

# Academic Freedom, Autonomy and Accountability

## Guiding Principles

### Working Document

#### UCT Academic Freedom Committee



### Preamble

Academic Freedom is a core value necessary for society to flourish. It is essential for knowledge production, creativity, innovation, and discovery. It plays a critical role in challenging dominant discourses and contributing to the moral and ethical landscape of society thereby contributing to individual and national progress.

However Academic Freedom cannot be viewed in isolation of other core values in higher education, including equitable access, accountability, institutional autonomy, social responsibility, and human rights. This is especially true for higher education in South Africa, given the country's apartheid history. The sector was, for instance, deeply affected by the Extension of University Education Act 45 of 1959, which sought to proscribe the admission of black students to traditionally white universities. The University of Cape Town, as an 'open university' from the 1950s and throughout the latter apartheid years, has a rich and complex history of resisting state policies that sought to curtail academic freedom.

Post-1994, national debates on academic freedom extended beyond an oppositional discourse developed and adopted by some historically white universities, which primarily located the threats to academic freedom in the external agency of the state. At the core of these debates was an attempt to understand contemporary practices of, and threats to, academic freedom, and the emerging conceptions of accountability in the transitional context. These debates continue today, demonstrating that Academic Freedom cannot be understood in isolation from its economic, historical, social, political, and cultural determinants and impacts.

Threats to Academic Freedom come not only from coercive political environments, but also from managerialism, narrowly defined funding opportunities, the commercialization and commodification of knowledge, from political ideologies embedded within the academy and from gatekeepers who attempt to control the discourse.

While the definition and purview of Academic Freedom is contested, some 'common ground'

principles have been established and the UNESCO definition established in 1997 is useful in this respect. In short it recognizes the freedom of academics:

- to teach and discuss
- to carry out research and publish the results and make them known
- to freely express opinions about the academic institution or system in which one works
- to participate in professional or representative academic bodies; and
- not to be censored.

As a guide to the application of Academic Freedom, Autonomy and Accountability at UCT the Academic Freedom Committee adopted the following principles.

## GUIDING PRINCIPLES

### Principle 1

The purpose of protecting academic freedom at a University is to ensure the flourishing of ideas, academic investigation, teaching, and research at Universities to promote critical thinking, the robust contestation of ideas, and ultimately the production of new knowledge.

### Principle 2

Academics and students have a right to communicate their ideas inside and outside the classroom in a manner of their choosing – even when the ideas or their delivery could be regarded as controversial, unorthodox, or unpopular – without having unjustified limitations imposed on them by the state, the university, private institutions, lecturers, or students. Higher-education teaching personnel should play a significant role in determining the curricula they teach, even as teaching requirements and curricula should be determined collegially, and subject to sound pedagogy. This right should be exercised with a commitment to the notion that any or all of curricula, research design and execution, and/or public engagement by university employees should uphold UCT values,<sup>1</sup> and be conducted with both intellectual and ethical rigour.

### Principle 3

Traditionally, efforts to defend academic freedom centred on encroachment from the state rather than practices within the academy itself. A broader understanding of academic freedom – endorsed by the Committee – is based on the recognition that direct and indirect pressure to conform, can also be brought to bear by university management, industry, research funders, the media and others who wield power. Academic freedom is not only unjustifiably limited by formal rules and decisions of university bodies and structures. The actions of people who wield power because of their formal positions of authority or because of their social and economic status can also have a chilling effect on the ability of others to enjoy equal freedom to impart and receive ideas.

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<sup>1</sup> UCT values refer to the statement of values approved by Council on 10 December 2016.

#### **Principle 4**

Academic freedom can also be curtailed in subtle ways through epistemic injustice – the processes, practices and traditions that privilege only established forms of knowledge and familiar ways of knowledge production, while marginalising or delegitimising others. Academic freedom should therefore include epistemic freedom - the freedom for everyone to enjoy cognitive justice: the right to think, theorise, interpret the world and develop methodologies, informed by particular local situations and lived experiences.

#### **Principle 5**

When interpreting these guidelines, regard must be had to the spirit, purport, and object of the Bill of Rights, having regard for the fact that section 16(1)(d) protects academic freedom in expansive terms, and that section 36(1) permit only reasonable and justifiable limitations on this right.

#### **Principle 6**

Academic freedom is justifiably limited by constitutionally compliant laws, regulations and disciplinary codes that comply with the constitutional guarantee to freedom of expression. This includes limits imposed by:

- a. The hate speech provisions contained in section 10 (read with section 12) of the Promotion of Equality and Prevention of Unfair Discrimination Act.
- b. The requirements imposed on staff by employment contracts, relevant UCT policies, staff disciplinary codes, and other provisions of labour law.
- c. The provisions of the student disciplinary code.

#### **Principle 7**

Any limitation on academic freedom must be proportional, judged in terms of what is justifiable in an open and democratic society based on human dignity, equality and freedom. To decide whether limitations on academic freedom are proportional and thus justified, two important interests must be weighed up against each other. On the one hand, the importance of academic freedom for the academic project of the University weighs heavily against limitation. On the other, the creation of a space within which ideas could be contested and research pursued, requires the protection of individuals against extreme forms of psychological harm and physical harm. This protection does not extend to a right not to be offended by the arguments or ideas of others. Offense will in some cases inevitably result from the exercise of academic freedom. The more severe the potential harm, the more likely that the limitation will be justified.

#### **Principle 8**

This proportionality test means that it is impossible to maintain a strict content neutral<sup>1</sup> approach to academic freedom.

#### **Principle 9**

Research work typically involves (a) interactions with research participants (human and non-human) during data collection, and (b) conceptual framing, analysis and conclusions developed and disseminated by the researcher. In the course of (a), researchers should comply with reasonable disciplinary/professional codes of ethics relevant to their field. This is a legitimate restriction of academic freedom, particularly when there is a risk of harm to participants.

### **Principle 10**

Autonomy is the institutional form of academic freedom. It is a necessary precondition of the proper fulfilment of the functions entrusted to universities and their teaching and research personnel.

### **Principle 11**

Higher-education institutions should be guaranteed the degree of self-governance necessary for effective decision-making regarding their academic work, standards and management. TB Davie's classic formulation remains pertinent: university autonomy should include 'freedom from external interference in (a) who shall teach, (b) what we teach, (c) how we teach, and (d) whom we teach'.<sup>2</sup> This degree of self-governance should not conflict with legitimate systems of public accountability, especially in respect of funding provided by the state, or with human rights and the academic freedom of higher-education teaching and research personnel.

### **Principle 12**

The areas in which institutions should be publicly accountable include, among others, honest and open accounting, efficient use of resources, ensuring facilities necessary for the mission of the institution are in place and properly maintained, and ensuring that staff and students are treated fairly, without unfair discrimination.

### **Principle 13**

Institutional leaders should also be transparent about and accountable for their actions that might impact on academic freedom.

### **Principle 14**

The university that prides academic freedom, must allow and protect robust and temporary disruptive protest within the limits of the constitution.

### **Principle 15**

When dealing with public pressure (whether from donors, alumni, staff, social media or any other source) to restrict academic freedom or to criticise the expression of a particular view, university teaching staff or office-bearers should be guided by the principles captured here, rather than by a desire to eliminate the pressure that is being brought to bear on them. Furthermore, university office-bearers should in general refrain from public comment before deliberative and collegial debate on such views has occurred. However, speech that is not Constitutionally protected should be swiftly acted upon, in accordance with relevant UCT policies.

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<sup>1</sup> 'Content neutral' is a term of art which means that it is impermissible to have any regard to the content of the ideas/ speech when judging whether someone has the right to express them. A content neutral approach would hold that racist, sexist, or homophobic speech, or speech that advocates hatred or incites harm must enjoy equal protection with all other types of speech.

<sup>2</sup> Quoted in A. van de Sandt Centlivres, *Thomas Benjamin Davie: The First T. B. Davie Memorial Lecture Delivered in the University of Cape Town on 6 May 1959*, Cape Town: University of Cape Town: 1961, p. 5.