


SPECIAL ISSUE ARTICLE

ACADEMIC FREEDOM: CONCEPTUALISATIONS, CONTESTATIONS AND
CONSTITUTIONAL CHALLENGES

Coloniality and contestations over academic freedom in Africa

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Abstract

Like other regions of the world, academic freedom is on the decline in Africa. While there are some generic factors accounting for this phenomenon worldwide, others are fundamentally unique to the African context. These are related principally to the subject matter of coloniality of higher education on the continent. This study addresses these matters by, among others, discussing the origins of the university in pre-modern Africa and the place of academic freedom in it. This development is followed by the emergence of university education in Europe through the application of the liberal script and which contributed to the sidelining and eventual general demise of higher education institutions with their roots in pre-modern Africa. The work contends that while one may trace the origins of the university/academic freedom to Africa, academic freedom as it stands today is shaped by the liberal script with hardly any reference to the root of higher education in Africa. Therefore, the meaning, understanding and application of academic freedom do not reflect the realities of higher education in Africa. This work proposes the adoption of a relative universalist approach, as opposed to the liberal approach, which is clothed with universality, but in reality, it is a reflection of a European idea of academic freedom. This approach is considered necessary to reflect the African reality of academic freedom which will help to identify effective advocacy tools to promote and protect academic freedom in Africa and thereby make academic freedom more meaningful for application in the region.

Keywords: academic freedom; coloniality; democracy; liberalism; university; illiberalism

Introduction/Outline

The work examines first the subject of the origins of higher education in pre-modern Africa and the place of academic freedom in it, beginning from Egypt and referencing other universities that emerged in Ethiopia, the Empires of Mali and Songhay, Carthage (now Tunisia) and Morocco, among others. It affirms the presence of rudimentary forms of academic freedom in these institutions. Attention is next paid to university education in Europe and how this development, among other factors, contributed to the sidelining

and eventual general demise of higher education institutions with their roots in pre-modern Africa. Factors accounting for this are explained, including the prosecution of the Old Imperialism agenda, driven by liberalism.

Next, the work attempts a contemporary definition of academic freedom and compares it with how academic freedom worked in the past. The next session discusses the alliance forged between the colonial authorities and the church to enable the latter to merge its christianising mission with the *mission civilisatrice* agenda of the former, culminating in the emergence of ‘mind colonialism’ or ‘intellectual imperialism’. This session also focuses on the rationale for the establishment of the colonial university after the initial unwillingness to do so. It further touches on how institutional autonomy was suppressed through the establishment of a suzerain relationship between the colonial and the metropolitan university while seeking to protect the academic freedom of academics most of whom were expatriate. Next, the work focuses on the four generations of constitution-making in Africa which saw a roller-coaster ride between application of liberal and illiberal democracies and the relationship established between democracy and academic freedom. The study ends by identifying the key elements of academic freedom from the African perspective, the extent to which it deviates from the liberal script and the actors/violators of academic freedom in Africa.

The pre-modern African university and the place of academic freedom in it

The university as a community of scholars, with an international outlook and cultural responsibilities, has been traced back to different institutions that developed in different parts of the continent of Africa in pre-modern times¹ before their emergence in Europe. Ndlovu-Gatsheni contends that:

The ‘university in Africa’ has three genealogies if not ‘triple heritages’. The first is the precolonial African/Bantu/Nilotic/Arabic/Muslim genealogy. The precolonial genealogy speaks to the intellectual tradition of the Nile Valley Egyptian-Nubian-Ethiopian civilisation, the Afro-Arabic/Muslim intellectual tradition as well as the precolonial Mali-Songhai-Ghana Timbuktu intellectual tradition, which, taken together, produced the earliest universities on the African soil.²

Specifically, Lulat mentions, among others, the Per-ankh (House of Light), established around 2000 BCE in Egypt, which had multiple functions as a scriptorium, training site and research institute. It provided higher education to both religious and secular scholars, including from the Mediterranean and Arabic worlds.³ Next is the *Biblioteca Alexandrina*, which also attracted international scholars, including those who were recognised as ‘scholars in residence’ at the libraries which served as important seats of learning. According to Lionel Casson, these ancient universities paid scholars salaries and provided them free food and other support so that they would be able to devote more time to

¹The term is used loosely to refer to the period preceding European contact by African States.

²SJ Ndlovu-Gatsheni, ‘Seek ye epistemic freedom first’ Chapter 1 in SJ Ndlovu-Gatsheni (ed), *Epistemic Freedom in Africa Deprovincialization and Decolonization* (Routledge Taylor & France Group, London and New York, 2018) 52.

³YGM Lulat, *A History of African Higher Education from Antiquity to the Present: A Critical Synthesis* (Westport, Conn, Praeger Publishers 2005) 44.

research and intellectual pursuits.⁴ *Biblioteca Alexandrina*, however, suffered decline following the purging of intellectuals from Alexandria in 145BC by Ptolemy VIII Physcon. One may further mention Islamic universities which evolved later on in Egypt, such as the Al Azhar (tenth century) and University of Sankorey which thrived in the city of Timbuctoo, Mali, in the fifteenth and sixteenth centuries.⁵ Universities were also established in Tunisia (Ez-Zitouna in Tunis, at the end of the seventh century) and Ethiopia's Metsahift Bet (School of the Holy Books). It is also important to mention Al Qarawwyin University in Fez, Morocco, established in 859AD and recognised by United Nations Educational, Scientific and Cultural Organisation (UNESCO) and the Guinness Book of Records as the oldest existing university in the world today.

Kwame Nkrumah, the first President of Ghana, confirms the history of university education in Africa by noting, at the opening ceremony of the faculty of law, University of Ghana in 1962,

... in opening these buildings we are reviving part of our African culture and heritage interrupted by the colonial period, and we are not embarking on any new venture. Long before the foundation of the universities of the European continent, from which the modern civil codes of Europe have been evolved and long before the establishment of the universities and Inns of Court in the United Kingdom where common law was taught and developed, law schools existed on African soil.⁶

The presence and functioning of higher education in different parts of Africa epitomised recognition of, and respect for, a rudimentary or *de facto* form of academic freedom. Instances of *de facto* academic freedom were reflected in the practice of academic mobility and intellectual exchanges among scholars.⁷ Mazrui also talks about the Islamic doctrine of *ijtihad* – the right to analyse and formulate one's own thoughts and conclusions on a legal, moral or intellectual issue – which was practised in the Islamic universities, including those in Africa.⁸ He further recognises truth-seeking in these institutions when he called for a university being true to its classical vision, as the home of the scholar 'fascinated by ideas'.⁹ This view is confirmed by Dubois who writes that

An entire class of the population was devoted to the study of letters, being called fakirs or sheiks by the old manuscripts, and marabuts (holy men) ... these pious and cultured families of Timbuctoo lived within the precincts of the mosque of Sankore ... they were held in high esteem by both dignitaries and people. The Songhoi kings pensioned the most celebrated, and they received many gifts, especially in the month of Ramadan.¹⁰

⁴L. Casson *et al*, *Libraries in the Ancient World* (Yale University Press, 2001).

⁵F. DuBois, *Timbuctoo the Mysterious* (Longmans, Green and Co., New York, 1896) White, Diana (Translator), 276.

⁶K. Nkrumah, 'Ghana' (1962) 6 *Journal of African Law* 2, 103–12, 103.

⁷See (n 5) 285. Also, L. Laakso, 'Academic Mobility as Freedom in Africa' (2020) 47 *Politikon South African Journal of Political Studies* 4, 442–59.

⁸A. Mazrui, 'The Impact of Global Changes on Academic Freedom in Africa: A Preliminary Assessment' in M. Mamdani and M. Diouf (eds), *Academic Freedom in Africa* (CODESRIA, Dakar, 1994) 118, 130.

⁹A. Mazrui, 'Pan-Africanism and the Intellectuals: Rise, Decline and Revival' in T. Mkandawire, *African Intellectuals: Rethinking Politics, Language, Gender and Development* (Zed Books, London, 2005) 56–77, 56.

¹⁰See (n 5).

That is to say, the purpose of university education embraced by these institutions was dedicated to the pursuit of truth through systematic inquiry, to provide education to the students and to apply knowledge generated to respond to societal needs. Thus, Dubois notes that professors (sheiks) were consulted on a regular basis by the political leadership for their opinions which were highly regarded as authoritative sources for solutions to problems facing the society.

During its early years, these institutions focused on religious education, which later expanded into linguistics, grammar, law, music, Sufism, medicine, astronomy, numerology and metallurgy, among others. Also, according to Alemu, a common characteristic of these pre-modern African education systems was that they trained religious and secular leaders together without separating religion from politics while ensuring that higher education systems had social relevance.¹¹

Nkrumah, additionally, notes that the teaching of law in West African universities, such as Sankorey in Timbuktu, Fez and Cairo, was influenced by the Maliki school of legal thought which established the principle of linking law to social progress. He said African thinkers believed in law as being part of religion which should serve all men equally. He refers to Ibn Khaldun, described as a 'great African scholar who was also a distinguished lawyer and a Malikite chief justice in Cairo' who postulated that the development of law should involve and have the support of the people and, therefore, should be based upon what he called 'social solidarity'.¹²

Some have argued that academic freedom is of recent origin; therefore, one cannot talk of academic freedom having developed in universities in pre-modern societies. Speaking about rights generally, Donnelly, for example, contends that 'no society, civilization, or culture prior to the seventeenth century, however, had a widely endorsed practice, or even vision, of equal and inalienable individual human rights'.¹³ Therefore, one cannot talk about academic freedom in pre-modern universities, even if such universities existed. However, the idea of rights is reflected in the culture of different societies around the globe. These ideas of rights, like natural rights, are inherent in the human person, are inalienable, universal and fundamental.¹⁴ Therefore, the concept of rights emerged with human beings and the creation of human societies in different parts of the world. Depending on the customs and cultural practices of a particular people, these natural rights were developed in reaction to attempts by economic and political elites in those societies to suppress them.¹⁵ Ishay traces previous incarnations of rights to demonstrate how '[t]he spirit of human rights has been transmitted consciously and unconsciously from one generation to another'. She argues further that by tracking back to ancient times, it is observed that 'each great religion contains important humanistic elements that anticipated our modern conceptions of rights'.¹⁶ Thus, it is safe to confirm the presence of *de facto* academic freedom in the pre-modern African universities.

¹¹SK Alemu, 'The Meaning, Idea and History of University/Higher Education in Africa: A Brief Literature Review' (2018) 4 *Forum for International Research in Education* 3, 210–27.

¹²See (n 6) 103.

¹³J Donnelly, 'The Relative Universality of Human Rights' (2007) 29 *Human Rights Quarterly* 2, 281–306, 285.

¹⁴P Jones, *Rights Issues in Political Theory* (Palgrave Macmillan Education, UK, 1994).

¹⁵T Fernyhough, 'Human Rights and Precolonial Africa' in R Cohen *et al.*, (eds), *Human Rights and Governance in Africa* (University of Florida Press, Gainesville, FL), 39–73.

¹⁶M Ishay, 'What are Human Rights? Six Historical Controversies' (2004) 3 *Journal of Human Rights* 3, 359–71, 359, 360.

Emergence of universities in Europe and their impact on African universities

Despite the above historical narrative, Europe has maintained that academic freedom emanated from Bologna, around the time of the Enlightenment, and later spread to other regions of the world through European contact.¹⁷ The meaning of academic freedom, therefore, is said to be located within liberalism.¹⁸

However, university education took off in Bologna in 1088, with Oxford (around 1096), Salamanca (1134) and Paris (1160), among others, in that order. Rightly so, Europe can claim a modern access to the university and academic freedom and not its pre-modern form. Karran describes Europe as ‘the cradle of the *modern* idea of academic freedom within a research university’.¹⁹ [Emphasis added]. Karran also indicates that academic freedom ‘arose from, and contributed to, the development of the university in Europe during the 11th and 12th Centuries’.²⁰ Karran, therefore, admits the presence of prior versions of academic freedom and university education before Europe came into the picture.

Formalisation of the powers and duties of the European institutions of higher learning started with the famous *Authentica Habita* enacted by Emperor Frederick Barbarossa in 1155, which provided protection for scholars travelling to new seats of learning.²¹ Karran also talks about the fact that academic freedom emerged from the concept of *libertas philosophandi*, used by Tommaso Campanella in his 1622 defence of Galileo.²² However, even within the European tradition, academic freedom could not have emerged that late, considering that academic freedom goes in tandem with higher education. What is clear, however, is that academic freedom did not emerge in Europe simply to facilitate knowledge production but also to challenge orthodoxy and to speak truth to power, especially against the Catholic Church.²³ Thus, Kerr contends that knowledge, as perhaps the most common powerful element in the culture of a society, has the potency to affect ‘the rise and fall of professions and even of social classes, of regions and even of nations’.²⁴

In support of Karran, Dea attributes the origins of academic freedom to the universities founded in the Middle East and North Africa, which, she writes ‘fostered remarkable diversity in scholarly approaches’.²⁵ However, she argues that ‘the concept of academic freedom was not codified there’ because these institutions were destroyed in later centuries by European colonisation,²⁶ which leads her to the conclusion that academic

¹⁷ Britannica, The Editors of Encyclopaedia. ‘Academic freedom’. *Encyclopedia Britannica*, 13 Apr. 2020, available at <https://www.britannica.com/topic/academic-freedom>.

¹⁸ K Kovács and J Spannagel, *Academic Freedom: Global Variations in Norm Conceptualization, Diffusion, and Contestation – An Introduction* (Academic Freedom and Freedom of Science (Introduction to special edition)).

¹⁹ T Karran, ‘Academic Freedom: In Defence of a Universal Ideal’ (2009) 34 *Studies in Higher Education* 2, 2.

²⁰ See (n 19).

²¹ T Karran, ‘Academic Freedom in Europe: Reviewing UNESCO’s Recommendation’ (2009) 57 *British Journal of Educational Studies* 2, 191–215, 192.

²² See (n 21) 2.

²³ PG Altbach, ‘Academic Freedom: International Realities and Challenges’ (2001) 41 *Higher Education* 1/2, 205–19, 209.

²⁴ C Kerr, *The Use of the University* (Harvard University Press, Harvard, 1995).

²⁵ S Dea, ‘A Brief History of Academic Freedom’ 9 Oct. 2018, available at <https://www.universityaffairs.ca/opinion/dispatches-academic-freedom/a-brief-history-of-academic-freedom/>.

²⁶ See (n 25).

freedom as we have it today is a European idea. Dea asserts that these institutions were responsible for developing ‘*de facto* academic freedom’.²⁷

Among countries in Europe that played a critical role in the evolution of academic freedom is Prussia, led by Wilhelm von Humboldt who is credited with developing the classical understandings of academic freedom: *lernfreiheit* (learning freedom) – students’ freedom to choose where (which university) and what (courses) to study. The other is *lehrfreiheit* (teaching freedom) – the professor’s freedom to teach and conduct research without interference from the state. These freedoms, however, were to be enjoyed exclusively within the confines of the university and not in the civil sphere. It is interesting to note that this theory was accepted and applied where imperial rule was the mode of governance at the time. Other cardinal tenets of academic freedom enunciated by Humboldt included the notion of the unity of teaching and research (*Einheit von Lehre und Forschung*) and the unity of science and scholarship (*Einheit der Wissenschaft*), which together constitute the theoretical and organisational paradigm which became the hallmark of the modern research university in Europe.²⁸

The emergence of European academic freedom was at the expense of denigration and decimation of the knowledge base of Africans perpetrated through the application of ‘colonial science’. Colonial science refers to practices developed and implemented by colonial powers that enabled them to use their colonies as ‘living laboratories’ and to treat non-Western participants as ‘others’ in order to advance colonialism and trigger colonisation of knowledge.²⁹ Consequently, African societies were classified as traditional with no scientific base and, therefore, only good at producing raw materials to feed the industries of Europe,³⁰ hence, the postulation and application of theories such as mercantilism and ultimately, capitalism.³¹ After realising this goal, Mazrui and Ajayi argue that Europe adopted a deliberate policy designed to maintain and widen the science and technology gap they managed to create between them and the colonies.³² Thus, Houtondji contends that scientific activity and know-how were clearly generated along the same lines as the economies of the subject countries, where:

Lacking up-to-date laboratories and research centres, the colony served as a storehouse of raw facts and information to be exported to Europe, where they were processed, analysed, interpreted, integrated into the Western scientific heritage, and subsequently re-exported to other countries, including the colony itself, in the form of finished products of scientific and technological research.³³

²⁷See (n 25).

²⁸K Appiagyei-Atua, ‘The Composite Theory: An African Contribution to the Academic Freedom Discourse’ (2015) 31 *South African Journal on Human Rights* 2, 315–29.

²⁹H Tilley, *Africa as a Living Laboratory Empire, Development, and the Problem of Scientific Knowledge 1870-1950* (University of Chicago Press, Chicago, 2011).

³⁰The five stages of Rostow’s economic theory are traditional society, preconditions to take-off, take-off, drive to maturity and age of high mass consumption: WW Rostow. WW Rostow, ‘The Stages of Economic Growth.’ (1959) 12 *The Economic History Review* 1, 1–16.

³¹KP Leviitt, ‘Mercantilist Origins of Capitalism and its Legacies: From Birth to Decline of Western Hegemony’ (July 2011) 1 *Estudios Críticos Del Desarrollo* 1, 51.

³²A Mazrui and J Ajayi, ‘Trends in Philosophy and Science in Africa,’ in AA Mazru (ed) and C Wondji (asst ed), *Africa Since 1935: General History of Africa VIII* (UNESCO and Heinemann Publishers (Oxford) (Ltd) 639.

³³PJ Houtondji, ‘Science in Africa: A Facet of Underdevelopment’ in UNESCO, *Culture for all Peoples*, for all Times (1984) 64.

In conclusion, Africa became one of those epistemic sites that experienced not only colonial genocides but also ‘theft of history’, epistemicides and linguicides.³⁴

Contemporary understanding of academic freedom

Definition of academic freedom is influenced, first, by the purpose of the university and, second, by the stakeholders in the academic freedom equation. Regarding the first, it is acknowledged from our historical overview from the African and European contexts that the primary purpose of the university is truth-seeking and knowledge production.³⁵ The second is the application of knowledge to educate students to develop critical minds. The third is the application of knowledge to solve societal problems and to advance human progress; and, fourthly, the use of knowledge to challenge orthodoxy and governmental excesses.

The pursuit of these noble objectives by the academic community has often conflicted with the goals of government or has involved attempts by the State to control the process. This explains the eternal tension and struggle by the powers-that-be to suppress and control knowledge production and its expression. Another tension relates to how to determine the problems of a society and how these problems can or should be solved. In other words, the tension and the conflict relate to self-determination – that is, whether knowledge production should be subordinate to political and economic demands dictated to by the State or whether academia should be in charge of the definition and pursuit of such societal objectives.³⁶

Regarding the second factor influencing a definition of academic freedom, it is observed that sometimes, academic freedom is defined narrowly to reflect the concerns of a particular stakeholder only, most often academics and the university and less with reference to students.³⁷ This is not out of place as there are the specific/narrow as well as general meanings of academic freedom. A specific type limits the definition to one of the members of the academic community, while a general one covers all the stakeholders in the academic freedom equation.

The UNESCO Recommendations on the Status of Higher Education Teaching Personnel,³⁸ for example, refers to two specific definitions relating to academics and the university. Paragraph 27 of the document recognises academic freedom for academics by providing as follows:

Higher-education teaching personnel are entitled to the maintaining of academic freedom, that is to say, the right, without constriction by prescribed doctrine, to

³⁴See N wa Thiong’o, *Re-Membering Africa* (East African Educational Publishers, Nairobi, Kampala, Dar es Salaam, 2009); N wa Thiong’o, *Something Torn and New: An African Renaissance* (Basic Civitas Books, New York, 2009).

³⁵KE Whittington, *Academic Freedom and the Mission of the University* Vol. 59, Issue 4, 2022, May 10, 2022 CDT Frankel Lecture Series.

³⁶KR Lyer, *et al*, ‘University Autonomy and Academic Freedom’ in KR Lyer, I Saliba and J Spannagel (eds), *University Autonomy Decline Causes, Responses, and Implications for Academic Freedom* (Routledge, 4 Park Square, Milton Park, Abingdon, Oxon, 2023).

³⁷K Appiagyei-Atua *et al*, ‘The Capture of Institutional Autonomy by the Political Elite and Its Impact on Academic Freedom in African Universities’ (2015) 47 *Higher Education Review* 3, 48–74.

³⁸Adopted by UNESCO in November 1997, after a thorough process of consultation with academic and legal experts and international nongovernmental organizations (NGOs), especially the International Labour Organization (ILO). The document passed without a dissenting vote, with four countries abstaining.

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.

Regarding institutional autonomy or the academic freedom of the university, it provides under paragraph 17 thus:

Autonomy is that degree of self-governance necessary for effective decision making by institutions of higher education regarding their academic work, standards, management and related activities consistent with systems of public accountability, especially in respect of funding provided by the state, and respect for academic freedom and human rights.

Academic freedom for students, however, is only indirectly inferred to in the Recommendation, from the duties imposed on academics and the university in their relations with students.³⁹

Based on the purpose and the stakeholder elements, the right to academic freedom is defined as a claim, privilege, power or immunity uniquely carved out for the academic community – made up of the university, academics and students – in order to enable scientific enquiry and the dissemination of its findings through teaching, publication and other means, as well as the application of these findings to promote human welfare. This freedom is exercised within the limits of public order, professional ethics and social responsibility, without restraint or threat of sanction by governments and other power brokers.

Thus, generally speaking, academic freedom is a facilitator and guarantor for the generation, dissemination, application and protection of knowledge.⁴⁰

Unlike the situation with most rights and freedoms where there is a straight-forward identification of the duty-bearer (the State) and the citizens as the rights-holders,⁴¹ academic freedom stands out as a unique freedom where the rights-holders are also secondary duty-bearers in the academic freedom equation. The duties applicable to the State are the duty to respect, protect and fulfil. In its application to academic freedom, the duty to respect academic freedom includes the duty not to do anything that will impair the rights and freedoms of the rights-holders as specifically defined for them. The duty to protect carries with it the adoption of preventive measures to ensure that third parties (including external actors – international financial institutions, some universities and scholars from the Global North and corporate institutions) do not abuse the rights accorded the rights-holders in the academic freedom equation. Where violations do occur, the duty-bearers are expected to investigate and punish the perpetrators. The duty to fulfill calls for a variety of strategies, including provision of facilities and funding for activities such as research, learning and dissemination of knowledge, among others.

The duties that the State assumes to enable the university to enjoy its right, as indicated in the UNESCO Recommendation, for example, include the assurance that its decision to

³⁹The instrument was made specifically to address the concerns and rights of higher education teaching personnel. Students' rights to academic freedom are inferred.

⁴⁰D Kaye, 'Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression,' David Kaye A/75/261 General Assembly Distr.: General 28 July 2020 Original: English paragraphs 8 and 9 at 6.

⁴¹H Shue, *Basic Rights: Subsistence, Affluence and U.S. Foreign Policy* (2nd edn, Princeton University Press, Princeton, NJ, 1996) ix+236.

set up and fund a university will fall in line with the generally recognised functions of a university. Also, that States will protect higher education institutions from threats to their autonomy coming from any other source.⁴² The university, in turn, bears duties towards academics and students and derives its capacity to perform its duties on the ability and willingness of the State to respect, protect and fulfil the rights owed it (the university). Academics also owe duties to students, in that order.

The Colonial University (1827–1957)

Old Imperialism is responsible for the denigration and decimation of indigenous knowledges and epistemic injustice⁴³ and the destruction of Africa's pre-modern university education system and knowledge base. New Imperialism (1833–1914), on its part, is accountable for introducing mind colonialism (or intellectual imperialism)⁴⁴ entangled in christianisation and the *mission civilisatrice*. Mind colonialism had a twofold mission – to legitimise the illegalities of physical colonialism while entrenching the ideology of racial inferiority among the colonised people. Therefore, it formed a critical angle of the colonial project and is responsible for influencing the colonial policy of not supporting the setting up of higher education in Africa.⁴⁵

Consequently, at the time of independence, only eighteen universities existed in Africa. These can be divided into four types. One, missionary education, the Fourah Bay College being a good example. Considered to be the first western-style university to be built in sub-Saharan Africa, Fourah Bay was established in 1827 by Anglican missionaries to train theologians and schoolteachers. It was affiliated with Durham University, England.⁴⁶

The second is the settler colonial university system set up by settler colonies⁴⁷ to promote higher education for citizens from the metropolis and to train them to further the colonial agenda in those colonies. Such a rationale informed the establishment of the University of Cape Town (UCT) (1829), Stellenbosch University (1903) and the University of Pretoria (1909) in South Africa. University of Fort Hare seems to be the exception as it was established for Blacks in South Africa. Mandela, Tutu, Tambo and other African nationalist from parts of the continent had the opportunity to be trained there. However, Fort Hare, which started as the South African Native College in 1916, had 'religious tradition at the heart of Fort Hare's origin' and the form of education was 'undeniably Eurocentric'. It operated in an environment of racial segregation even before the obnoxious apartheid system was institutionalised. The takeover of the college in 1959–1960 by

⁴² Paras 10 and 19 of the UNESCO Recommendation.

⁴³ See (n 32).

⁴⁴ SH Alatas, 'Intellectual Imperialism: Definition, Traits, and Problems.' (2000) 28 *Southeast Asian Journal of Social Science* 1, 23–45.

⁴⁵ It was feared that higher education would raise the political consciousness of the people, foment unrest and thereby prove counterproductive to the colonial enterprise. In the case of Egypt, the setting up of the University of Cairo was strongly opposed by the British which exercised control over Egypt at the time, RL Tignor, 'Decolonization and Business: The Case of Egypt' (1987) 59 *The Journal of Modern History* 3, 479–505.

⁴⁶ The missionary schools, while promoting Christian spiritual ideas, ended up, as an unintended consequence, the introduction of Western secular ideologies. Mazrui identifies Julius K. Nyerere, Tom Mboya, Eduardo Mondlane, Robert Mugabe, Leopold Sedar Senghor and Kwame Nkrumah, which are among African nationalist leaders who emerged from Christian missionary schools.

⁴⁷ Settler colonialism occurs when colonizers invade and occupy territory to permanently replace the existing society with the society of the colonisers.

the National Party government reduced Fort Hare to the level of 'Bush Colleges' that were instituted in many homelands.⁴⁸

This discriminatory apartheid policy led to UCT's enunciation of the concept of academic freedom through TB Davie as part of its anti-apartheid policy on education. Davie noted that academic freedom involves 'four essential freedoms ... [for the university] to determine for itself on academic grounds who may teach, what may be taught, how it shall be taught and who may be admitted to study'.⁴⁹ However, UCT continued to benefit from the apartheid system of segregation in education. Similarly, in Algeria, the University of Algiers (set up in 1909) largely opened its doors to the French and other Europeans who, by the early twentieth century, formed a majority of Algiers' population.

The third category is the universities set up in some of the few independent African countries of the time. For example, Liberia, having declared its independence from the American Colonization Society in 1847, set up the University of Liberia in 1862. Also, in 1889, the Cuttington University was established by the Episcopal Church of the United States, to cater to the needs of the mainly Americo-Liberian freed slaves. In Egypt, the Cairo University Egypt was opened as a small private institution in 1908 followed by the American University in Cairo in 1919 by the American Mission in Egypt, a Protestant mission sponsored by the United Presbyterian Church of North America.

The fourth is the latter-day universities created by the colonial enterprise when decolonisation became imminent, and the need was felt to develop a core of Europeanised elite to maintain, after colonialism, the politico-economic framework put in place by the colonial enterprise.⁵⁰ They include Makerere University in Uganda (1922), University of Ghana (1948), University of Ibadan, Nigeria (1948), and University of Zimbabwe (1952) by Britain. The French also established, among others, the Université Cheikh Anta Diop, which evolved from the Ecole de Médecine de Dakar. The Universities of Dakar, Yaoundé, Abidjan and Brazzaville were also created from French Universities established in the metropolis as their 'African campuses'.⁵¹ Later, Portugal set up the Agostinho Neto University Angola (as Estudos Gerais Universitários de Angola) and Eduardo Mondlane University, Mozambique (as Estudos Gerais Universitários de Moçambique), both in 1962.

These latter-day colonial universities reproduced the patterns characteristic of the metropolitan universities based on the establishment of a suzerain relationship, referred

⁴⁸The Presidency, 'University of Fort Hare', available at <https://www.presidency.gov.za/university-fort-hare-1916>; <https://www.presidency.gov.za/university-fort-hare-1916>.

⁴⁹A van de Sandt Centlivres, *et al.* (editorial committee), 'The Open Universities in South Africa'. A statement of a conference of senior scholars from universities of Witwatersrand and Cape Town (1957). Compare R Krüger 'The Genesis and Scope of Academic Freedom in the South African Constitution' (2013) 8 *Kagisano* 5. A van de Sandt Centlivres *et al.* (editorial committee) 'The Open Universities in South Africa'. A statement of a conference of senior scholars from universities of Witwatersrand and Cape Town (1957). Compare R Krüger 'The Genesis and Scope of Academic Freedom in the South African Constitution' (2013) 8 *Kagisano* 5.

⁵⁰J Prest, 'The Asquith Commission, 1919–1922', in Brian Harrison (ed), *The History of the University of Oxford: Volume VIII: The Twentieth Century*, History of the University of Oxford (Oxford, 1994; online edn, Oxford Academic, 2011). E Ashby, 'African Universities and Western Tradition' (Harvard University Press, Cambridge, MA, 1964), 19; SJ Ndlovu-Gatsheni, 'The Emergence and Trajectories of Struggles for an 'African University': The Case of Unfinished Business of African Epistemic Decolonisation' (2017) 43 *Kronos* 1.

⁵¹S Mesli, 'French Cooperation in the Field of Education (1960–1980): A Story of Disillusionment', in T Chafer and A Keese (eds), *Francophone Africa at fifty* (Manchester, 2013; online edn, Manchester Scholarship Online, 2019).

to as Special Relationship Scheme, with the former which essentially denied them of any form of institutional autonomy. Other forms of violations of academic freedom occurred, reflected in the application of the colonial curriculum, which were obviously not in tune with the needs of the newly independent African State. These practices affirmed a continuum in the perpetration of epistemic injustice against Africa.⁵² Achille Mbembe describes such institutions as 'local institutions of a dominant academic model based on a Eurocentric epistemic canon that attributes truth only to the Western way of knowledge production'. This model, he says, 'disregards other epistemic traditions'.⁵³

An assessment of the purpose for the establishment of these colonial universities indicates that they strictly do not meet any of the four main purposes. Thus, Tierney and Langford, referring to Altbach, contend that these universities 'were seen more as training grounds for jobs, particularly for the civil service sector, than as intellectual arenas engaged in the search and struggle for truth'.⁵⁴

Thus, self-determination was taken away from the colonial university to enable the pursuance of the colonial agenda of promoting colonial science and, thereby, widen the technology gap and advantage multinational corporations (MNCs) to exercise monopoly over Africa's rich natural resources. As discussed above, the denial of self-determination constitutes a major means of suppressing academic freedom and the pattern has continued with the introduction of new actors, including the independent State.⁵⁵ Thus, in addition to being the main consumer of Africa's mineral wealth, the Global North remains the main manager of that wealth as their MNCs, having a monopoly over scientific knowledge, seek to assert control over the exploration, exploitation, processing, manufacturing and marketing of Africa's resources.⁵⁶

First generation of constitution-making in Africa and academic freedom (1957–mid-1960s)

The university has continued to play a critical role in ensuring the perpetuation of the colonial science agenda in Africa. In spite of the liberal script reflected in Africa's independence constitutions – built around principles of liberal democracy, individual rights and rule of law, among others,⁵⁷ academic freedom was not specifically identified as a part. It was considered as having been embedded in the traditions of the colonial university.⁵⁸

⁵²E Ashby, *African Universities and Western Tradition* (Harvard University Press, Cambridge, MA and London, England, 1964), 19.

⁵³S Badat, 'What makes an 'African' University Authentically African?' *World University News Africa* Edition 28 September 2023; See also L Smith, *Decolonising Methodologies: Research and Indigenous Peoples*, London 1999 and B Santos, 'Epistemologies of the South: Justice against Epistemicide' (Boulder, 2014).

⁵⁴WG Tierney and M Lanford, 'The Question of Academic Freedom: Universal Right or Relative Term' *Frontline Education China* 2014, 9(1): 4–23; PG Altbach, 'The past and future of Asian universities: Twenty-First Century Challenges' in PG Altbach and T Umakoshi (eds), *Asian Universities: Historical Perspectives and Contemporary Challenges* (Johns Hopkins University Press, Baltimore, MD, 2004) 13–32.

⁵⁵Refer *infra*.

⁵⁶A Mazrui and Ajayi (n 32) 651; JE Inikori, 'Atlantic Slavery and the Rise of the Capitalist Global Economy' in *Current Anthropology* (2020) (Vol. 61, Suppl 22).

⁵⁷Shivji establishes that, except in a few cases, the independence constitutions were negotiated between the nationalist leaders and the departing colonialists. I Shivji, *Three Generations of Constitutions in Africa: An Overview and Assessment in Social and Economic Context* (University of Dar es Salaam, 2000) 2.

⁵⁸An exception is the case of Somalia whose independence constitution of 1960 had reference to academic freedom. As indicated below, some countries which attained independence in the second generation, however, had reference to academic freedom in their constitutions. See *infra*.

In this first generation of constitution-making, Africa's political leadership would adopt a conciliatory approach to embracing and accepting academic freedom within the university space as a means to improve greater harmony between university and government. Kwame Nkrumah, for example, is quoted as saying, 'We know that the objectives of a university cannot be achieved without scrupulous respect for academic freedom, for without academic freedom there can be no university'.⁵⁹

In this generation, the African university remained colonised, and the academic freedom that existed was largely Eurocentric in outlook and mainly served the interest of the expatriate staff most of whom remained part of the *ancien regime*. They operated 'under the cover of a false neutrality of academic scholarship, which permitted them to camouflage their ideological biases and the strategic policy implications of their work'. Ajayi also states that

To some extent, the politicians regarded the universities, dominated as they were by expatriate staff, as part of the apparatus of imperialism, comparable to multinational corporations, which had to be decolonized. To that extent, the politicians had the support of many African academics in their struggle to control and direct the universities. In what has been called "a destructive conflict," it was the expatriate staff defending their established privileges who called for the defence of university autonomy and maintenance of universal standards while the African staff, many of whom felt alienated and discriminated against, tended to seek the intervention of politicians to give the universities a national character and ensure rapid Africanisation.⁶⁰

Without a doubt, there was the need to undertake a contextual relevance-based approach to promote higher education in Africa – to decolonise science. This was the opportunity for Africa's nationalist leaders to go back to the norms that formed the rudiments of academic freedom in Africa's pre-modern universities. Nkrumah hinted at that in his remarks noted above when opening the University of Ghana's Institute of African Studies. However, these projects were only superficial.⁶¹

From colonial to developmental university (mid-1960s–1990)

Post-independence African nationalist leaders began to jettison the liberal democratic ideal in place of one-party or no-party rule and military dictatorship, largely backed by the concept of African socialism.⁶² The initiation of these measures introduced Africa into its second generation of constitution-making. The ideological underpinning of African socialism was that the idea of human rights was seen as an impediment to the realisation of the goals of development.

⁵⁹A Kwapong, 'Address by the Vice-Chancellor, Dr. A Kwapong, to Congregation of the University of Ghana 26 March, 1966.' (1966) 4 *Minerva* 4, 542–54, available at <http://www.jstor.org/stable/41822742>, 546; K Appiagyei-Atua et al (n 37) 48.

⁶⁰A Ajayi et al, *The African Experience with Higher Education* (James Currey, London, 1996), 95.

⁶¹Makerere University College, Kampala, African studies at Makerere, 1963–1966. A report on the activities of the African studies programme and some public lectures, 1967. AE Afigbo, "The Institute of African Studies." (1971) 6 *Africa Spectrum* 3, 89–92.

⁶²HK Prempeh, 'Presidential Power in Comparative Perspective: The Puzzling Persistence of Imperial Presidency in Post-Authoritarian Africa' (2008) Vol 1. *Hastings Constitutional Law Quarterly* 761–835.

During this period, African leaders made serious attempts to set up new universities to augment the few inherited from colonialism.⁶³ They also made efforts to redesign the colonial universities so that, together with the new, both would become a crucial part of the development machinery of the State, as ‘developmental universities’.⁶⁴ The contestations about academic freedom in Africa took root here. Having spent a lot of money to set up universities, African governments expected universities to help the new nations to build up their capacity to develop and manage their resources, alleviate the poverty of the majority of their people and close the gap between them and the developed world. In the words of Dlamini, ‘[c]ertain African leaders expect more from universities than university autonomy and academic freedom — in particular they emphasise that universities should contribute to development’.⁶⁵ To realise this goal, institutional autonomy for most universities was seen as a stumbling block to development and got seriously compromised.⁶⁶

This posture led to the introduction of the illiberal science script which ‘emphasises the collective self-determination of society at the detriment of the self-determination of academia’,⁶⁷ the incorporation of the university into the organic structure of the one-party structure and the institutionalisation of party control over the day-to-day affairs of the university.⁶⁸ It also ruptured the relationship between the nationalist intellectuals and the political intellectuals, as the former began to question the agenda of the latter. Consequently, the academic community became vulnerable targets of State repression.⁶⁹

Also during this period, the exercise of ‘internal colonialism’ came to the fore, that is the application of vestiges of colonial power or the reproduction and application of colonial power and the endorsement of epistemic violence by the independent State.⁷⁰ This practice has contributed to the creation of coloniality of higher education in Africa which refers to long-standing patterns of power relations ensuing from colonialism and contributing to define knowledge production, culture, labour and inter-subjective relations.⁷¹ The coloniality of higher education, in turn, has contributed to defining the actors and factors responsible for influencing the state of academic freedom in Africa.

⁶³ A Sawyerr, ‘Academic Freedom and University Autonomy: Preliminary Thoughts from Africa.’ (1996) 9 *Higher Education Policy* 4, 281–7.

⁶⁴ JS Coleman, ‘The Idea of the Developmental University’ 24 (1986) *Minerva* 4, 476–94.

⁶⁵ CRM Dlamini, ‘University Autonomy and Academic Freedom in Africa: Ex Africa semper aliquid novi?’ (2002) 35 *The Comparative and International Law Journal of Southern Africa* 1, 77–98, 77.

⁶⁶ See K Appiagyei-Atua (n 37).

⁶⁷ See (n 18) 4.

⁶⁸ See (n 62).

⁶⁹ HRW, Academic Freedom and Human Rights Abuses in Africa. *An Africa Watch Report* March (HRW, New York, 1991) 3, 4.

⁷⁰ It was not until the mid-1970s before independence came to the former Portuguese colonists, including Cape Verde (1975), Sao Tome and Principe (1975), Mozambique (1975) and Angola. Their independence constitutions embraced freedom of science. In most others, the right to education, freedom of expression and the right to culture were captured. Ethiopia also introduced ‘scientific freedom’ in its 1987 constitution, which made the country a one-party socialist state with the Communist Workers’ Party of Ethiopia as the sole legal party.

⁷¹ A Keet *et al*, ‘An awkward, uneasy (de)coloniality higher education and knowledge otherwise’ (2017) 21 *Education as Change* 1, 1–12; H Kirstine *et al*, ‘Capacity-Building Projects in African Higher Education: Issues of Coloniality in International Academic Collaboration’ (2019) 12 *Learning and Teaching* 2, 1–23.

Neoliberalism, the Bretton Woods institutions and academic freedom

The post-colonial attack on academic freedom in African universities has been waged by the independent African State in conjunction with international actors such as the Bretton Woods institutions – the World Bank (WB) and the International Monetary Fund (IMF) and some resource-endowed universities of the Global North in the name of internationalisation and by multinational corporations through controlled research funding.⁷²

The Bretton Woods institutions are structured on neoliberalism and

characterized in terms of its belief in sustained economic growth as the means to achieve human progress, its confidence in free markets as the most-efficient allocation of resources, its emphasis on minimal state intervention in economic and social affairs, and its commitment to the freedom of trade and capital.⁷³

Under the Structural Adjustment Programme (SAP) introduced by these financial institutions in response to the economic downturn that African States faced in the 1970s, the continent was subjected to a rigid and stringent economic restructuring programme. These reform policies saw severe cuts to social spending, affecting particularly health and education. African governments in turn used these funding relationships with the IMF/WB to further limit respect for academic freedom in their universities.

Thus, the IMF/WB intervention was used as a tool to find its way back to influencing the running of African universities, including the new ones built by African governments, and reintroduce the liberal script through its neoliberal economic policies. Apart from the reforms introduced, the WB called for the closure of universities in Africa, claiming that African States were ‘better off closing universities at home and training graduates overseas’.⁷⁴ The approach represented a rehash of the old colonial policy on why and how not to institute higher education in Africa.

Application of the IMF’s neoliberal economic policies has contributed significantly to the state of corporatisation, commercialisation, managerialism and commodification of universities creeping into the university space. In the words of Ochwa-Echel, the imposition of the neoliberal agenda, which treats university education as a ‘commodity’ to be purchased by those who can afford it, has reduced the universities in SSA to serving the needs of the market rather than the public interest.⁷⁵

The policies also saw university education as a mechanism to achieve economic growth as well as a private good for a privileged few. The impact of the application of these measures on academic freedom has been immense. Among others, it has limited the freedom of academics to teach critically and publish freely. It has also sought to reinforce the dominance of Western thinking patterns and thoughts expressed in curricula and which frame and control knowledge production and epistemologies. These developments

⁷²PT Zeleza, ‘Academic Freedom in the Neo-Liberal Order: Governments, Globalization, Governance, and Gender’ (2003) 1 *Journal of Higher Education in Africa/Revue de l’enseignement supérieur en Afrique* 1, 149–94; D Teferra, ‘The World Bank’s Perspective on African Higher Education’ (2009) 54 *International Higher Education* 15–17.

⁷³N Smith, ‘Neoliberalism’ *Encyclopedia Britannica* (2023), available at <https://www.britannica.com/topic/neoliberalism>.

⁷⁴K Banya and J Elu, ‘The World Bank and Financing Higher Education in Sub-Saharan Africa’ (2001) 42 *Higher Education* 1, 1–34, 24.

⁷⁵JR Ochwa-Echel, ‘Neoliberalism and University Education in Sub-Saharan Africa’ (2013) *SAGE Open* 1–8, 7.

have also constrained the exercise of academic freedom.⁷⁶ Further, there is limitation on the freedom of scholars to create and maintain new disciplinary fields, especially fields of scholarship that are critical and challenging of prevailing academic orthodoxies.⁷⁷ At the same time, some courses have been described as 'unproductive' or 'unmarketable' which should give way to employable or relevant courses or programmes.⁷⁸ The implementation of the SAP in many African countries has also contributed to increased pauperisation, which has disabled the poor from accessing quality education. In sum, the systemic deficits inherent in corporatisation of higher education and the corporate identity have contributed to distort the ideal university and its mission.⁷⁹

The severe impact of the SAP implementation on the university in Africa triggered scholars in African universities to come up with the Kampala Declaration on Intellectual Freedom and Social Responsibility in 1990. Paragraph 1 of the Preamble to the document provides that

Intellectual freedom in Africa is currently threatened to an unprecedented degree. The historically produced and persistent economic, political and social crisis of our continent continues to undermine development in all spheres. The imposition of unpopular structural adjustment programmes has been accompanied by increased political repression, widespread poverty and intense human suffering.

One significant reaction of the Kampala Declaration is the introduction of another purpose of the university, that academic freedom should invoke a duty on the academic community to promote rights and democracy in the larger society and thereby improve town-gown relationship.⁸⁰ For example, the Kampala Declaration provides that '[t]he struggle for intellectual freedom is an integral part of the struggle of our people for human rights'.⁸¹ Hagan captures this position; thus, 'Universities and academics owe it to themselves to minimize their political involvement. But it is hard to expect academics to remain politically neutral when their rights as citizens might well be at stake if they remained aloof from direct and active political involvement'.⁸²

Third generation of constitution-making (1989–2000)

The fall of the Berlin Wall in 1989 resulted in the return to multiparty democracy, the rule of law and human rights in Africa and the re-adoption of liberal democratic constitutions by many African States.

⁷⁶K Lynch and M Ivancheva, 'Academic Freedom and the Commercialisation of the Universities: A Critical Ethical Analysis' (2015) 15 *Ethics in Science and Environmental Politics* 1.

⁷⁷See (n 76).

⁷⁸VOA News, 'Ugandan President Chastises Universities Over 'Non-Marketable' Classes', available at <https://www.voanews.com/a/ugandan-president-chastises-universities-over-non-marketable-classes-135993123/159355.html>.

⁷⁹R Dlamini, 'Corporatisation of Universities Deepens Inequalities by Ignoring Social Injustices and Restricting Access to Higher Education,' available at <https://wiredspace.wits.ac.za/server/api/core/bitstreams/02a8cc4d-9770-41b9-a646-3a4682dacb83/content> (2018) 32 *South African Journal of Higher Education* 5.

⁸⁰K Appiagyei-Atua *et al.* (n 28) 315.

⁸¹Para 2 of Preamble of the Kampala Declaration.

⁸²G Hagan, 'Academic Freedom and National Responsibility in an African State: Ghana' in M Mamdani and M Diouf (eds), *Academic Freedom in Africa* (CODESRIA, Dakar, 1994).

The constitutional liberalisation process was influenced by the doctrine of spreading democracy abroad⁸³ as a show of capitalist triumphalism over socialism out of which emerged the ‘instant capitalism, instant democracy’ agenda.⁸⁴ Thus, according to Simmons, Dobbin and Garrett, ‘the economic and political liberalisation process was ‘influenced heavily by prior actions of external actors: not just other governments, but international organizations and communities of experts’.⁸⁵ Appiagyei-Atua also argues that ‘the decision by African leaders to design and adopt NEPAD [New Partnership for Africa’s Development] as its framework for economic development ... reveals the extent to which Western states continue to dictate, control and overrule attempts by African states to set their own economic agenda’.⁸⁶

The external coercion approach is, thus, largely responsible for the emergence and evolution of academic freedom in contemporary Africa and diffused as part of a global liberal script.⁸⁷ In a large number of these constitutions, references are made to academic or scientific freedom.

Thus, we find 13 (representing 23.6%) of the 55 African countries giving explicit recognition to ‘academic freedom’ in their constitutions. In most of these, ‘academic freedom’ is linked with freedom of expression. For example, article 21(1)(b) of Ghana’s 1992 Constitution provides that ‘[all] persons shall have the right to freedom of thought, conscience and belief, which shall include academic freedom’. However, in other cases, different segments of freedom of science⁸⁸ are jointly recognised, such as the Constitution of Algeria, which provides: ‘Academic freedom and freedom of scientific research shall be guaranteed rights. The State shall work towards promoting and valorising scientific research to further the Nation’s sustainable development’.⁸⁹ One can also mention Zimbabwe’s 2013 Constitution which references ‘academic freedom’ as part of both freedom of expression and freedom of ‘scientific research and creativity’. This group can generally be referred to as following the liberal legal tradition.

Sixteen constitutions (21%) do not explicitly mention ‘academic freedom’ but some other form of freedom of science. These are largely states who adhere to the socialist ideology. For example, article 49(1) of the Constitution of the Republic of Cape Verde stipulates:

Everyone shall have the freedom to learn, educate and teach. 2. Freedom of learning, educating and teaching shall include: (a) The right to attend teaching and educational establishments and to teach without discrimination, as provided by law; (b) The right to choose the type of education and training; (c) The prohibition of the state to programme education and tuition according to any philosophical, aesthetic, political, ideological or religious directives.

⁸³D Calingaert, *Supporting Democracy Abroad Special Report 2014* (Freedom House, Washington, DC., 2014).

⁸⁴K. Appiagyei-Atua, ‘The realpolitik of rights and democracy,’ (2015) *OpenGlobalRights*, available at <https://www.openglobalrights.org/realpolitik-of-rights-and-democracy/>.

⁸⁵B Simmons et al, eds. *The Global Diffusion of Markets and Democracy* (Cambridge University Press, Cambridge, 2008).

⁸⁶K Appiagyei-Atua, ‘Bumps on the Road: A Critique of How Africa got to NEPAD’ (2006) 2 *African Human Rights Law Journal* 524–48.

⁸⁷See (n 18).

⁸⁸See (n 87) 1, 2.

⁸⁹Algeria’s Constitution of 2020, article 79.

Madagascar's 2010 Constitution only refers to the autonomy of universities. The example of Egypt's Constitution is unique in the sense that it seems to cover all the key ingredients of academic as well as scientific freedom. Article 21 provides that '[t]he state guarantees the independence of universities, scientific and linguistic academies ...' Article 23: The state grants the freedom of scientific research ... [to] build a knowledge economy. Article 66: 'Freedom of scientific research is guaranteed...' Article 67: 'Freedom of artistic and literary creation is guaranteed...' Article 82: 'The state guarantees ... helping the youth to discover their talents and develop their cultural, scientific, psychological, creative and physical abilities'.

Internationalisation

The traditional focus of internationalisation (exchange and co-operation programmes between universities, mainly between the Global South and Global North) has shifted to competition mode for students, scholars, talent for the knowledge economy, funding of complex research and access to the global rankings as well as high impact publications.⁹⁰ This is done at the cost of the large majority of tertiary education institutions and their students and staff in the Global South, especially Africa.⁹¹ Teferra, therefore, asserts that 'African higher education is the most internationalised system in the world – not by participation but by omission' and as a result cannot be intentional but is coerced.⁹²

Alemu contributes to the discourse by arguing that the entire internationalisation project creates an environment in which more powerful universities from the Global North play a central role as suppliers of knowledge, whereas weaker institutions and systems from the Global South, with fewer resources and lower academic standards, occupy a peripheral position as consumers. He asserts that African higher education has continued to be peripheral, with relationships being 'asymmetrical, unethical and unequal'⁹³ and occasioning some negatives, including brain drain, the commodification of higher education and the perpetuation of inequality between Global North and Global South universities.⁹⁴

In this context, one may also refer to the application of 'helicopter research', where researchers from the Global North conduct field research in the Global South, use local colleagues to provide logistical support and help to do data and sample collection but are not given credit and recognition for their participation in the research. The data and samples are then taken to the Global North for data analysis and publication of the results with no or little involvement of local researchers. Scientific publications resulting from such projects frequently only contribute to the career of the scientists from the rich countries, thus limiting the development of local science capacity and the careers of local scientists. Another demerit of 'helicopter research' is that it reduces the quality of research in the target areas and disables local communities from leveraging the research to their own advantage.⁹⁵ These activities by many universities in the Global North and individual

⁹⁰H de Wit, 'Internationalisation in Higher Education: A Western Paradigm or a Global, Intentional and Inclusive Concept?' Vol. 7 No. 2 (2020): Special Issue: Internationalisation of Higher Education in the New Era of World (Dis)Order.

⁹¹See (n 90).

⁹²D Teferra, Defining Internationalisation – Intention versus Coercion. *University World News*, 2019.

⁹³SK Alemu, 'An Appraisal of the Internationalisation of Higher Education in Sub-Saharan Africa,' (2014) 4 *CEPS Journal* 2, 71.

⁹⁴See (n 93).

⁹⁵F Dahdouh-Guebas *et al*, 'Neo-Colonial Science by the Most Industrialised upon the Least Developed Countries in Peer-Reviewed Publishing' (2003) 56 *Scientometrics* 3, 329–43.

academics as well as funding institutions contribute to compromising freedom of enquiry and other forms of academic freedom for African universities, academics, students and communities.

Fourth generation of constitution-making in Africa – (2000 to date)

While Shivji talks about three generations of constitution-making at the time of this write-up, a fourth has set in. Similar to the second generation, which was a reaction to the imposed first generation, the same is the case with the relationship between the third and the fourth generations.

The reaction has been attempts to roll back gains attained in the promotion and consolidation of democracy on the continent.⁹⁶

The stagnation of democracy or the fallback into illiberal democracy in Africa has had its impact on the respect for academic freedom, confirming the relationship between the two as noted above and provoking contestations about the relevance of academic freedom in African higher education institutions. Unlike during the second generation, while it has not led to the amendment of any African constitution to affect academic freedom, some legislation have been passed⁹⁷ or attempted to be passed in some countries. States have also taken a number of measures which have been condemned as violative of academic freedom. Among others, though, *de facto*, the State has retreated from the university space, it has been using university management as proxies and has found itself indirectly represented in vice chancellors, chairs of university councils and other bodies like tertiary education commissions.⁹⁸

Conclusion and recommendations

The work has sought to address the claim that academic freedom is part of the liberal script by seeking to locate the origins of the university and by extension, academic freedom in Africa, and crediting Europe with coming up with the modern version of the university/academic freedom. However, the study argues that the European contribution to the subject, in the name of the liberal script, was attained through attempts to subject the African pre-modern university to ‘theft of history’, epistemicides and linguicides. Thus, the study supports the view that while one may trace the origins of the university/academic freedom to Africa, academic freedom as it stands today is shaped by the liberal script which hardly references the root of higher education in Africa. As a result of this development, there is a discontinuity and no organic relationship between the universities of old (and its academic freedom) and the modern university in Africa.⁹⁹

The work also establishes that imperialism has contributed to the colonality of higher education in Africa. The colonality of higher education, in turn, has contributed to

⁹⁶Freedom House, ‘Africa Marks a Decade of Decline in Freedom with 2023 Being Marred by Electoral Violence and Civil Conflict,’ available at <https://freedomhouse.org/article/new-report-africa-marks-decade-decline-freedom-2023-being-marred-electoral-violence-and>.

⁹⁷See, for example, Zimbabwe’s *Amendment of State Universities Statutes Act 4 of 2022*: “Concerns Raised over ‘Flawed’ New Universities Legislation” (Newsday 13 February 2022), available at <https://www.newsday.co.zw/2022/02/think-tank-challenges-varsities-bill-amendment>.

⁹⁸Addis Standard, ‘Addis Abeba University warns to take measures against graduate academics supporting TPLF; measures may include revocation of academic degrees’ (2021).

⁹⁹See (n 40).

defining the state of academic freedom in Africa today, which differs in some respects from the liberal script.

These include the following. First factor is the perpetuation of mind colonialism and the imposition of the 'superior knowledge' of Europe on Africa propagated through curriculum. The impact of this process on academic freedom in Africa has been significant, especially in compromising the use of academic freedom to promote knowledge production, leading to the creation of the 'captive mind' – 'one that is imitative and uncreative and whose thinking is based on Western categories and modes of thought'.¹⁰⁰

Two is the impact of 'external over-determination of African intellectual life' and 'the global division of intellectual labour that impedes intellectual and theoretical development in Africa and consequently, becomes a relevant factor influencing academic freedom in Africa'.¹⁰¹

The third factor is the impact on academic freedom in Africa of the continued application of the core principles of the 'developmental university' idea by African governments. This has contributed to the suppression of self-determination within the university space and the continued fester of the illiberal script in African universities.¹⁰² Thus, Beiter rightfully contends that only scientific or academic freedom, rather than state regulation, has the potential to guarantee creativity and innovation in the field of science for the benefit of society at large. Therefore, States should not be entitled to comprehensively regulate the field of science, at the expense of scientific and academic freedom.¹⁰³

Fourth is the extension of the application of the illiberal script through the neoliberal policies of the Bretton Woods institutions, which has contributed to corporatisation, managerialism and commodification of knowledge and has limited higher-education institutions in Africa to fulfil its critical function of the pursuit of truth.

Fifth, the existence of an asymmetrical relationship between academics and students in most African university classrooms, which 'embeds learners' oppression', violates students' academic freedom and creates a disabling environment for them from acquiring 'democratic habits' through the university.¹⁰⁴ This hindered the ability of the university to realise its second purpose, which is education of students.

Other factors affecting academic freedom in Africa are massification, high lecturer–student ratios, poor remuneration for lecturers and poor allocation of resources for research.

These unique elements, however, are not recognised as such by the African State, which prefer to apply the existing universalist framework though it reflects a Eurocentric paradigm because it equips the State with the power to suppress the capacity of the academic community to speak truth to power and to challenge orthodoxy.

¹⁰⁰See (n 44) 37.

¹⁰¹A Mama, 'Towards Academic Freedom for Africa in the 21st Century' (2006) 4 *Journal of Higher Education in Africa/Revue de l'enseignement supérieur en Afrique* 3, 1–32, 8.

¹⁰²For example, after coming to power in 2017, President Mnangagwa of Zimbabwe introduced the Transitional Stabilisation Programme aimed at reinvigorating higher education and ensuring the system is relevant to the labour market. K Mashininga, 'After Mugabe – 'Not much has changed in HE' (30 November 2018) *University World News*, available at (<https://www.universityworldnews.com/post.php?story=20181128095608484> 4.

¹⁰³K Beiter, 'Where have All the Scientific and Academic Freedoms Gone? And What Is 'Adequate for Science'? The Right to Enjoy the Benefits of Scientific Progress and Its Applications (2019) 52 *Israel Law Review* 2, 233–91.

¹⁰⁴CH Manthalu *et al*, 'Towards Communication for Equality in Education,' *Education, Communication and Democracy in Africa* (Routledge, 2022).

On the other hand, academics and students are recognising these unique factors affecting academic freedom in the African context and opting for the adoption of the composite approach.¹⁰⁵ This approach seeks to extend the purpose of the university beyond the pursuit for truth to the pursuit of democracy in the larger society. Particularly, it seeks to empower academics and students to build new supportive political constituencies outside the confines of the university to confront both the internal and external actors/factors which hinder the flourishing of academic freedom on the continent.

In the light of the above, the study argues that these historical, cultural, political and other factors have coloured and influenced the environment for research, teaching, learning, dissemination and application of research output and the ability to use knowledge to speak truth to power and challenge orthodoxy. Consequently, they have influenced the type character and features of academic freedom in African universities and the kind of advocacy that can be applied to promote and protect academic freedom as well as expand the frontiers for the application of academic freedom advocacy in Africa.¹⁰⁶

Consequently, the work proposes the adoption of a relative universalist approach, shaped by the history, the politics and the socio-economic circumstances of many African societies as well as its national and regional particularities and other forms of diversity and relativity. This approach is considered necessary to properly locate the discourse of academic freedom in a manner that will reflect the African reality and make academic freedom more meaningful for application in Africa.

As part of the relative universalist approach is the policy of decolonising the African university which will play a critical role in this liberatory pro-democracy endeavour of academic freedom. Decolonisation of the university means, among other things, 'structural changes; curriculum change; an epistemological paradigm shift from Eurocentric knowledge to Africa-centred knowledge; and a change of university cultures and systems that are alienating as well as increased and affordable access to education in general'.¹⁰⁷

Competing interests. None.

¹⁰⁵K Appiagyei-Atua *et al.* (n 28) 315–29.

¹⁰⁶P du Plessis, 'Decolonisation of Education in South Africa: Challenges to Decolonise the University Curriculum' (2021) 35 *South African Journal of Higher Education* 1, 54–69.

¹⁰⁷SJ Ndlovu-Gatsheni, 'The Imperative of Decolonizing the Modern Westernised University', in S.J. Ndlovu-Gatsheni and S. Zondi (eds), *Decolonising the University, Knowledge Systems and Disciplines* (Africa Carolina Academic Press, Durham, NC, 2016), 27–45, 4.