

WHY CONSTITUTIONAL PROTECTION OF ACADEMIC FREEDOM IS ESSENTIAL

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Abstract: This article explores the concept of academic freedom in higher education institutions and the critical need for its constitutional protection. It examines how constitutional safeguards contribute to democracy, legal certainty, and international compliance, ensuring that academic institutions remain independent and resistant to external pressures. Special attention is given to the Constitution of Uzbekistan, analyzing its provisions on academic freedom in comparison with international standards and best practices. The article argues that embedding academic freedom at the constitutional level is essential for fostering intellectual inquiry, innovation, and societal progress.

Keywords: academic freedom, constitutional protection, higher education, intellectual autonomy, legal certainty, democratic governance, institutional independence, self-censorship, political interference, the state, institutional, and personal levels

Introduction

New ideas, scientific discoveries, initiatives, and unconventional approaches are essential in the 21st century. Scientific achievements shape not only social life but also the destiny of civilization as a whole. In this context, academic freedom emerges as a paramount consideration. Since academic freedom is a cornerstone of intellectual progress, fostering critical thinking, innovation, and societal advancement.

Methods

Legal scholars, such as Ronald Dworkin[1] and [Cass Sunstein](#)[2], have emphasized the constitutional importance of academic freedom in preserving democratic integrity and intellectual progress. Furthermore, international organizations like [UNESCO](#)[3] and the United Nations have advocated for its protection as a fundamental human right.

Discussion

As far as **academic freedom** is concerned, higher education relies on this fundamental value. Since academic freedom protects faculty members in colleges and universities from undue restrictions on their scholarly activities. It is a broad principle that grants educators substantial autonomy in engaging with their academic disciplines, including the freedom to question established theories. Under this doctrine, faculty members have the right to pursue research on any subject, introduce complex and controversial topics in classroom discussions, and publish findings that may challenge prevailing views. The strength of the American higher education system, for example, is fundamentally rooted in this principle[4]. So that means academic freedom is a

fundamental right in the field of science. According to UNESCO's definition, academic freedom encompasses the following rights:

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[5].

The Role of Academic Freedom in a Democratic Society

As mentioned above, academic freedom empowers scholars and institutions to pursue independent research, foster open debate, and engage in critical inquiry without fear of censorship or retribution. This liberty is not merely a privilege but a cornerstone of democracy, as it cultivates an informed citizenry capable of scrutinizing government policies and enriching public discourse (Altbach, 2001). In the absence of constitutional protections, governments may impose ideological constraints on academic institutions, suppressing dissent and eroding the very foundations of democratic governance[6]. When academic freedom is constitutionally protected, it gains a **higher legal status**, making it less susceptible to political manipulation. If safeguarded only through legislation, future governments might easily alter or restrict it to serve political agendas[7]. A constitutional guarantee, however, provides long-term stability, ensuring that academic institutions remain independent and free from undue influence.

International Council for Science ([ICSU](#)) indicates that the constitutions of more than 90 countries worldwide enshrine the right to freedom of science and research. Additionally, the constitutions of over **28 countries** explicitly affirm the state's obligation to uphold **academic freedom** for individuals, higher education institutions, and scientific research organizations:

- **Finland:** Section 16 of the Constitution protects academic freedom as part of educational rights;
- **Armenia** (2005) Article 40. Everyone shall have the right to freedom of (...) scientific (...) creation (...).
- **Austria** (Basic Law, 1867) Article 17 [Science, Teaching] (1) Knowledge and its teaching are free.
- **Brazil** (2006) Article 5. All persons are equal before the law, (...) on the following terms: (...) IX - the expression of intellectual, artistic, scientific, and communications activities is free, independently of censorship or license; (...) Article 206. Education shall be provided on the basis of the following principles: (...); II - freedom to learn, teach, research and express thought, art and knowledge; (...)
- **China** (1982) Article 47. Citizens of the People's Republic of China have the freedom to engage in scientific research (...). (...)
- **The United States:** While not explicitly mentioned in the Constitution, the First Amendment has been interpreted by courts to safeguard academic freedom. These examples illustrate that constitutional recognition strengthens academic freedom by providing a solid legal foundation for judicial enforcement.

- **Germany:** Article 5(3) of the Basic Law guarantees the freedom of teaching and research.
- **Italy** (1947, amended in 2007) Article 33. The Republic guarantees the freedom of the arts and sciences, which may be freely taught.
- **Russian Federation** (1993) Article 44. Everyone shall be guaranteed freedom of literary, artistic, scientific, intellectual and other types of creative activity and tuition.
- **Vietnam** (1992) Article 60. The citizen has the right to carry out scientific and technical research, make inventions and discoveries, initiate technical innovations (...).
- **Uzbekistan** (2023) Article 51. Higher educational institutions shall have the right to academic freedom, self-government, freedom of research and teaching in accordance with the law.

Indeed, the mere inclusion of academic freedom in the constitution does not, by itself, guarantee its comprehensive protection. While constitutional recognition elevates its legal standing, the practical enforcement of this right often depends on the judiciary's independence, the political climate, and the broader societal commitment to upholding democratic values.

Conclusion

Academic freedom is not merely a privilege but a fundamental right that serves as the cornerstone of democratic governance, legal certainty, and societal advancement. Its constitutional protection fortifies resilience against political interference, upholds international legal standards, and cultivates both intellectual and economic progress. History demonstrates that societies

committed to academic freedom flourish in innovation and democratic stability. Therefore, embedding this principle within constitutional frameworks is essential to safeguarding democratic values and fundamental human rights on a global scale.

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