclusion imperatives which HEIs must comply with in their student admissions as well as staffing processes have unwittingly put a caveat on both academic freedom and institutional autonomy and a new conception of institutional autonomy is required. This paper has advocated for a police-power-like institutional autonomy that both serves the greater good (achieving the HE mandate) and at the same time preserves the authority of the institution. Thus, the paper has advocated for a balance between academic freedom and institutional order because the two reinforce each other in a symbiotic manner.

Conflict of interest

The author declares no conflict of interest.

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