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Academic Freedom and Human Rights: In Search of a Relationship

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ABSTRACT

The pursuit of knowledge, debate, and critical thinking requires first academic freedom as a foundation of such a system. Academic freedom forms part of many international legal instruments, for example, Article 19 of the International Covenant on Civil and Political Rights (ICCPR) and Article 10 of the European Convention on Human Rights (ECHR) that deals with, to a reasonable extent as far as freedom of expression and freedom of education are concerned. Courts have analysed different instances of freedom of speech with the tottering concerns of society providing a rationale for affording permission for academic freedom so that people can flow ideas around. This paper focuses on parts of academic freedom and other factors that relate to it, especially in identified cases that have been passed judgment on by the judiciary. Last of all, the paper specifies political interference in higher learning in Hungary and Turkey. It evaluates the role of international human rights organizations in the promotion of academic freedom. It proposes measures to improve the legal protection of academic freedom while not forgetting about security threats and public needs.

Keywords: Academic Freedom, Human Rights, Freedom of Expression, National Security, Hate Speech, Judicial Interpretation, International Law

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INTRODUCTION

Academic freedom (Institutional and intellectual autonomy) covers the liberty of teachers and other university stakeholders and any learning looking for information, publishing materials, and engaging in research and teaching inside and outside the academic settings. And it has become the foundation upon which constructive communication, critical thinking, and creative work are built (Kronfeldner, 2021). Freedom in academic settings allows people to choose what topics to teach or write, how to teach or write, and free speech and academic governance. In the same aspect, according to the study by Ekwueme et al. (2016), teaching freedom promotes learning, fosters criticality, and enlightens members of society. However, this freedom is often restricted by political interference, corporate pressure, public opinion, and other administrative factors. Nevertheless, job liberty is still crucial for advancement in civil culture.

Relevance of the Topic

Academic freedom and institutional independence are significant principles in democratic states and can powerfully affect beneficial reform in academic communities and society. International human rights laws, including the ICCPR Article 19 and ECHR Article 10 protect the academic freedom to keep its principles (Quinn and Levine, 2014). The ICCPR Article 19 and ECHR Article 10 reaffirm the cardinal principle protecting free expression within academic and other spheres of public life. In the United States specifically, academic freedom has substantial roots in the Constitution, having recourse to the First Amendment on freedom of speech. Legal-ended decision,

similar to the *Sorguç V. Turkey (2009)*. Consequently, according to Article 13 in the Charter of Fundamental Rights in the European Union, academic freedom is respected (Beiter et al., 2016). However much the principle of academic freedom has been upheld by the ECHR, it tends to balance this principle against societal needs, which shows the practical problems of the principle.

Unfortunately, not all jurisdictions afford academic freedom and sufficient defence. For instance, legislation reforms in Hungary and Turkey have compromised independence, which shows that the autonomous organizational structure has essential issues in academic freedom (Kutlay and Öniş, 2021). These developments accentuate the need to determine the relationship between academic freedom and human rights and enhance awareness of the rights' legal status and social significance.

This paper seeks to address the relationship of academic freedom with human rights, with particular reference to protecting academic freedom as a crucial factor in the success of democratization and education processes in the country. Through a review of the legal background and issues, the paper intends to make a theoretical contribution to the global discourse on protecting academic freedom and promoting free scholarly inquiry.

Research Aim and Objectives

Aim

The purpose of this research is to explore the principles insulating academic freedom within Pakistani, Russia, the United States, ICCPR, and the ECHR legal frameworks and their connection with human rights, particularly the right to freedom of

speech.

Objectives

1. **Examine Legal Protection:** Examine legal systems on the global level and explore the basis for Academic freedom in the ICCPR and the ECHR.
2. **Explore Intersection with Freedom of Expression:** Review practice examples, to know how consideration of the courts is maintained for academic freedom.
3. **Identify Challenges:** To sensitize the audience to the challenges facing academic freedom, which include political interferences and censorship, among others, offer use and examples from Hungary and Turkey.
4. **Propose Recommendations:** It is possible to work out consequential measures to strengthen such legal and institutional guarantees to scholars and their productions.

I am researching to explore freedom of learning and teaching, specifically, how academic freedom is constitutionally safeguarded and the connection between the two together with the right to freedom of expression. This research will seek to assess how academic freedom plays a central part in democratic values, the advancement of teaching and learning, the dissemination of knowledge, and research, all the while considering existing and potential constraints placed by political, social, and institutional environments. In this way, the study aims to advance the international discussion of the protection of academic freedom and elucidate common and contextual approaches to how the ICCPR, ECHR, Russia, United States, and Pakistani can enhance legal and institutional frameworks to ensure and protect this fundamental

right.

Methodology

This work aligns itself with methodologies of doctrinal analysis, case law review, and comparative legal analysis to scrutinize the idea of academic freedom in the context of human rights.

Research Methods

1. Doctrinal Analysis: The paper extracts the basic principles of assessing academic freedom using components of the ICCPR, ECHR, and several nations' constitutions. This method will give a clear picture of how these legal instruments advance provisions for academic freedom and institutional independence.

2. Case Law Review: Selective decisions, including *Orlik v. Ukraine*, App. No 40992/05 (ECHR 2011) and *Sorguç V. Turkey* (2009), are discussed in turn to establish their implications for academic freedom. These are cases of how various courts seek to harness academic freedom elements and freedom of expression and consideration of general interest.

3. Comparative Legal Analysis: The approach analyses the laws and endeavours of the USA, EU, Turkey, and Hungary regarding freedom of academia and focuses on the challenges and solutions for protecting the mentioned liberty. When comparison between various national legal systems and their principles behind academic freedom and human rights, the paper reveals their differences and their techniques of tackling the issues of protecting academic freedom in various political, cultural, and social environments.

Data Sources

This research draws upon a diverse range of sources to ensure a comprehensive analysis:

1. Scholarly Works: peer-reviewed articles and scholarly opinions of human rights law and academic freedom. These sources include articles in distinguished academic journals such as *Slaughter* and articles in distinguished academic-sounding periodicals, including those from the *European Journal of International Law*.

2. International Policies: International human rights instruments: Article 19 of ICCPR, Article 10 of ECHR, and UNESCO recommendation concerning the status of higher education institutions. These documents offer the principle on which the application and interpretation of academic freedom across the jurisdictions are based.

3. Judicial Rulings: Landmark cases, including *Sorguç V. Turkey (2009)* and *Orlik v. Ukraine, App. No 40992/05 (ECHR 2011)*, provide valuable information concerning the court's trend on academic freedom within an expanded list of human rights.

CHAPTER 1: ACADEMIC FREEDOM

1.1. Introduction

Academic freedom is a fundamental principle of academic integrity. Scholars, teachers, and students can inquire, publish, and teach without undue restraint of any ideas or findings they handle. This principle lies at the core of the quest for understanding and of the presentation of different points of view, promoting free and open debate. Academic freedom, as an idea and practice, has undergone historiographic development with philosophical, legal, and societal influence over time. Even in the past, it acted on the conviction that academic self-administration and personality freedom are essential to the progress of science, culture, and democracy. This Chapter contains brief information on academic freedom and presents its theoretical perspective and relevance to modern scholarship. It also explores the legal frameworks that influence academic freedom and protects its practice nationally and internationally.

1.2. Academic Freedom Overview

Academic freedom protects individuals' and groups' freedom to acquire and share information. It also protects scholars, teachers, students, and research institutions from governmental, political, or commercial interference in their research and teaching. According to Slaughter (2011), academic freedom ensures that scholars, teachers, students, and learning institutions get protection by supporting the enablers of free thinking in the academic space, leading to creativity and generality improvement. Through academic freedom, people can freely diffuse knowledge within society. Spread of diverse knowledge helps generate societal resilience, especially when there is an

ideological divide.

Academic freedom applies to an individual or an institution. The involvement of individuals and learning institutions in academic freedom makes it both an individual and collective right. As a personal right, it guarantees freedom from academic autonomy restrictions to focus on desired research areas, design curriculum, or disseminate information. Tierney (2021) calls it the right to question, think, and reason, which is suitable to question the fundamentals. Hence, the right to disputation, given even if the issue being discussed is contentious or sensitive. It enables scholars to steer from the last result and make their impression towards advancing knowledge.

As a collective right, academic freedom gives institutions the power to create policies, curricula, and research agendas without reference to pressure from outside the academy. Collective right is an aspect of academic freedom that directly relates to the rights of a community of scholars, which sustains the mission of the academic community. As academic communities, research institutions such as universities foster the exchange of knowledge, and their structural independence to safeguard innovative and different ideas for the good of society. In another way, defending scholars' and institutions' freedom enhances responsibility enriched by the vast knowledge needed in a democratic society. According to Franklin (2009), knowledge and thought are a part of freedom. An individual and collective academic rights pervade human rights and democratic rights. Hence, it serves as the guardian of scholar and institutional sovereignty, as well as making certain that scholars are free to seek knowledge and disseminate information that society needs to progress. That it has found a formal place in the international legal systems and national constitutions makes clear its

importance for achieving independence of thought and promoting human rights.

1.3. Legal Foundations

The right to academic freedom is closely connected with freedom of speech, protected in several works of international law, namely, the International Covenant on Civil and Political Rights and the European Convention on Human Rights. Although the word "academic freedom" is not used in the ICCPR, Article 19 of the convention entitles all individuals to the freedom to hold opinions without interference and the freedom to seek, receive, and impart information and ideas of all kinds (UNHR 1966). The United Nations Human Rights Committee (UNHRC) has insisted that these freedoms are not limited to but include academic spaces, essentially stating that research and teaching fall under freedom of expression. This judicial interpretation indicates that while academic freedom exists as a right, it is not a doctrinally self-contained right but part of the First Amendment freedom of speech.

Article 10 of ECHR gives an appellant explicit freedom of expression provisions (Macovei, 2004). Nevertheless, the European Court of Human Rights (ECtHR) recognizes that academic freedom is essential to democracy. Thus, the European Court of Human Rights, while analyzing the case of *Orlik v. Ukraine* (2011), pointed out that the exchange of information, as it is required in academic society, is pivotal for enhancing societies and democracy. The case showed that freedom of speech is necessary to support free academic research, and the sharing of information is important to facilitate growth in academia and society at large.

Global courts contribute to the protection of academic freedom through their interpretations of national constitutions. For example, in the United States, the First

Amendment includes freedom of expression that protects academic freedom. In the case of *Sorguç v. Turkey* (2009), the European Court of Human Rights showed considerable appreciation for the importance of academic freedom in animating freedom of expression, which is a tool for germinating ideas, advancing knowledge, and carrying out free discussion in academic institutions. In much the same way in Germany, Basic Law Article 5 formally protects the freedom of research and teaching, enshrining academic freedom as a constitutional freedom. The direct constitutional recognition in Germany provides a template for other countries and a more transparent legal foundation for shielding academic endeavors.

Even though, in many cases, academic freedom and scholarly freedom are used synonymously, they have different connotations. Intellectual freedom is generally defined as institutions or individual rights to teach, study, publish, and disseminate information with or without restrictions. Academic freedom, on the other hand, as a condition for scholarly work, can be defined as the rights of scholars in selecting the subject of their research, methods to be applied, and the mode of disseminating information. The two are deeply interconnected: academic freedom is the working engine of scholarly freedom, allowing the researcher to question the existing paradigm.

For example, the ECtHR decision in *Sorguç V. Turkey* (2009) provides an excellent example to illustrate this nexus. An assistant professor received penalties for an article that offered critical remarks about another researcher's approach. The Court held that it was unfair to sanction the professor, mainly because the freedom the constitution affords academics to expound, interrogate, and publish results is a sacrosanct underpinning of academic freedom. This case makes it clear that legal

safeguards of academic liberty reciprocally support scholarly freedom. Such entities and individuals can make a noble contribution to society by engaging in free scholarly discourse.

Also, the legal approach to academic freedom demonstrates its irrelevance in response to present issues. Problems like political influence, repression of ideas, and technological control increasingly jeopardize the schools' independence of scholars globally. For example, political authoritarianism makes scholars vulnerable to intimidation or gagging when researching issues sensitive to the political system, thereby limiting scholarship freedom and other civil liberties. The event of Turkish academics being fired for signing a so-called peace petition in 2016 is proof of the lack of protection concerning the political pressure on academic freedom. Such instances require a strong and effective legal framework to defend academic freedom in even the most intrusive conditions.

Furthermore, such international instruments as the UNESCO Recommendation concerning the Status of Higher-Education Teaching Personnel (1997) oblige states to protect academic freedom and the autonomy of higher education institutions and their employees. They state that academic freedom refers to the ability to teach, undertake research, publish, and communicate. They stress that academic freedom is core to discovering and creating knowledge. With more recommendations, these states practice and recommend the normative standard to be followed by nations and highlight the significance of compliance of national laws with the principles of international law.

Still, some obstacles make it difficult to guarantee the global acceptance and protection of academic freedom. In nations where freedom of speech is enshrined in

the constitution but not well defended, academic freedom usually is not well protected. The desire for more robust protection of the discussed concept could be met by enhancing the ICCPR and ECHR to enshrine academic freedom as a separate right. Also, further incorporating the legal norms of the constitutional law could serve as a signal for countries like Germany to help better comply with international standards and provide fuller protection for academic activities.

Academic freedom exists within doctrinal, judicial, and conventional crossroads or areas of interaction. That is why its confirmation as the extension of free speech rights constitutes its acknowledgment of the fundamental significance of its provision to support free inquiry and democratic rule. Scholarly freedom is thus the heart of academic freedom as it safeguards the existence and development of higher education institutions and their efficiency in improving society. However, modern threats and uncertainties require legal work to continue so that people in the future will have academic freedom.

CHAPTER 2: HUMAN RIGHTS AND ACADEMIC FREEDOM IN JUDICIAL PERSPECTIVE

2.1. Introduction

The connection between human rights and academic freedom is an active and developing legal and social issue. Academic freedom is governed by a framework of human rights within which it is exercised and contained. This chapter examines how judicial perspectives contribute to the definition and protection of academic freedom and have evolved into constitutional freedoms. This section explores how academic freedom is connected to freedom of speech, the right to dissent, and matters related to a nation's security. The courts have also endeavoured to determine whether academic organizations and individuals should exercise their freedom against other interests in the community and the law, which has led to setting standards that affect education. This chapter starts by analysing the principle of freedom of expression as one of the major premises of fundamental freedoms and the academic profession. It further examines specific issues in educational institutions, the freedom of dissent in academic circles, and the conflict between academic freedom and national security interests. Moreover, it deals with the inherent conceptual issues of the principle of academic freedom and the question of providing corresponding responsibilities to these rights. Both debates offer a coherent picture of the legal architecture of academic freedom and the role played by the larger human rights protection system.

2.2. Freedom of Expression and Societal Interests

Democracy is all about freedom of speech and association. It means that freedom of expression is a significant tenet of democracy. An individual must be self-governed for the welfare of the whole populace and the proper running of democracy.

Freedom of expression is protected under Article 19 of the ICCPR and Article 10 of the ECHR, as these allow for limitations where they are provided under law for reasons of public safety, public order, public health, or morality. Consequently, freedom of expression is not an exception to these limitations, let alone academic freedom, which is part of freedom of expression. Though the academic community fosters controversies and research of radical opinions as such, it cannot be a haven for opinions that promote violence, hatred, or bigotry. It has been shared that the judicial decisions stress that any limitations must be necessary, proportionate, and be prescribed by law. In the case of *Orlik v. Ukraine* (2011), the European Court of Human Rights dealt with the criminal conviction of Mr. Orlik for defamation and insult to local officials during a peaceful assembly. Mr. Orlik claimed that the supremacy of his political party infringed on his right to freedom of expression, which is enshrined in Article 10 of the European Convention on Human Rights. Freedom of expression is a right in any democracy. Still, the Court agreed that it clearly can be limited where it is necessary in a democratic society for the protection of the reputation or rights of others. The Court concluded that the Ukrainian authorities had not upheld Mr. Orlik's right to freedom of speech as a candidate with freedom of political beliefs while protecting the officials from defamation as the interference with the rights of the applicant was adequate. This case affirmed the understanding that the restrictions of Article 5 concerning the freedom of expression have to be rationalized and reasonable with respect to the goals made available.

The principle of proportionality is at the core of the analysis of whether limiting the fundamental right of freedom of expression is legitimate. When looking to uphold a

limitation, the courts have to ask: Is the purpose legitimate, necessary for that purpose, and is the limitation a proportionate means of achieving the benefit of the prohibited aim? For instance, in the controversial case of *Zana v. Turkey (1997)*, where the ECtHR had to consider freedom of expression. Zana, the former mayor was disqualified on account of having been convicted for advocating for a terror group. Nevertheless, the court maintained the conviction because it regarded speech calling for and justifying violence and terrorism as likely to endanger public peace. The judiciary serves to protect order in society and, simultaneously, provide room for the convection of fundamental rights. When reasonability is applied, it ensures that restrictions bear a reasonable relationship between the general aims and objectives of the law and the particular undesirable to eliminate arbitrariness and exceed the rationality ratio.

In a similar recent case of *Rana Muhammad Arshad v. Pakistan (2020)* the Islamabad High Court, in its judgment, has declared that the action taken by Pakistan's Federal Investigation Agency (FIA) was unlawful under Article 19 and Article 19A of Pakistan's Constitution – freedom of speech and freedom to seek any information. Decision-makers, the court made it clear that attempts at harassing journalists for exercising their constitutional right and freedom of free speech undermine the democratic process. It instructed the FIA to protect such rights so they are not violated in the future.

Many facets of the freedom of speech seem to falter where the societal good is the matter of concern. In schools, courts have understood that students must have a lot of freedom to encourage inventive and critical thinking. However, the courts side with the community's interest where academic speech is malicious or likely to bring about

enmity or disorder. In *Kamaaluddin Ansari v. Union of India (1984)*, an Indian court considered limitations on a professor's written work, which was deemed to tend to extremism. The court said that such restrictions had to do with the security of a nation but upheld them where they did not go beyond what was necessary. Similarly, in *Garcetti v. Ceballos (2006)*, the U.S. Supreme Court stated that the free speech rights of teachers and other public employees are not absolute when they are on the job. The conflict that the decision underlined the relationship between institutional interests and an individual's rights while their speech at the same time also touches on public issues.

Understanding freedom of expression has instead been exigent and has differed from one jurisdiction to another due to cultural, legal, and political aspects. The USA has one of the most liberal constitutions where, under the First Amendment, academics and everyone else enjoy freedom of speech. Nonetheless, it does not imply that there isn't room for restriction in this context. For example, in the case of *Tinker v. Des Moines Independent Community School District (1969)*, the United States Supreme Court supported students freed from political speech in public schools but noted that such speech could be prohibited if it interfered with school orders. European courts seem to provide a fair number of restrictive precedents in which certain core societal values have been elevated, including equality and order. The decisions of the ECtHR in cases such as *Orlik v. Ukraine (ECHR 2011)* and *Zana v. Ankara* go to something the broader global culture of tempering free speech for the sake of the greater good. That is why contextual factors continue to play a rational role in defining the extent of freedom of expression.

2.3. Academic Freedom in Educational Institutions

Academic freedom practiced in learning institutions provides the foundation for scholarly advances. Because it respects the independent rights of living persons, it grants educators and scholars the freedom to seek knowledge, teach, and disseminate the same without cumbersome regulation. One of the requisites for all this is the freedom to keep the ethical aspect of learning and create settings conducive to creativity, critical thinking, and social change. Scholars have academic freedom rights, which are central to legal principles, constitutional provisions, and societal trends. Human rights help in the improvement of the Institutional autonomy of academic organizations, shielding academic bodies from influence by political or corporate groups. They are important to ensure that institutions of academics can deliver on education and research safely in democratic ways without undue influence from state powers hence protecting academia. ICESCR- Article 13 talks about freedom in Academic discipline right aside education with the freeness of institutions without any outside influence (United Nations General Assembly Resolution 2200A (XXI) 1966). National laws and policies Therefore also need to be employed to protect this autonomy in various ways. For example, concerning the UNESCO Recommendation Concerning the Status of Higher-Education Teaching Personnel (1997), the working conditions and rights of academics mainly concern academic freedom of both the worker and the institution as well as its autonomy. In the United States of America, the Federal Higher Education Act of 1965 and its reauthorizations reaffirmed the concept that there should be no government interference with the curriculum and content of institutions of higher learning.

Such are current policies that regard institutional autonomy: Several universities. Teaching-learning in the University of Oxford is framed under its own statutes and university regulations to shield the university from political or corporate interferences. In the same manner, the system of university education in the United States for example, safeguards and governs Free speech within the university as well as ensuring that all curricular concerns, research, and any decision-making within the university are left to the university without outside interference. In Europe for instance the German Universities Act (Hochschulgesetz) encourages university's decentralized decision-making on research and teaching. The case of *Groppera Radio AG and Others v. Switzerland*, App No 10890/84 (1990) shows the value given to institutional freedom, the stress on which is required to protect the independence from state and other extraneous pressures as part of academic freedom. Also, the European Court of Human Rights, in *Orlik v. Ukraine*, App. No 40992/05 (ECHR 2011), the problem was pointed out that academic institution needs to be protected from government intervention to define academic freedom. Academic freedom for universities helps them study and share information about or discuss various issues and ideas that may be unpopular or might offend a funder. For example, research institutions in the nations that offer significant academic freedom guarantees can more effectively respond to the critical social needs – like climatic change or violation of human rights – than when they are subjected to irrelevant control. Institutional independence is protected by human rights principles and the supporting policies that enable invigoration and academic freedom necessary for scholarship to be a harbinger of truth and the public's good.

Human rights principles make a huge input of academic freedom by ensuring

that the university's decision on controversies such as curriculum content, research agenda, and faculty hiring decisions should be taken independently. This autonomy is a necessity for developing the universities' environment where it would need to meet the academic and social changes itself, without relying on direction from outside. The right to academic freedom has an international legal backing such as International Covenant on Economic Social and Cultural Rights Article 13 which seeks to outlaw fees for education and to ensure the independence of institutions of learning. This autonomy is also supported by the UNESCO Recommendation on the Status of Higher-Education Teaching Personnel adopted in 1997 to guarantee that the University establishes its policy and practice on education. Many universities incorporate this strategy in practice. For instance, the University of Melbourne features formal structures of governance to enable the academic board to manipulate all academic related issues which includes decision making on programs that ought to be offered in the institution to reflect the educational needs of the campus and the broader society without influence from political vandals or external interference. In the United States there is a tenure model in universities whereby faculty enjoys job security through research and the ability to teach on issues that are politically sensitive or even unpopular, protecting their right to determine academic content and direction. The Supreme Court landmark decision was *University of Michigan v. Ewing*, 474 U.S. 214 (1985) also focused on freedom protection for colleges and universities pointing out that universities can limit educational policies and professors' activity to maintain their mission. Human rights augmenting the academic governance enables universities to develop a pluralistic approach to research and learning. It is this freedom which of necessity brings about

the furtherance of knowledge and plays its part in the general uplifting of mankind by encouraging free thinking and constructive criticism.

With Academic freedom, it becomes possible to implement human rights education into education syllabuses. Universities offer such courses that more than just put into question traditional modes of history and erasure; indeed, they offer different ways to think about human rights in contemporary society and that empower people to change the world. Institutions that have adopted free academic practice address human rights issues, that may be sensitive and or radical in places that are taught in universities without any form of interference from political or institutional authority. This freedom is illustrated in the European case of *Sorguç v. Turkey Application No 17089/03*, The European court of Human Rights highlighted the freedom of academics as crucial to the effectiveness of the higher learning institutions faculties in encouraging divergence. A case of the University of Cape Town which has an interdisciplinary curriculum and offers courses such as International Human Rights Law and Transitional Justice. Its Centre for Humanities Research works closely with civil society in delivering responses to some of the world's most urgent human rights demands. Similarly, the University of Michigan Human Resources Center has also coursed in rights and it brings about awareness through workshops and lectures. These institutions show the generative capacity of academic freedom to human rights education as a rationale. Therefore, academic freedom empowers the university to guarantee its disposition to incorporate human rights into its curriculum. As it creates an approach that connects with the students' lives it enhances the values of justice and equality among the students.

2.4. Academic Freedom and The Right to Dissent

Academic freedom and the right to dissent are both pillars of democracy and also complement one another in performing their roles. The main arguments for academic freedom permit scholars, teachers, and learners to examine, question, and construct doubts. This fundamental right helps to keep a stake in the conduct of institutions of higher learning. In its simplest sense, academic freedom contributes significantly to dissent—the right to contend with set standards, power, and policies and the prospect of resisting them without much risk of adverse consequences. These two ideas are very closely connected; dissent is possible in a sphere where academic freedom is valued, and such freedom allows the use of considerations opposed to those of administrative power. Academic freedom allows scholars and students to voice dissent from authorities or any dominant political or social philosophies within their papers, articles, and speeches. However, this freedom does not mean they are exempted from having their behaviors investigated or criticized by society. The relationship between dissent and academic freedom underscores a delicate balance: Education institutions, therefore, have the responsibility of accommodating academic freedom in content as well as in expression so that similar liberties do not compromise on social order, institutional autonomy. A good example is the *K.K. Ramachandran v. The Secretary to Government (1997)* in India. Mr. K.K. Ramachandran, a professor at the University of Kerala, was dismissed because of his publication, which contained criticism of the actions of the government of the country in question. His writing included the following aspects about the governmental disturbances in educational and social reforms: Indiscipline and anti-national behaviour. Ramachandran also argued that

he was sacked for Political Freedoms and was in violation of the Academic Laws of the Indian Constitution 19 (1) (a). The Kerala High Court recognized that freedom of academics is a constitutional right by dismissing Ramachandran's appeal. The court noted that academic institutions must nurture the climate of pluralism of opinions and freedom of speech, including speech that is potentially adversarial of governmental policies. However, it stated that the state could restrict such freedom if the security or order in the state is threatened. This decision captures the fight between liberty and order as a vice of academia and the community. It also demonstrates where dissension in academia occurs and how it must mediate between institutional and governmental bodies.

Freedom and dissent in the academic arena are not only restricted to India, but the jurisdictions related to cases of such freedom have been strong in other places that signify the balance of freedom. In the United States, the case of *Tinker v. Des Moines Independent Community School District (1969)*, demonstrates how dissent in learning institutions can subvert authority. The U.S. Supreme Court decided that students had a right to wear armbands during the Vietnam War; therefore, and enable students and teachers enjoy their rights in school. Even though this case did not directly deal with academic freedom, it was a precedent for protecting dissent in educational organizations. Similarly, in the case of *Sweezy v. New Hampshire (1957)*, the Supreme Court of the United States supported a lecturer who was interrogated on the materials of his speeches and connections, and he was labeled communistic. The court ratcheted the protection of academic freedom to protect the integrity of the pursuit of oppositional thought; the court reiterated that excessive government control over

academicians poses a danger to democratic principles. The above cases demonstrate how the principles of academic freedom allow a person to be as rebellious as possible and simultaneously show when the state interests dominate. In cases such as *Kula v. Turkey (2002)*, the ECtHR has clarified the balance by stating that the dismissal of a university professor for political opinion infringed the ECHR rights. The court stressed that it is the dissident opinions, more specifically in an academic environment, that the development of democracy is based on. Protests in these countries are usually limited, so dissent within learning institutions is generally suppressed. For example, in China today, academic freedom is not recognized in its true sense as this freedom is accompanied by so many restrictions that Chinese scholars who dare to disagree with their government are usually punished by being fired from their jobs or imprisoned. It underscores the differences between democrats and authoritarians in dealing with conceptions such as academic freedom and dissent. Some scholars, such as Xu Zhangrun from Tsinghua University, who were removed from their positions for expressing a dissenting opinion on government policies, are some of the dangers academicians face in such environments (Huang, 2019).

2.5. Academic Freedom and National Security

Governments forcefully ban or limit a certain course of study to protect national security interests, public safety, and social morality. The conflict between these demands generates frequent legal and ethical dilemmas of how much freedom scholars should have and how much security campus communities should enjoy. In the case of *Orlik v Ukraine (2011)*, the European Court of Human Rights discusses the limits of freedom of speech in relation to defamation cases against an official. The Court

pointed out that freedom of expression is one of the fundamentals of democracies, and more so when it is related to the official or matters of the interest of the public. However, in this respect, the Court stressed that the right mentioned earlier is not an absolute one and may be provided with limitations in as much as such, which shall be necessary for the protection of the reputation and the rights of others and justified in a democratic society. In this case, the Court concluded that Ukraine failed to achieve a fair balance between the protection of their civil servants against defamation and the protection of Mr. Orlik's freedom of speech, stating that the actions of the state are disproportionate and violate Article 10 of the European Convention on Human Rights. In the same way, the case of *K.K. Ramachandran v. The Secretary to Government in India (1997)* gives good examples of how courts worked out rights to academic freedom vis-a-vis state security. Such controversies as the sacking of Professor K.K. Ramachandran for writing an offending article against the government depict a conflict between the right to academic freedom of an institution and the freedom of independent scholars to express their dissatisfaction in their articles. The Indian judiciary in *Saravanan v. India* upheld the constitutional right of academic freedom but words that right in a way that independence carries with it duties and such freedom are restricted if it threatens the order in the nation or is dangerous to the nation's security. The court also spoke that to these concerns, it is for academic institutions to balance this to allow free dissent while at the same time protecting certain significant interests that are in the public domain.

The 2015 landmark case *Bolo Bhi v. Pakistan* had paradigm-shifting impacts on the digital rights and freedom of academics in Pakistan and the country's national security domain. The case focused on the non-transparent method of online censorship

conducted by the Pakistan Telecommunication Authority (PTA), which raised questions about access to information, freedom of speech, and debate. As a digital rights activist from Pakistan, Bolo Bhi took PTA to the Islamabad High Court with non-transparent censorship charges. PTA has been doing so over the years. They banned and blocked different sites, including education-based, social networking, and others, using the blanket ban of 'morality' or 'national security' without proper standards and regulations. This uncontrolled censorship denied many scholars, students, and researchers crucial materials and eroded academic and, by extension, personal freedom. Furthermore, the PTA made a cracking approach to preventing the nation's safety by not differentiating between the real threats and other crucial educational materials that targeted audiences would need to facilitate productive discussions and solve societal problems. Bolo Bhi's lawyer spoke of the Islamabad High Court's decision to remove PTA restrictions by stating that the PTA went beyond its legal powers and infringed on freedom of speech and access to information. As much as the court underscored the importance of protecting national security, it pointed out the importance of procedural fairness and the rule of law so that whatever measures on the security front are well canvassed, legally sustainable, and do not infringe on freedoms to learn, access knowledge or associate. The Islamabad High Court, in favour of Bolo Bhi, said that PTA had acted beyond its authority and had breached constitutional rights, esp. freedom of speech and the right to information. The court also emphasized the need to publicize the processes and legalization of the problematics of regulation on the Internet. Thus, having emerged as a victory of the constitutional balance between a nation's security and its people's liberties, the ruling defended the right of people to know and protest. It also

disenfranchised the government and ensured the people were protected from their intrusions and that policies created had better reasons behind them. This decision not only defended the rights of academics but also helped to support a higher level of security for the country and increased the citizens' ability to respond to various issues by improving processes of debate and thinking and seeking a higher level of innovation.

In the United States, academic freedom is well protected by the Constitution under the First Amendment. However, the courts have allowed restrictions on academic activity to preserve national security; for example, the case of *Keyes v. School District No. 1 (1973)* in the United States also demonstrated to what extent content and educators' liberties can be restricted due to national security issues. Although this case mainly concerned desegregation and education equality, it also showed how national security questions can affect organizational practices and personal rights within academic contexts. The USA PATRIOT Act, signed into law after the September 11, 2001, attacks, brought many new surveillance and reporting obligations for universities. These measures were criticized because they produced an anticipated constraining influence on academic work, especially in areas that touched on terrorism, foreign policy, and government spying. Sceptics continue to claim that such policies primarily impair academic freedom due to the discouragement of issues interpretation or sensitive topics investigation. In some countries of the world, freedom in the academic profession has a closer connection with national security matters than in others, owing to differences in the political and legal environments. In totalitarian states, state security is used as a cover to stifle protests and maintain dominance of the information presented in academic circles. For instance, the Chinese government continues to ban

research and other forms of freely spoken opinion on particularisms within that country on the excuse of stability and security of its state. Academics writing ideas that conflict with government directives or discuss politically contentious issues tend to be risk jailing. Democratic societies, on the other hand, are different in their way of thinking and normally affirm academic freedom and approve of security worries simultaneously. For instance, the German Federal Constitutional Court has directly labelled academic freedom as one of the rights protected under Article 5 of the German Basic Law. However, it has also acknowledged that this right is restricted in certain extraordinary cases where research activities endanger public or national security.

2.6. Limits of Academic Freedom

Academic freedom and human rights work hand in hand, but there could be conflict if academic freedom is in the form of speech, which leads to hate speech or incitement of violence. Scholarly freedom is the axiomatic assertion that scholars, even those in a formal academic environment, should be capable of researching, teaching, writing, and debating even dissident ideas without restraint; however, research has limitations when those ideas and opinions endanger or harm the rights of others, to equal treatment, hatred or violence. The Universal Declaration of Human Rights (UDHR), in its Article 19, recognizes individuals' freedom of expression for freedom of expression but also acknowledges that this right has associated responsibilities and may be exercised subject to certain norms for the protection of the rights of others and maintenance of public order. In like manner, Article 20 of the UDHR affirms, "Any propaganda for war, any expression of which amounts to an advocacy of national, racial or religious hatred shall be prohibited". It points to a recent understanding that liberal

freedom of expression is crucial, but only if countered with reasonable restrictions that shield persons and groups from abusive, threatening, or otherwise violent speech. In *Snyder v. Phelps*, 562 U.S. 443 (2011), the court states that the First Amendment, part of the United States Constitution, protects the freedom of speech even if they protest at military funerals in a hateful manner. While this case was beneficial in upholding strong free speech protections, it also showed the problem of how to deal with speech that targets marginalized communities. The ruling was reinforced by saying that even hate speech and other forms of speech that might be deemed prohibited under the Constitution cannot be prohibited unless it meets the requirements of the incitement doctrine and imminence of harm. In protecting the right to free speech, the Court triggered a debate about whether one should be allowed to aggrieve a particular race in South African society. The need for multiculturalism challenges universities' academic freedom versus social responsibility as knowledge-proposing institutions. For instance, if a professor encourages hate speech by a minority group, universities may feel forced to punish the professor for upholding the equality, respect, and dignity of students and staff. The United Nations Human Rights Council's norms for Combating intolerance and Hate Speech propose that academic institutions should have policies that accord with human rights norms regarding free speech so that freedoms granted do not become a license to violence or prejudice.

Secondly, academic freedom does not include the freedom to discriminate or harass based on race, gender, religion, or other protected statuses under human rights. Any situation where academic freedom is employed as a veil for such actions goes a long way toward being a thorn in the thigh of the human rights of the victims. Freedom

from discrimination and the equality of all individuals are protected by the Universal Declaration of Human Rights (UDHR). Article 2 of the UDHR: Everyone is entitled in equal measures to all the rights and freedoms enumerated in the declaration, regardless of race, colour, sex, language, religion, political or another opinion, national or social origin, property, birth, or another status. In the same manner, important safeguards to equal protection, therefore, Article 7 on exclusion from discrimination rests on the same principle underlying the freedom of expression and academic freedom; there is the responsibility to uphold and respect the dignity of every person. Subsequently, the case *Doe v. University of Michigan*, 721 F. Supp. 852 (1989) shows how universities arrange themselves to stop acts of harassment so that the learning environment stays sacred. In this case, a young man at the University of Michigan was expelled because he used racist and sexist language in class. Thus, the court held that the university had a right to expel the students for conduct that creates a hostile learning environment and poses threats to the safety and education of other learners. Also, there is the US Supreme Court case Title IX of the Education Amendments of 1972 as the legal ground for fighting discrimination in educational organizations. Title IX illegalizes sexual discrimination in academic institutions and programs receiving federal funds; it has been used to facilitate change and set up non-sex-session discriminative environments. Tertiary institutions must prevent acts of sexual harassment and discrimination since the student has a right to study in a safe environment. Even to an educator, the First Amendment protects academic freedom, which, though it promotes free-flowing discourses and committees search for truth, does not sanction the misdemeanour and bars discrimination against minorities. It is not only mandatory for

universities, under the law of the land, to provide safe learning environments for all students and employees that respect human dignity and diversity. Academic freedom and freedom of persons shall always be in harmony to ensure that the climate within institutions is healthy and fair.

Thirdly, academic freedom does not cover actions or words that lead to terrorism or propaganda for war. The regulation would also require universities to ensure that their campuses provide a learning environment free from violent rhetoric while denying violent groups and individuals a place to spread their doctrines to scholars and faculty members. Section 2 of the Terrorism Act of 2000 in the UK prohibits people from encouraging or causing to be published any materials that are likely to be used for a terrorist purpose. Section Twelve of this act pays much attention to disseminating information that may be useful in terror attacks, pointing out that academic freedom cannot be employed as a cloak for inciting violence or intolerance. However, the Counter-Terrorism and Security Act 2015 reinforces that through the Prevent Duty, which requires her to do something to stop people from being radicalized. It also includes the control and counteraction of uneven content in academic discourse if such contents encourage terrorism or war propaganda. Challenges such as terrorism are compelling American universities to maintain environments that protect academic freedom as well as follow legal requirements on terrorism. Academic freedom protects freedom of speech encompassing unpopular or opposing ideas. However, it does not allow independence to engage in acts of violent instigation against a group as it is dangerous to public safety and security. Institutions must, therefore, set guidelines that differentiate between academic debate and material that is illegal to produce. For

instance, the Education Act 1986, regarding the protection of free speech in universities, does not allow protected speech that incites disturbance of public peace or order in universities. In the case of Anjem Choudary, Choudary abused his authority to make radical statements, which led to support for proscribed terrorist groups (Counter Terrorism Policing, 2024). As this case was not available in an academic institution, it demonstrates the legal repercussions of promoting terrorism and how such cases influence university policy and practice to eschew the abuse of academic freedom. The right of academic freedom cannot be stretched to encompass support for terrorism or war propaganda. There is a constant voicing of academic freedoms at universities while enacting the laws that help prevent the penetration and spread of extreme thought processes within university environments that are supposed to protect and foster the safety of all members of the university communities.

Moreover, perceived prejudice against minority groups or expressive harassment in the form of negatively determined prejudicial views cannot be said to fall under protected speech if the professor's actions contribute to creating a hostile learning atmosphere. Faculty bodies are responsible for guaranteeing that each student and all staff members of the institution are not discriminated against in any way and can study or work under conditions that are chemoreceptive of grievance claims of sexual harassment. In the UK, discrimination at work and university is unlawful, and the Equality Act 2010 is the main legal code that was put in place to prohibit discrimination against harassment and victimization of people based on race, religion or belief, gender, and sexual orientation. It also provides the requirement that the latter must act to prevent and combat behaviour that can make an institution an oppressive environment.

Such ideas as freedom of speech and teaching are not protected if they harass or create a culture that makes minorities uncomfortable.

In *D.H. and Others v. Czech Republic (2007)*, discrimination in education provokes a different treatment that contravenes the right to education. This decision raises the need to advocate for and promote an environment free from discriminatory prejudice and rhetoric in educational establishments. In the U.S., it was decided in *Chaplinsky v. New Hampshire (1942)* that speech should be limited even in the academic sphere. The United States Supreme Court has held it is unconstitutional to discharge words cause a breach of the peace at the recipient's end. Although this case was not an educational facility-related case, it shows the legal precedent that speech capable of fostering hostility or harm is not protected by the Constitution's right to free speech. Assuming the responsibility of creating a learning environment in which all people feel welcome to participate without any prejudices, as wrong as discrimination is, universities ensure the freedoms academicians have but do not embrace the breakup of human rights and dignity.

2.7. Balancing Rights and Responsibilities

Academic freedom is an essential tenet of learning both as an academic and scholar that propels individuals and society to dissect major social issues, articulate disagreeing opinions, and express dissent in their work and practice apart from oppression. Such freedoms are not constrained but must balance with other societal values, mostly in cases where speech leads to violence, discrimination, or poses a threat to public security. It is similar to defending academic freedom, as rights and freedoms are not absolute in general human rights; Article 10 of the ECHR allows

limitations to freedom of speech where it might lead to hatred or violence. An excellent example of the dilemma faced when analyzing the right to freedom of expression and the corresponding limitation of hate speech is the *Jersild v Denmark (1994)* case. Danish journalist Jens Jersild was prosecuted under Danish criminal law for broadcasting a racist group known as the Greenjackets who insulted immigrants in an interview with him. Even though Jersild claimed that his action was under Article 10 of ECHR, which entitles the freedom of expression, the Danish judicial system concluded the broadcast was provocative and insisted on his conviction.

The European Court of Human Rights (ECtHR) later reversed this decision. The ECtHR further affirmed that Jersild's intention was not to sanction the "Greenjackets" view but to present them for criticism. The court underlined the importance of journalists—and, therefore, scholars—as the source of rational discussion of contentious topics. However, about, the ECtHR made it clear that the right to freedom of expression is not absolute; the state can adequately limit the type of speech that is unlawful incitements to violence or discrimination that speech, although they only do so where the restrictions are necessary and proportionate in a democratic society. This perspective underscores the dual responsibilities inherent in academic freedom: building on the critical discussion as a process and how it can be maintained and developed without becoming destructive in social terms. According to Kamatali (2010), the management of hate speech ought to provide unrestricted academic freedom and consider the harm the speech might inflict on society. He submits that inhibition can diminish social norms and amplify disparity, especially where it is focused on or inculcates negative attitudes about vulnerable persons. Therefore, although academic

institutions must protect educators' and researchers' freedom, they must respect the principle of equality. The principle of proportionality is the basis for handling academic freedom and responsibilities within society. Any constraint on academicians in speaking their minds meant to protect oppressed groups must do so within reasonable limits to avoid a denial of personal freedom of thought. The ECtHR states that the protection of human rights requires a proper balance of the rights that are being claimed. Even though this doctrine recognizes the relative differences between the national legal systems, it has placed a responsibility on states to justify restrictions as necessary and proportionate measures.

When considering what it means to have free and open scholarship in the modern university, it is neither possible nor particularly useful to ignore the internationalization of academic freedom for the sake of focusing exclusively on its national provenance. The public interest provides scholars with a touchstone when distinguishing between freedom of speech and institutional control. An example of this principle is about speech that undermines societal order, peace, or security of a nation. For instance, in Canada, the Supreme Court upheld the conviction of a teacher involved in the promotion of the holocaust false claims and other prejudiced ideas in *R v Keegstra [1990] 3 SCR 697 (SCC)*. Hate speech laws were applied constructively because the courts have recognized a legitimate public interest concerning members of vulnerable groups and social order.

Research niches that involve issues related to ethnicity, gender, and even religion need ethical responsibility. In the case of Professor David Miller is clear when he was dismissed from the University of Bristol, critically raising the ethical part of academic

freedom (Dickinson, 2024). Anti-Semitic statements were levelled against Miller where, after a university investigation; they violated the student's right to equal and non-discriminatory treatment. Though Miller stated that his comments fell under the freedom of expression and that he enjoyed academic freedom, the university noted that they incite hate, thus posing a threat to the safety of their community. As demonstrated in this case, the ethical paragon plays a vital role in the academic sandbox to reaffirm the centrality of free and responsible speech systems, which are harmoniously founded on the freedom and taboos of society. The approach to reconciling the right to academic freedom with responsive responsibility differs from one jurisdiction to another. Free speech is incredibly protected in the U.S., especially regarding the Constitution's First Amendment, which allows people to express themselves even if most people consider these expressions scandalous. This protection is not unqualified as in *Virginia v. Black (2003)*, the United States Supreme Court affirmed the legislation that proscribed cross-burning to threaten. European jurisdictions stick to a more stringent standard regarding free speech by arguing for regulation of speech that is likely to cause divisions of equality. An example of this approach is *Norwood v United Kingdom (2004)* by the ECtHR, which held that hate speech is inconceivable under a democratic society.

CHAPTER 3: CHALLENGES AND CONTEMPORARY ISSUES

3.1. Introduction

The autonomy of scholars and institutions within the landscape of education and governance has numerous challenges, and contemporary issues negatively influence its direction and existence. Most of these issues stem from political, social, and international influences, and it is paramount to assess the factors that endanger academic freedom and quality. Political interference in academic activities is a concern since governmental or any form of ideological influence is capable of invasive intrusion, hindering the functions of certain educational institutions or individuals. This interference can happen in different ways, like banning certain facts or limiting research work education and training funding, reducing creativity. While globalization integrates scholarly societies, global bodies actively fight violations, support the academic sectors, and aspire for policies that protect the basic freedoms of learners, scholars, and educators. This chapter explores these critical questions with emphasis on the complex nature of contemporary threats to academic freedom and the endeavours of international human rights organizations in response to this problem.

3.2. Political Interference in Academia

The practice of political encroachment into the academic arena is arguably the most persistent and natural barrier to the achievement of academic freedom globally. In most countries, authoritarian regimes, nationalist programs, and ideological politics have gradually eroded academic autonomy. Unfortunately, some political regimes see an institution of higher learning and academic scholars as a potential rival or a threat, thereby prosecuting them to stamp out opposition or regulate ideas. This is

conspicuous in emergent countries like Hungary, Turkey, and Afghanistan under the Taliban's rule.

The Hungarian collegiate system under the current prime minister, Viktor Orbán, has become a global epitome of political intrusion in universities. That is why Orbán's government has tried to restrict academic rights, preemptively weakened academic independence, and closed down foreign tuition-controlling bodies in Hungarian schools. The so-called "Lex CEU" law was passed in Hungary and threatened the operation of CEU in Budapest. The legislation set relatively high conditions for foreign universities to be able to function in Hungary, which led CEU to move the majority of its programs to Vienna (Lendvai, 2019). This development has broader consequences that go beyond the shutdown of a single institution — it means the immediate contraction of academic freedom and diversity in modern society. The attack on CEU, which for the past 25 years has concentrated primarily on postgraduate education in the social sciences and humanities, is indicative of the government's desire to stamp out thinking and debate that go against nationalist rhetoric and policies. According to Lendvai (2019), they should be seen as part of an authoritarian trend of legislators who are bent on making academia subordinate through legislation that defames dissent.

Likewise, President Recep Tayyip Erdogan of Turkey has seen a sharp regression in academic freedom, especially since the 2016 coup attempt in Turkey. In the wake of the coup, Erdoğan's government sought to remove alleged dissenters from the public sector and punish educators and academics alike. Thousands of academics were expelled from their institutions, and dozens of them were detained on coup charges or on charges of links to the Gülen movement that the government accused of plotting the

coup. The results of these actions cannot be overestimated since universities' autonomy and critical thinking disappeared. Lecturer appointments to universities today are made, with political factors being the most important as the quality of education continues to decline. Also, the intellectuals who escaped from the country also had problems with obtaining their scholarship abroad, and they were threatened by the oppressive Turkish authorities even abroad as their passports were seized. The first problem of the attack on the universities is that it destroys the free voices and helps erect a culture of the self-censored Erdoğan tyranny that stifles the growth and creativity in Turkey.

The Taliban's capture of Afghanistan has affected the parameters of academic freedom as well as the general liberties of individuals, especially those of women or, indeed, free speech. As per the recent developments after the Taliban took control of Afghanistan in August 2021, the Taliban has been systematically continuing restrictions that negatively impact the human rights fundamental freedoms, such as educational and academic rights, freedom of speech, the press, and other civil liberties. These actions go against international human rights standards and lower academic freedom to a mere shadow of existence. This right of everyone to education, as stated by the Universal Declaration of Human Rights (UDHR) 1948, Article 26 further provides that education should be free and education should be directed towards the full development of the human personality. These fundamental human rights have been violated in Afghanistan under the Taliban regime, where universities remain shut for women, and restrictive measures have been imposed on education centres, especially education for equality and diversity. These measures exclusively contradict the

international norms and standards regarding the education of all people without discrimination towards gender.

The ICCPR, to which Afghanistan was a party until the return of the Taliban to power, enshrined the freedoms of speech, assembly, and association. Article 19 guarantees the freedom of speech and expression, while Article 21 safeguards the freedom of assembly. Violations of these rights by the Taliban through the ban of women from education and limiting of opportunities for debate contravenes these obligations, stifling the academic and intellectual of the Afghan society. In *Gonzales v. United States (1953)*, the oppressive action of the state on students and teachers was struck down by the U.S Supreme Court, stating that academic freedom is hence freedom of thought and hence touchstones of a democratic society, which are bounds by the constitutional right the freedom of expression and the pursuit of knowledge as constitutions of man dignity. This incident was based on the case of the U.S., but it gives a common concept that academic freedom is necessary for individual and social development. The Taliban has made oppressive policies concerning education and freedom of thought in Afghanistan. Colleges that used to encourage free thinking and free speech have become entities under much supervision, and the prices for disregarding the set rules are steep. This environment limits personal liberties and denies society the mental and technical skills needed for advancement. Such strict actions affect the principles of educational autonomy and basic human rights, extend the existing problems of the Afghan people, and reduce the prospects for future development. Hungary, Turkey, and Afghanistan shed light on the political interferences piercing through higher learning institutions and the destruction of intellectual liberty

around the world. Universities and authoritarian regimes aim to extend their authority and concomitant control over the discourse on social, political, and cultural matters and dampen dissent. The impacts are enormous, both to individual scholars and students and to society at large as well.

In a 2023 report by the US Department of State on Press Freedom and Expression, freedom of speech in Pakistan is severely violated through threats, intimidation, and censorship of journalists and academics. Governance institutions have been depicted as relying on overbearing laws like sedition and counterterrorism laws to restrict freedom of speech and expression that are part and parcel of an academic setting and freedom of speech in volatile political climates.

Interference erodes the very fountainhead of academia, be it the search for truth, the exchange of ideas or the shaping of young minds. It also undermines people's confidence in educational facilities; universities turn into mouthpieces of the state instead of places for free research. Furthermore, long-term economic and social repercussions result from the termination of this principle; the aroma of free, innovative thinking and progression is muzzled in institutions where learning freedom is constrained. It will take international organizations, governments and civil society to actively campaign against political interference in academia. International governance structures like UNESCO, where terms like the UNESCO Recommendation on the Status of Higher-Education Teaching Personnel (1997) give legal grounds on which government can be taken to task, are another. However, the implementation of these frameworks is a subject of controversy, primarily in the states with an unfit judiciary or a lack of judicial independence. Scholars and their institutions from all over the world also

need to stand together collectively. Programs like Scholars at Risk or the Council for At-risk Academics are designed to assist academics who are experiencing persecution to continue here in a safe haven where they can continue their work. Second, diplomatic pressure, as well as sanctions, can serve as quite influential means for encouraging the securing of academic freedom by authoritarian states.

3.3. International Human Rights Bodies

International and regional human rights instruments offer the uppermost importance of spearheading the job of reinforcing the universality of human rights in promoting academic freedom. University autonomy, defined as the freedom and independence of teachers and scholars in decision-making in academic and research matters, is given an endorsement as a facet of the rights to freedom of speech, thought, and education as pertinent to societal and democratic development. However, there are still several challenges in implementing and enforcing academic freedoms within the international frameworks, such as definitional confusion and selective implementation or non-compliance with the judgments. The basic problem relates to the lack of consensus regarding the definition of academic freedom. Although freedom of expression and entrée is well developed in the ICCPR, the ECHR, and other concerns, no instrument encodes academic freedom. For instance, article 19 of the ICCPR guarantees freedom of expression, but this freedom, in particular, has no anchoring in the educational context. Like the ECHR's Article 10 on freedom of expression, the ECtHR has touched on academic freedom only in connection with cases such as *Sorguç v. Turkey (2009)*, in which it identified academic freedom as a part of freedom of expression. The weakness results from a failure to define important variables in a way

that prevents states from using domestic laws and political agendas to weaken academic freedom. It is clearly illustrated in those instances where governments seek to justify a restraint of academic freedom as in pursuit of the public interest or public order or in pursuit of national security. This effectively constricts the operational parameters of academic freedom under the principles of international law.

International principles of human rights in the context of academic freedom are lived differently, thus explaining the differences by political, cultural, and legal systems' differences. For example, in the jurisdiction under ECtHR, it is evident that questions relating to the violation of academic freedoms have been addressed with considerations of state interest interposed with the freedom of the individual. In *Kudeshkina v. Russia (2009)*, the court ruled in favour of the fired judge for manifesting opinions that are quite negative towards the judiciary, arguing that Academic freedom involved free speech in public interest issues. However, where regional human rights bodies are less fully developed or absent outside Europe, academic freedom is more likely to be threatened by state incursion. Such freedom of speech, assembly, and expression has been suppressed in areas such as the Middle East and some parts of Asia by the use of laws that personalize dissenting academics. For instance, UNESCO's 1997 Recommendation Concerning the Status of Higher Education Teaching Personnel calls on member states to shield professors from external influence due to political or ideological considerations. Still, it remains a recommendation and is not easily enforceable.

Challenges to the implementation of the recommendations of the international human rights bodies as far as academic freedom is concerned are numerous. For

example, legal judgments made by the ECtHR are obligatory; however, their execution is initiated at the discretion of the member countries. The example of Turkey and its approach to compliance with the judgments of the ECtHR in the period after the coup of 2016 also indicates this problem. Likewise, the UN Special Rapporteur on the Right to Freedom of Opinion and Expression often receives accounts of abuses of academic freedoms, with China, Iran, and Egypt being examples of scholars practicing censorship, imprisonment, or exile. However, these reports are non-binding and have relatively little effectiveness. So, specific findings are dismissed as interference in internal affairs, which even more undermines international initiatives in defence of academic freedom.

International human rights do not safeguard academic freedom fully and efficiently because of political and economic pressures. Powerful states pressure some of these organizations to cover up such criticisms. For instance, China has over and over again engaged its economic and diplomatic might to drown the international community's voices of concern over the Chinese policies regarding academic relations with other countries and regions and a political crackdown on scholars and research work, particularly on politically sensitive subjects such as the Uyghur Muslims in Xinjiang or the Tibet autonomous region (Congressional Research Service, 2024). Economic factors have not been overlooked when restricting the autonomy of international actors. The majority of such organizations are financed from member states' contributions, which leads to certain contradictions. Some states may contribute huge funds to these organizations and may have leverage to change their policies, especially when they do not want them to address acts of violation of academic freedom in certain politically sensitive regions. Nevertheless, there is unequivocal

evidence that established international and regional human rights systems are relevant for promoting academic freedom. The UNESCO 1997 Recommendation Concerning the Status of Higher Education Teaching Personnel is a pioneering attempt to establish the principles of academic freedom by urging the states to shield institutions and teachers from outside influence. But again, this recommendation is not very authoritative given that it is only a recommendation and thus not very effective in countries, especially the authoritarian ones, where academic freedom is a mere Mirage. The European process of the 'Bologna declaration,' which seeks to foster convergence of the national systems and structures of higher education, has also set academic freedom as the cardinal principle. However, it was heavily criticized for ignoring an individual rather than an institution, an ideal that does not protect vulnerable scholars with politically sensitive research topics.

In Russia, Kudeshkina is an apt example of how the ECtHR defends freedoms of academic intent, although this is done within the framework of freedom of expression. Like OAS, the UN Human Rights Committee occasionally discusses academic freedom concerns under Article 19 of the ICCPR, but mainly in a more general connection with free speech. In the Middle Eastern countries specifically, there are no strong regional human rights mechanisms, which makes academicians more vulnerable to repression by state powers. In Egypt, for instance, academics who oppose government policies or research sensitive issues risk being harassed or arrested, imprisoned, and or barred from traveling. At the Asian level, UNESCO's recommendations have somewhat brought discussions on academic freedom in many democracies, including India and South Korea, into focus. Still, nations like China and North Korea continue to demonstrate very

little concern toward the international community's critique, which makes the use of non-binding instruments seem quite limited.

CONCLUSION AND RECOMMENDATIONS

Free academic spirit serves the generation of knowledge, creativity, and democracy. Nevertheless, the following challenges, political interference, social polarization, and technological surveillance, continue to hinder the organization adversely. Accordingly, a combination of the person's rights, university autonomy, and international cooperation is needed to protect academic freedom. Intellectual freedom, in particular, has always contributed to both social progress and the progress of thought in the classical, modern, and postmodern eras. Yet, Turkey and Hungary, in particular, demonstrate that political and authoritarian pressure has waned this freedom over the last few years and suppressed independent research. Legal tools like the ICCPR and the ECHR are useful but need more powerful backing to enforce. There is a problem with the definition of their application and enforcement; they are not as useful regarding threats such as government interference or surveillance. Consequently, a combined framework conforming to international and national legislative models is crucial and feasible.

Recommendations include:

1. **Legal Strengthening and Institutional Safeguards:** Academic freedom should be protected as an international and national human right. Provisions from Germany's Basic Law can be used as an example of sufficiently strong legal mechanisms for protecting against extraneous influences. Governments should set up separate institutional bodies for the autonomy of curricula and research by institutions, with features such as an annual review by UNESCO or a regional body.

2. **Protection for At-Risk Scholars:** Organizations such as Scholars at Risk (SAR) and Amnesty International should be financed and broadened to fight persecution and threats against scholars in politically volatile regions. Facilitating speedy asylum processing and awarding research fellowships help scholars remain engaged productively and add to the body of knowledge from safe havens.
3. **Promotion of a Culture of Free Inquiry:** The management and authorities of universities should promote freedom of speech and respect for opinions in exchange, which contain ethical responsibilities. At the same time, awareness of rights concerning academic freedom can be assisted through educational programs that show the moral consequences of different rights implementations. Academic freedom has to be well defined so that it cannot be abused for hate speech, among other ills.
4. **Decentralized Governance:** Decentralizing university management away from direct government control can also be useful in preserving institutional autonomy. Nations that systematically violate academic freedom should be threatened with diplomatic and economic sanctions.
5. **International Collaboration and Cybersecurity:** Today, the world is interconnected with digital technologies, and institutions and academia thus require multilateral support to protect our rights. Governments and organizations should develop access to open, safe, online environments to shield scholars from cyber spying and censorship. Apart from platforms created by UNESCO and similar organizations, it is possible to establish an interaction that would be safe and secure for representatives of various universities and would simultaneously bring people

together and help them share their ideas.

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SUMMARIES

English Summary

This paper presents the concept of academic freedom with human rights and describes the legal definition of this term, its judicial application, and current issues. From the legal point of view, the article analyses the extent to which academic freedom is protected under various international human rights conventions and protocols, including ICCPR and ECHR, before and after the adoption of Arts.19(3) and 10(1) and the crucial case law concerning the conflict between academic freedom on the one hand and other protected essential human values such as national security, public order and other interests on the other. Academic freedom is a human right – this concept is necessary to solve problems and gain information about any oppression and restraint of thought

and ideas. It also provides a provision-wise recursive approach towards one's academic freedoms under Article 19 of ICCPR and Article 10 of ECHR. Also, it looks at state constitutional liberties from the point of view of the courts, such as significant affairs such as *Orlik v. Ukraine*, *Keyes v. District School No.1*, and *K.K. Ramachandran v. Secretary to Government*. Other cases considered to be under Secretary to Government are discussed to demonstrate how the courts balance the interest of academic freedom against competing societal interests. A case of hate speeches that partly discusses the question of boundaries to academic freedom is also evident in the case of even *Jersild v. Denmark*. Finally, the paper is devoted to more recent problems: the existence of political governance in the sphere of education, with the examples based on Hungary and Turkey as primary examples, as well as leading some international human rights organizations in defense of the right to academic freedom. This paper concludes with ideas for legislation and policy improvements that would foster academic freedom regarding the challenges mentioned above.

Lithuanian Summary

Šiuo straipsniu siekiama aptarti akademinės laisvės sampratą apie žmogaus teises, ypač jos teisinius aspektus, teismų interpretacijas ir šiuolaikinius iššūkius. Žvelgiant iš teisinės perspektyvos, straipsnyje nagrinėjama akademinės laisvės apimtis pagal įvairius tarptautinius žmogaus teisių dokumentus, tokius kaip ICCPR ir EŽTK, ir pabrėžiama atitinkama teismų praktika, sprendžianti konfliktų tarp akademinės laisvės ir kitų svarbių apsaugos vertybių, pvz. kaip nacionalinio saugumo, viešosios tvarkos ir kitų interesų. Straipsnis pradedamas aiškinant akademinės laisvės, kaip žmogaus teisės, idėją, kuri yra itin svarbi sprendžiant problemas ir gaunant informaciją apie bet kokią spaudą, idėjų ir požiūrių ribojimą. Taip pat žingsnis po žingsnio apžvelgiamos nuostatos dėl akademinių laisvių, t. y. ICCPR 19 straipsnyje ir EŽTK 10 straipsnyje, taip pat atsižvelgiama į valstybės konstitucines garantijas. Teismų požiūriu, pagrindinės bylos, tokios kaip *Orlik v. Ukraine*, *Keyes v. School District No. 1* ir *K.K. Ramachandranas prieš Vyriausybės sekretorių* yra aptariamas siekiant parodyti, kaip teismai pasveria akademinės laisvės interesus ir kitus visuomenės interesus. Akademinės laisvės ribų klausimas taip pat sprendžiamas neapykantą kurstančių kalbų atvejais, kaip nustatyta net byloje *Jersild prieš Daniją*. Galiausiai, dokumente daugiausia dėmesio skiriama naujesnėms problemoms, įskaitant politinės švietimo kontrolės buvimą, kai pagrindiniai atvejai yra Vengrija ir Turkija, ir kai kurių tarptautinių žmogaus teisių subjektų dalyvavimas skatinant teisę į akademinę laisvę. Straipsnio pabaigoje pateikiami pasiūlymai dėl teisės aktų ir politikos patobulinimų, kurie paremtų akademinę laisvę, atsižvelgiant į pirmiau minėtus iššūkius.