



A Review of Academic Freedom in Africa through the Prism of the UNESCO's 1997 Recommendation

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Abstract

An assessment of the level of compliance of the UNESCO *Recommendation* in Europe, Australia, USA and other jurisdictions indicates that the document has been honoured more in its breach than in its observance. Having returned to an ethos of a democratic culture and a refinement of the role of the university in the globalization era, it is time for Africa also to be assessed on the level of compliance with the UNESCO *Recommendation*. This assessment is done based on four indicators identified in the UNESCO *Recommendation*: institutional autonomy, institutional governance, individual rights and freedoms, and tenure. The conclusion reached is that academic freedom has indeed found its way back into African universities after its complete roll-back during the post-independence era. However, the university reforms undertaken in the globalization era in many African universities have undermined greater respect for academic freedom and made hollow the gains made in the respect of freedom in this era.

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Résumé

Une évaluation du niveau de conformité avec la Recommandation de l'UNESCO en Europe, en Australie, aux Etats-Unis et d'autres juridictions indique que les dispositions dudit document ont été plus souvent violées que respectées. L'Afrique étant retournée à une culture démocratique et au raffinement du rôle de l'université à l'ère de la mondialisation, il est temps que ce continent évalue le niveau de conformité avec la Recommandation de l'UNESCO. Cette évaluation est réalisée sur la base de quatre indicateurs identifiés dans la Recommandation de l'UNESCO: l'autonomie institutionnelle, la gouvernance institutionnelle, les droits et libertés individuels, et les droits de propriété. La conclusion est que la liberté académique retrouve sa place dans les universités africaines après sa régression totale au cours de la période ayant suivi les indépendances. Cependant, les réformes universitaires menées à l'ère de la mondialisation dans de nombreuses universités africaines ont entamé le respect de la liberté académique et sapé les acquis en matière de respect des libertés au cours de cette période.

Introduction

The UNESCO¹ General Conference adopted the UNESCO *Recommendation concerning the Status of Higher-Education Teaching Personnel* (hereinafter, *UNESCO Recommendation*) in November 1997, after a thorough process of consultation with academic and legal experts and intergovernmental and international non-governmental organizations, in particular, the International Labour Organization (ILO), a UN agency.² The document was then passed without a dissenting vote, with four countries issuing reservations but not in connection with the academic freedom section of the document.³

The realization of this goal marks a watershed moment in the evolution, consolidation and standardization of the principles promoting academic freedom in the world. The *Recommendation* places an obligation on Member States and higher education institutions to 'take all feasible steps to apply the provisions spelled out [in the *Recommendation*] to give effect, within their respective territories, to the principles set forth in this *Recommendation*'.⁴ This implies an obligation to respect the commitments made in the document, though it is not considered legally binding.

An assessment of the level of compliance of the *Recommendation* in Europe, Australia, USA and other jurisdictions indicates that the document has been honoured more in its breach than in its observance.⁵ Having returned to an ethos of a democratic culture and a refinement of the role of the university in the globalization era, it is time for Africa also to be assessed on the level of compliance with the UNESCO *Recommendation*. This assessment is done based on four indicators identified in the UNESCO *Recommendation*: institutional autonomy, institutional governance, individual rights and freedoms, and tenure.

Definition of Academic Freedom

Academic freedom is a concept that defies an agreed-upon definition.⁶ While the *UNESCO Recommendation* shies away from including a definition of academic freedom in the definition section of the document, it makes reference to two definitions of academic freedom in the document. First, paragraph 17 provides for academic freedom for academics by stipulating that '[h]igher-education teaching personnel are entitled to the maintaining of academic freedom, that is to say, the right, without constriction by prescribed doctrine, to' the following five set of freedoms:

- freedom of teaching and discussion
- freedom in carrying out research and disseminating and publishing the results thereof
- freedom to express freely their opinion about the institution or system in which they work
- freedom from institutional censorship
- freedom to participate in professional or representative academic bodies.⁷

The same document also recognizes another form of academic freedom under Article 18 thereof by describing institutional autonomy as 'the institutional form of academic freedom'.⁸ These notions of academic freedom are specific to certain duty-holders in the academic freedom equation. We can therefore refer to these notions of academic freedom as narrow or specific as opposed to a broad concept. A broad definition of academic freedom which incorporates these two specific forms of academic freedoms is therefore implied but not provided in the document.

Generally, academic freedom is a facilitator and guarantor for the generation, dissemination, application and protection of knowledge. For the sake of our analysis, we provide a broad definition of academic freedom, as a freedom carved out for academics, higher education institutions and students to enable access and opportunity to conduct scientific enquiry and disseminate the findings thereof – through teaching and publication, and the application of findings to promote human welfare – within the limits of public order, professional ethics and social responsibility and without restraint or the threat of sanctions by government and other power brokers.

The UNESCO Recommendation

The 1997 *UNESCO Recommendation* complements the earlier 1966 *Joint ILO/UNESCO Recommendation concerning the Status of Teachers*.⁹ The motivation for developing the 1997 *Recommendation* lay in the pivotal role

that higher education teaching personnel were to play in the realization of the fundamental role of higher education and its contribution to the ‘development of humanity and the modern society’ and in the need to protect higher education teachers against ‘untoward political pressures which could undermine academic freedom’.¹⁰

The UNESCO *Recommendation* contains eleven chapters on comprehensive issues affecting the rights and responsibilities of the university and academics as well as responsibilities placed on government and other stakeholders to realize the goals of higher education. For the purpose of this work, the four main elements identified as the constituent elements/rights of academic freedom are delineated for detailed analysis.

The first is institutional autonomy (or *specific* academic freedom for institutions), which covers institutional rights, duties and responsibilities.¹¹ Secondly, are the rights and freedoms of higher-education teaching personnel, which cover individual rights and freedoms (civil rights, academic freedom, publication rights and the international exchange of information), self-governance and collegiality, and duties and responsibilities of higher education teaching personnel.¹² This is broken down into two separate elements: individual rights/freedoms (or *specific* academic freedom for academics) and institutional governance.¹³ The fourth element is tenure, which is used to cover terms and conditions of employment, covering entry into the academic profession, security of employment, appraisal, discipline and dismissal, salaries, workload, social security benefits, and health and safety.¹⁴

Thus, four main elements in the *Recommendation* form the basis for the review of academic freedom in African universities: institutional autonomy, institutional governance, specific academic freedom and tenure. As noted above, the breakdown of academic freedom into these four elements is to ensure better protection of academic freedom.

The Turn of Africa

The UNESCO *Recommendation* has been used to assess the health of academic freedom in Europe, Australia, the United States and other jurisdictions. It is time it is also applied to the Africa region for a number of good reasons.

In the post-Cold War era, most African states have re-embraced human rights and democracy, which, at least on paper, grant equal opportunities and respect democratic principles. Additionally, unlike the situation beforehand when only a handful of African countries were parties to the two international human rights covenants, the situation is different now. Apart from São Tomé and Príncipe which has signed but not ratified the ICCPR and South Sudan,

which only became independent from Sudan in July 2011, all other African states are now parties to the ICCPR. With respect to the ICESCR, we have Botswana, Mozambique and South Sudan as non-States Parties, with South Africa as a signatory only. The rest are all States Parties to the covenant.

Africa itself has come up with some key human rights instruments of its own, the most prominent being the African Charter on Human and Peoples' Rights, to which all African States are Parties. Though not specifically guaranteed under the African Charter, the African Commission on Human and Peoples' Rights, in a landmark ruling in the case of *Good v. Botswana*, recognized academic freedom under the African Charter.¹⁵

Furthermore, African states have undertaken significant innovations in their higher education systems including privatization, internationalization, harmonization, massification, adoption of the entrepreneurial university concept with the support of NGOs, foreign universities and so on.¹⁶

Also, in the face of flagrant violations of academic freedom in the past, African scholars came up with two historical documents to protect and promote academic freedom on the continent, embodied in the *Dar-es-Salaam Declaration on Academic Freedom and Social Responsibility*¹⁷ and the *Kampala Declaration on Intellectual Freedom and Social Responsibility*,¹⁸ both adopted before the UNESCO *Recommendation*.

Additionally, several African countries, such as Morocco, Algeria, Tunisia and other francophone countries have either joined or are planning to join the Bologna Process or have adopted similar Bologna Processes of their own.¹⁹ One may also refer to efforts being made by the Association of African Universities (AAU) and the African Union towards revitalizing higher education on the continent.²⁰

Finally, for the first time in the history of the development of African constitutional law, 'academic freedom' has been enshrined in the constitutions of some of these states, either explicitly or directly. Currently, fourteen (25.45 per cent) of the fifty-five African countries²¹ make specific reference or give explicit recognition to 'academic freedom' in their constitutions.²² In most of these constitutions, 'academic freedom' is linked with freedom of expression and incorporated in the chapter on fundamental rights and freedoms. For example, Article 16(1) of the South African Constitution provides that:

[ex] Everyone has the right to freedom of expression, which includes . . . freedom to receive or impart information or ideas, . . . freedom of artistic creativity; and . . . academic freedom and freedom of scientific research. [ends]

Since academic freedom refers to the broad definitional type, it means all other laws enacted to establish or regulate the establishment and functioning of the university should conform to the respect for academic freedom, especially with regard to the four delineated indicators.

Apart from explicit recognition, eight (12.7 per cent) of these countries²³ make direct reference to or recognize academic freedom in their constitutions.²⁴ Direct recognition of academic freedom includes reference to constituent elements of academic freedom in the constitution. For example, Article 49 of the Constitution of the Republic of Cape Verde stipulates:

[ext]

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

The other thirty-four countries (61.8 per cent), make indirect reference only.²⁵ In the absence of direct reference to academic freedom or the constituent parts thereof, reference to academic freedom can only be inferred from freedom of expression.

Therefore there is 'a moral and categorical imperative' on African universities and nations to implement the *Recommendation* which therefore triggers the necessity for assessing the level of compliance of the instrument.

Table 1: Recognition of academic freedom in the constitutions of African states

Explicit Recognition	Direct Recognition	Indirect Recognition
Gambia, Ghana, Kenya, Liberia, Libya, Malawi, Namibia, Sierra Leone, South Sudan, Sudan, South Africa, Tunisia, Uganda, Zimbabwe	Algeria, Burkina Faso, Cape Verde, Central African Republic (CAR), Egypt, Ethiopia, Gabon, São Tomé and Príncipe	Angola, Côte d'Ivoire, Benin, Botswana, Burundi, DRC, Congo, Djibouti, Egypt, Equatorial Guinea, Eritrea, Guinea, Guinea-Bissau, Lesotho, Madagascar, Mali, Mauritania, Mauritius, Mozambique, Niger, Nigeria, Morocco, Rwanda, Senegal, Swaziland Chad, Comoros, Saharawi Arab Democratic Republic (SADR), Somalia, Seychelles, Tanzania, Togo, Zambia

Outline

This paper will first examine whether and to what extent African states have implemented the *Recommendation*, applying the four indicators/rights – institutional autonomy, institutional self-governance, individual rights and freedoms, and tenure. This will be followed by an assessment of possible reasons for non-compliance, before considering what could be done to increase the level of compliance.

To assess whether African countries have complied with the UNESCO *Recommendation* data was gathered from the majority of the fifty-five African countries on their constitutions and national legislation on academic freedom, institutional autonomy, institutional governance, and academic tenure. It proved impossible to gather information on all the indicators for seven countries, namely Guinea-Bissau, Saharawi Arab Democratic Republic, São Tomé and Príncipe, Somalia Republic, Sudan, Togo and Tunisia. For an additional four countries, the information gathered was inadequate, meaning having data for fewer than three of the five indicators.²⁶ Therefore, these countries were also excluded from the survey. The reasons behind the difficulty in accessing information varies from absence of a functioning government to the presence of civil war in some of these countries. The other factor is the absence of established e-governance structures which would have allowed access to the requisite information. Also, there are a sizeable number of universities lacking functioning websites or websites which are updated on a regular basis and contain information on the laws establishing and/or regulating the universities.

The work was limited to public universities for two reasons. First, the private university concept is a recent phenomenon in Africa.²⁷ They only appeared in the 1980s and therefore were not subject to the same abuses that the public universities endured in the past. Secondly, their numbers far outstrip those of public universities, such that including them would have made the project too big and difficult to control within the limited time frame allotted for the exercise.²⁸ Moreover, information on the private universities is even more difficult to assess.²⁹

Institutional Autonomy

Institutional autonomy, according to paragraph 17 of the UNESCO *Recommendation*, refers to

[ext] that degree of self-governance necessary for effective decision making by institutions of higher education regarding their academic work, standards, management and related activities ... It is deemed a necessary requirement to enable the 'proper enjoyment of academic

freedom and compliance with the duties and responsibilities listed under the Chapter of the *Recommendation* on institutional autonomy.³⁰

Under institutional autonomy, we examined whether the institution is set up with, among other elements, financial, administrative, pedagogical, proprietary, and disciplinary autonomy and possesses the right to sue and to be sued in its own capacity.³¹ This also involves whether the Head of State³² of the country doubles as the Chancellor of the University and or whether the appointment of the Vice Chancellor³³ is made or influenced in any way by the Head of State or the governing authority. Where all conditions are met, the country is said to meet the autonomy requirements that will constitute compliance. Where not all of the conditions are met, this will constitute qualified compliance, or non-compliance where none of the conditions are met.

None of the countries surveyed makes specific reference to the protection of institutional autonomy in their constitutions. Respect for institutional autonomy is, therefore, referred from legislative enactments. Of the forty-three countries surveyed,³⁴ thirteen of them,³⁵ (representing 30.2 per cent of the total countries surveyed) qualified as meeting full compliance in terms of providing institutional autonomy for their institutions of higher education. For example, in the case of Ghana, public universities are established as a corporate body with perpetual succession, with the right to sue and be sued.³⁶ The Chancellor is elected by an electoral college made up of an equal number of members from the University Council and the Academic Board.³⁷ The qualification of a Chancellor is provided for in the Constitution³⁸ and the President is specifically barred, while he continues in office as President, from holding the office of Chancellor or head of any university in Ghana.³⁹ Vice Chancellors are also appointed by each university's electoral college.

The majority, twenty countries, representing almost half of the total number of countries which had information on institutional autonomy surveyed (46.5 per cent), met qualified compliance. In most of these cases, the laws setting up such universities will confer on them various form of institutional autonomy. However, this is followed by other prescriptions which take away a good share of this autonomy. For instance, in the case of Botswana, though section 1 of the University Act grants autonomy to the University,⁴⁰ the President of the Republic serves as the Chancellor.⁴¹ Also, the Chancellor may, where he considers it to be in the public interest to do so, direct the Minister in writing to assume the exercise of any power or the performance of any duty conferred or imposed on the University Council or on the Vice-Chancellor by the University Act or by statutes enacted by the University Council.⁴² In addition, the Vice-Chancellor is appointed by the President upon consultation with the

University Council and conditions as may be determined by the President. Thus, it is observed that in the case of qualified compliance, a claw-back clause is in effect.⁴³

The survey revealed ten countries (representing 23.3 per cent of the total) where there is non-compliance.⁴⁴ In the case of DRC, for example, the laws reveal that the Rector is appointed by the President of the Republic on the proposal of the Commissioner of State for Higher Education and Scientific Research. This rule notwithstanding, the President may appoint any person s/he deems worthy and competent as Rector.⁴⁵ The President is also vested with power to appoint people to other key positions of the university.⁴⁶ The Rector appoints deans and vice deans and heads of departments⁴⁷ and ministerial regulations are issued to determine programmes, the duration and conditions for admissions.

Individual Rights and Freedoms

Under this indicator, the individual rights and freedoms of the academic (or *specific* academic freedom in relation to teaching and research) are referred to. Paragraph 27 of the UNESCO *Recommendation* provides that

[ext] Higher-education teaching personnel are entitled to the maintaining of academic freedom, that is to say, the right, without constriction by prescribed doctrine, to freedom of teaching and discussion, freedom in carrying out research and disseminating and publishing the results thereof, freedom to express freely their opinion about the institution or system in which they work, freedom from institutional censorship and freedom to participate in professional or representative academic bodies. [ends]

The indicators for determining compliance here are the elements that the UNESCO *Recommendation* assigns to academic freedom for academics – teaching, research, freedom of expression about the institution, freedom from censorship and freedom of association. This is in addition to those ‘internationally recognized civil, political, social and cultural rights applicable to all citizens’.⁴⁸ Academic freedom in this respect is with reference to one of the specific forms which come together to constitute *broad* or *general* academic freedom. This kind of freedom is located in the legislation of the countries, not their constitutions. The level of compliance was determined by examining the legislative enactments of the various countries, and the university statutes of some of their public universities to determine the extent to which these rights and freedoms are incorporated in those laws.

Table 2: Level of compliance of institutional autonomy

Compliance	30.2%	Qualified compliance 46.5%	Non-compliance 23.3%	Data not available
Burkina Faso, Cape Verde, Comoros, Egypt, Equatorial Guinea, Ghana, Kenya, Mauritius, Morocco, Namibia, Seychelles, South Africa, Swaziland	Algeria, Angola, Benin, Congo, Côte d'Ivoire, Djibouti, Ethiopia, Gabon, Libya, Madagascar, Malawi, Mauritania, Nigeria, Rwanda, Senegal, Sierra Leone, Tanzania, Tunisia, Uganda, Zimbabwe	Botswana, Burundi, Cameroon, DRC, CAR, Eritrea, Gambia, Lesotho, Mozambique, Zambia	Chad, Guinea Bissau, Guinea, Liberia, Mali, Niger, SADR, São Tomé and Príncipe, Somalia, South Sudan, Sudan, Togo	

In total, complete information for this measure was found for thirty-four out of the fifty-five countries (61 per cent). That is, for twenty-one of the fifty-five African countries, representing 39 per cent, no data was available for assessment. Of the thirty-four countries surveyed, twenty-one of them, constituting 61.7 per cent of the total number met the compliance test;⁴⁹ one country, constituting 3 per cent, met qualified compliance; and, twelve countries (35.2 per cent) were non-compliant. An example of a compliant state is Kenya whose University Act, 2012 (No. 42), section 29 (1) and (2) thereof provides that:

[ext]

- (1) A University, in performing its functions shall—
 - (a) have the right and responsibility to preserve and promote the traditional principles of academic freedom in the conduct of its internal and external affairs;
 - ...
 - (2) A member of the academic staff of a university shall have the freedom, within the law, in the member's teaching, research and any other activities either in or outside the university, to question and test received wisdom, to put forward new ideas and to state opinions, and shall not be disadvantaged, or subject to less favourable treatment by the university, for the exercise of that freedom.
- [ends]

A non-compliant state was determined mainly by the fact that though the information was available, no reference to recognition of individual academic freedom for academics was found. However, in the case of Eritrea, there was a specific indication of non-recognition of academic freedom for individual academics where it was stated in a document thus:

[ext] Lecturers who attend conferences are required to fill a form, which includes comments of the head of the institution, after returning from leave. This form is submitted to the office of the Executive Director of NBHE for onward submission to the President's Office.⁵⁰ [ends]

Table 3: Level of compliance of individual rights and freedoms

Compliant 61.7%	Qualified compliant 3.0%	Non-compliant 35.3%	DNA 39%
Algeria, Angola, Benin, Burkina Faso, Burundi, Cameroon, Cape Verde, CAR, Equatorial Guinea, Ethiopia, Ghana, Kenya, Madagascar, Mauritania, Mozambique, Rwanda, Senegal, Seychelles, Sierra Leone, South Africa, Uganda	Morocco	Botswana, Côte d'Ivoire, Djibouti, Eritrea, Lesotho, Malawi, Namibia, Nigeria, Swaziland, Tanzania, Zambia, Zimbabwe	Chad, Comoros, Congo, DRC, Egypt, Gabon, Gambia, Guinea, Guinea-Bissau, Liberia, Libya, Mali, Mauritius, Niger, SADR, São Tomé and Príncipe, Somalia, South Sudan, Sudan, Togo, Tunisia

Institutional Self-governance

The third indicator is self-governance and collegiality. Paragraph 31 of the UNESCO *Recommendation* provides that

[ext] Higher-education teaching personnel should have the right and opportunity, without discrimination of any kind, according to their abilities, to take part in the governing bodies and to criticize the functioning of higher education institutions, including their own, while respecting the right of other sections of the academic community to participate, and they should also have the right to elect a majority of representatives to academic bodies within the higher education institution.⁵¹ [ends]

In Paragraph 31 the *Recommendation* thus talks about two bodies, the governing council and academic board or senate. The former is generally equated to the University (administrative) Council and the latter to the Senate or Academic Board. The University Council is equivalent to the executive body of a university's governance system. It is usually responsible for the financial matters and strategic direction of the university and for implementing the academic decisions of the academic board, including appointments. The Senate is responsible for determining the academic direction of the university.

Paragraph 31 calls for the inclusion of academic staff in the Council; and in the case of the Senate, that their representation should be in the majority. This element deals with democracy within the university system, in order to ensure accountability and enable the flourishing of academic freedom. Hence this measure includes the internal processes and protocols which will ensure the effective exercise and enjoyment of the relevant civil and political rights, such as the right to criticize and the right of participation, as well as the inclusion of the broad issues over which academics could exercise critical review and be involved in discussions. Also critical to determining the democratic structure of these bodies is representation of the national government in any of these bodies and the extent to which its presence defers undue authority to it, and therefore may derail the ability of the university to use these structures to ensure and promote institutional autonomy. These factors are used to determine whether African countries respect the right of internal self-governance.

The survey in this area therefore focused on the two bodies: the University Council, being equivalent to the executive, and the Senate, the legislature. Of course, the Council is also reserved some legislative powers, or at least the power to propose issues for the Senate to review and deliberate upon for ultimate endorsement by the former.

In the case of University Councils, whether control and representation are subject to the whims and caprices of the ruling government is assessed, as well as what decisions the Councils, as compared to government, can make for the university. It is also about the balance of representation of the university hierarchy, the academic staff association, government and the community.

The following information was found on the University Councils. Of the fifty-five countries, available information was collected on thirty-five countries, representing 63.6 per cent of countries. Therefore no or insufficient information was found for twenty countries (36.4 per cent). Of the thirty-five countries, sixteen recorded compliance (61.7 per cent), six (17.1 per cent), qualified compliance, and thirteen, non-compliance (37.2 per cent).

Information on the Senate was found for thirty-six countries or 61.8 per cent of African countries. Of this number, the survey revealed 77.7 per cent compliance (twenty-eight countries); 22.3 per cent non-compliance (eight countries) and zero qualified compliance. Two out of the remaining thirty-six countries surveyed had information on one of the institutions only; thirteen of them met full compliance for both bodies; thirteen met compliance for one body against qualified compliance or non-compliance for the other body; and two met non-compliance for both bodies.

An example of a country that meets full compliance for both is South Africa:

[ext] At least 60 per cent of the members of a council must be persons who are not employed by, or students of, the public higher education institution concerned.⁵²

The chairperson, vice-chairperson and other office-bearers for a University Council should be from among its members in the manner determined by the institutional statute.⁵³

The majority of members of a senate must be academic employees of the public higher education institution concerned.⁵⁴ [ends]

A case of non-compliance is typified by Djibouti where members of the Administration Board (the University Council) are appointed by decree for a period of three years; and the majority of such appointees are representatives of the public service.⁵⁵ Rwanda's Senate, whose organization, functioning and responsibilities are determined by a Prime Minister's Order epitomizes a case of non-compliance.⁵⁶ Another example of non-compliance is Ethiopia. Here, apart from the difficulty associated with the fact that membership and the number of members of the Senate and their terms of office is determined by the establishing law of the public institution, the appointment, limited to 'meritorious and senior members of the academic staff', is reserved for the President of the IHE.⁵⁷

Table 4a: Level of compliance with institutional self-governance
(University Councils)

Compliant 45.7%	Qualified compliant 17.1%	Non-compliant 37.2%	Data not available 36.4%
Angola, Cape Verde, Comoros, Ghana, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Niger, Nigeria, Seychelles, Sierra Leone, South Africa, Uganda	Cameroon, Ethiopia, Mauritania, Morocco, Rwanda	Algeria, Benin, Botswana, CAR, Côte d'Ivoire, Djibouti, Equatorial Guinea, Eritrea, Kenya, Mali, Swaziland, Tanzania, Zimbabwe	Burkina Faso, Burundi, Chad, Congo, DRC, Egypt, Gabon, Gambia, Guinea, Guinea-Bissau, Liberia, Libya, SADR, São Tomé et Príncipe, Senegal, Somalia, South Sudan, Sudan, Togo, Tunisia

Table 4b: Level of compliance with institutional self-governance (Senate)

Compliant 77.7%	Qualified compliant 0%	Non-compliant 22.3%	Data not available 35%
Algeria, Angola, Benin, Botswana, Cape Verde, Côte d'Ivoire, Djibouti, Equatorial Guinea, Ghana, Kenya, Lesotho, Madagascar, Malawi, Mali, Mauritius, Morocco, Mozambique, Namibia, Niger, Nigeria, Seychelles, Sierra Leone, South Africa, Swaziland, Tanzania, Uganda, Zambia, Zimbabwe		Burkina Faso, CAR, Cameroon, Comoros, Eritrea, Ethiopia, Mauritania, Rwanda	Burundi, Chad, Congo, DRC, Egypt, Gabon, Gambia, Guinea, Guinea-Bissau, Liberia, Libya, SADR, São Tomé et Príncipe, Senegal, Somalia, South Sudan, Sudan, Togo, Tunisia

Tenure

The last indicator for discussion is tenure. According to the UNESCO *Recommendation*, tenure refers to

[ext] [S]ecurity of employment in the profession ... [and] ... it ensures that higher-education teaching personnel who secure continuing employment following rigorous evaluation can only be dismissed on professional grounds and in accordance with due process... It should be as far as possible even when changes in the organization of or within a higher education institution or system are made, and should be granted, after a reasonable period of probation, to those who meet stated objective criteria in teaching, and/or scholarship, and/or research to the satisfaction of an academic body, and/or extension work to the satisfaction of the institution of higher education. [ends]

Tenure relates to the right to work, which is guaranteed under ILO Conventions and the ICESCR, among others.⁵⁸ In fact, tenure is one of the key issues determining the ILO's interest and involvement in the drafting of the *Recommendation*. In different African states, there have been several instances of abuse of this right by governments and university management against academics as a means to silence them. In recent times, violation of the right to tenure takes more subtle forms such as bullying, 'marriage and baby penalties' imposed on women,⁵⁹ reassignment to a new faculty or department or new teaching areas.

With respect to tenure, data was gathered on the following aspects, among others: whether there is protection against arbitrary dismissal; procedures set up to be followed before dismissal or disciplinary sanctions are applied; whether recourse to appeal to a higher body or to a regular court is possible; and on rights to form a union, strike and engage in collective bargaining.

It is important to note that in most African countries, due to the continued dominant role of governments in financing education, lecturers are recognized as part of the civil service. Perhaps for this reason, a significant number of African universities do not have protection of tenure in the laws establishing or regulating universities. For this reason, the survey relies on the constitutional provisions on the right to work or the country's labour laws to determine whether tenure is protected for university academic staff.

Information was not available on eight out of the fifty-five countries (15 per cent). Therefore assessment was done on forty-seven countries (85 per cent). Of this number, forty-three countries (91.5 per cent) met the compliance standard based on the review of their constitutions protecting the right to work, the laws in the university statutes or labour codes. There was one

case of qualified compliance (constituting 2.1 per cent) and three cases (6.4 per cent) of non-compliance.

An example of compliance can be illustrated from Ghana, where it is stated that

[ext]

- (1) The appointment or promotion of academics shall be based purely on merit in accordance with principles of fairness and non-discrimination and in accordance with the provisions of the Act and these Statutes.
- (2) In considering an application for an appointment or promotion of a senior member, the appointing authority shall be bound by the criteria set out in Schedule F to these Statutes. [ends]

There is also an Appeals Board whose function is to ‘hear and determine on appeal matters on breach of employment contracts by the University; and, the promotion of persons duly employed by the University’.⁶⁰ Further, the University recognizes the right of every employee to freedom of association and of the right to demonstrate in order to protect his or her economic and social interests.⁶¹

Benin is an example of qualified compliance, with respect to this measure. Under its laws, right to work is guaranteed.⁶² Also, dismissal is supposed to conform to Article 131 of the *Statut Général des Agents Permanents de l’Etat*. In other instances, lecturers may be disciplined by the disciplinary council of the universities of Benin which is set up by a ministerial decree.⁶³ However, lecturers are bonded to serve at least a term of ten years before they can quit their jobs or risk being asked to refund the money the government has expended towards their training.⁶⁴

The case of Mauritania is an example of non-compliance. Here, the Board of Directors of the University creates within it a disciplinary board and, if necessary, ad hoc committees.⁶⁵ Some sanctions are imposed by decision of the Minister of Higher Education based on a report of the Chairman of the Board of Directors of the establishment after notice of the disciplinary committee concerned.⁶⁶ Other sanctions are made by joint order of the Ministers in charge of Higher Education and Public Service, based on a decision of the Chairman of the Board arrived at from the report of the Disciplinary Committee of the Scientific and Pedagogical Council. The exercise of disciplinary action against the President of a university is reserved for the Minister of Higher Education.⁶⁷

Table 5: Level of compliance with tenure

Compliant 91.5%	Qualified compliant 2.1%	Non-compliant 6.4%	Data not available 15%
Algeria, Angola, Botswana, Burkina Faso, Burundi, Cameroon, Cape Verde, CAR, Chad, Congo, Djibouti, Egypt, Equatorial Guinea, Ethiopia, Gabon, Gambia, Ghana, Guinea, Côte d'Ivoire, Kenya, Liberia, Libya, Malawi, Mali, Mauritius, Morocco, Mozambique, Namibia, Niger, Nigeria, Rwanda, Senegal, Seychelles, Sierra Leone, Swaziland, South Africa, Tanzania, Tunisia, Uganda, Zambia, Zimbabwe	Benin	Lesotho, Madagascar, Mauritania	Eritrea, Guinea- Bissau, SADR, São Tomé et Príncipe, Somalia, South Sudan, Sudan, Togo

Table 6: Comprehensive country analysis of the UNESCO Recommendation, 1997

	Institutional autonomy	Individual rights and freedoms in legislation	Democratic structure of University Council/Composition of academic staff on Senate	Academic tenure	Constitutional reference to academic freedom
Algeria	Qualified Compliance	Compliance	Non-compliance/ Compliance	Compliance	Direct
Angola	Qualified Compliance	Compliance	Compliance/Compliance	Compliance	Explicit
Benin	Qualified Compliance	Compliance	Non-compliance/ Compliance	Qualified Compliance	Explicit
Botswana	Non-compliance	Non-compliance	Non-compliance/ Compliance	Compliance	Explicit
Burkina Faso	Compliance	Compliance	NA/Non-compliance	Compliance	Explicit
Burundi	Non-compliance	Compliance	NA	Compliance	Indirect
Cameroon	Non-compliance	Compliance	Qualified Compliance/ Non-compliance	Compliance	Explicit
Cape Verde	Compliance	Compliance	Compliance/Compliance	Compliance	Indirect
Central African Republic	Non-compliance	Compliance	Non-compliance/Non-compliance	Compliance	Indirect
Chad	NA	Non-compliance	NA/NA	Compliance	Indirect

Comoros	Compliance	Non-compliance	Compliance/Non-compliance	Compliance	Explicit
Congo	Qualified Compliance	Non-compliance	NA	Compliance	Indirect
DRC	Non-compliance	Non-compliance	Compliance/ NA	Compliance	Direct
Côte d'Ivoire	Qualified Compliance	Non-compliance	Non-compliance/ Compliance	Compliance	Direct
Djibouti	Qualified Compliance	Non-compliance	Non-compliance/ Compliance	Compliance	Direct
Egypt	Compliance	Compliance	NA/NA	Qualified Compliance	Direct
Equatorial Guinea	NA	Non-compliance	NA	Compliance	Direct
Eritrea	Non-compliance	Non-compliance	Non-compliance/Non-compliance	NA	Explicit
Ethiopia	Qualified Compliance	Compliance	Qualified Compliance/ Qualified Compliance	Compliance	Indirect
Gabon	Qualified Compliance	Non-compliance	NA	Compliance	Indirect
Gambia	Non-compliance	Non-compliance	NA	Compliance	Explicit
Ghana	Compliance	Compliance	Compliance/Compliance	Compliance	Indirect
Guinea	NA	Non-compliance	NA	Compliance	Explicit
Guinea-Bissau	NA	Qualified Compliance	NA	NA	Indirect

Kenya	Compliance	Compliance	Compliance	Non-compliance/ Compliance	Compliance	Indirect
Lesotho	Non-compliance	Non-compliance	Non-compliance	Compliance/Compliance	Compliance	Indirect
Liberia	NA	Compliance	Compliance	NA	Compliance	Indirect
Libya	Qualified Compliance	Qualified Compliance	Qualified Compliance	NA	Compliance	Indirect
Madagascar	Qualified Compliance	Compliance	Compliance	Compliance/Compliance	Non-compliance	Explicit
Malawi	Qualified Compliance	Compliance	Compliance	Compliance/Compliance	Compliance	Indirect
Mali	NA	Qualified Compliance	Qualified Compliance	NA/Compliance	Compliance	Indirect
Mauritania	Qualified Compliance	Qualified Compliance	Qualified Compliance	Qualified Compliance/Non-compliance	Non-compliance	Indirect
Mauritius	Compliance	Non-Compliance	Non-Compliance	Compliance/Compliance	Compliance	Indirect
Morocco	Compliance	Qualified Compliance	Qualified Compliance	Qualified Compliance/ Compliance	Compliance	Indirect
Mozambique	Non-compliance	Non-compliance	Non-compliance	Compliance/Compliance	Compliance	Indirect
Namibia	Compliance	Compliance	Compliance	Compliance/Compliance	Compliance	Indirect
Niger	NA	Non-compliance	Non-compliance	Compliance/Compliance	Compliance	Indirect
Nigeria	Qualified Compliance	Non-compliance	Non-compliance	Compliance/Compliance	Compliance	Indirect
Rwanda	Qualified Compliance	Compliance	Compliance	Qualified Compliance/Non-compliance	Compliance	Indirect

SADR	NA	NA	NA	NA	NA	NA	Indirect
São Tomé et Príncipe	NA	NA	NA	NA	NA	NA	Direct
Senegal	Qualified Compliance	Compliance	Compliance	NA	Compliance	Compliance	Indirect
Seychelles	Compliance	Compliance	Compliance	Compliance/Compliance	Compliance	Compliance	Explicit
Sierra Leone	Qualified Compliance	Compliance	Compliance	Compliance/Compliance	Compliance	Compliance	Indirect
Somalia	NA	NA	NA	NA	NA	NA	Indirect
South Africa	Compliance	Compliance	Compliance	Compliance/Compliance	Compliance	Compliance	Indirect
South Sudan	NA	Compliance	Compliance	NA	NA	NA	Indirect
Sudan	NA	Compliance	Compliance	NA	NA	NA	Explicit
Swaziland	Compliance	Non-compliance	Non-compliance	Non-compliance/ Compliance	NA	NA	Indirect
Tanzania	Qualified Compliance	Non-compliance	Non-compliance	Non-compliance/ Compliance	Compliance	Compliance	Indirect
Togo	NA	Non-compliance	Non-compliance	NA	NA	NA	Direct
Tunisia	Qualified Compliance	Compliance	Compliance	NA	Compliance	Compliance	Indirect
Uganda	Qualified Compliance	Compliance	Compliance	Compliance/Qualified Compliance	Compliance	Compliance	Explicit
Zambia	Non-compliance	Non-compliance	Non-compliance	Non-compliance/ Compliance	Compliance	Compliance	Explicit
Zimbabwe	Qualified Compliance	Compliance	Compliance	Non-compliance/ Compliance	Compliance	Compliance	Indirect

Due to the extremely difficult circumstances encountered in gathering data for this project, where information was gathered on less than three of the five indicators for a country, the data was considered not adequate to merit an assessment. Using this yardstick, information (covering three to five of the indicators) was found for forty-four countries, representing 80 per cent of the total number of African countries.

The tally is broken down into the categories of 'free' (for the countries that garnered between 75 to 100 per cent), 'partly free' (50 to 74 per cent) and 'not free' (0 to 49 per cent). The survey found nine countries (20.5 per cent) to be 'free'. The largest conglomerate was found in the 'partly free' category, twenty countries, making up 45.5 per cent of the total. This is followed by the 'not free' category which is made up of fifteen countries equivalent to 34 per cent.

Table 7: Academic freedom rankings

Score %	Country	Academic freedom ranking
100	Cape Verde	Free (75-100%)
100	Ghana	
100	South Africa	
90	Kenya	
85	Uganda	
80	Equatorial Guinea	
80	Namibia	
80	Seychelles	
75	Rwanda	
70	Angola	Partly Free (50-74%)
70	Sierra Leone	
65	Morocco	
60	Algeria	
60	Burkina Faso	
60	CAR	
60	Egypt	
60	Ethiopia	
60	Malawi	
60	Mauritius	
60	Mozambique	
60	Tunisia	
50	Comoros	
50	Libya	
50	Madagascar	

50	Nigeria	
50	Senegal	
50	Swaziland	
50	Tanzania	
50	Zimbabwe	
45	Cameroon	Not free (0-49%)
45	Mauritania	
40	Benin	
40	Burundi	
40	Côte d'Ivoire	
40	Djibouti	
40	Lesotho	
40	Niger	
30	Botswana	
30	Congo	
30	DRC	
30	Gabon	
25	Zambia	
20	Gambia	
0	Eritrea	
NA	Chad	NA
NA	Guinea	
NA	Guinea-Bissau	
NA	Liberia	
NA	Mali	
NA	SADR	
NA	São Tomé et Príncipe	
NA	Somalia	
NA	South Sudan	
NA	Sudan	
NA	Togo	

Conclusion and Recommendations

This study has sought to analyse the health of academic freedom in African universities based on the existing laws of the African countries concerned. The yardstick is the UNESCO *Recommendation's* four principal indicators on academic freedom: institutional autonomy, self-governance, individual rights and freedoms, and tenure. The results show that while Africa has come a long way in restructuring its laws to accommodate academic freedom, most countries are lagging behind.

To enable these countries improve on their laws and grant greater respect for academic freedom, external entities such as the Joint Committee of Experts on the Application of the Recommendations Concerning Teaching Personnel (CEART)⁶⁸ and the African Commission on Human and Peoples' Rights will need to scale up their activities.

For CEART, it is evident that the current schedule of a meeting every three years is woefully inadequate. Moreover, to be effective, CEART needs to engage directly in more effective promotional activities and engagement with all relevant stakeholders. Perhaps CEART can do a better job by creating two separate committees to monitor compliance of the 1966 document (the *Joint ILO/UNESCO Recommendation concerning the Status of Teachers*) (for teachers in primary and secondary schools) and the 1997 *Recommendation* (for academics in higher education institutions). Further, activities of the two committees should have regional sub-committees to take into account the cultural, political and developmental peculiarities which affect each particular region and to address them, drawing on each such region's existing region-specific instruments of academic freedom, such as the *Kampala Declaration* in the case of East Africa, in seeking to promote academic freedom in each locality. Additionally, it is proposed that the CEART sub-committees be given additional resources to enable them meet twice a year, in the same way as it works with treaty-based human rights bodies, with the powers to also schedule special sessions to deal with emergency situations.⁶⁹

CEART should also set up the special rapporteur system, on a thematic basis, to cover the four pillars of academic freedom – institutional autonomy, self-governance, individual rights and freedoms, and tenure. The mandate should include gathering information on violations of academic freedom, making recommendations on how to better promote and protect academic freedom as well as to transmit urgent appeals on alleged violations of academic freedom and undertaking fact-finding visits. Another function the CEART should take upon itself is the task of delivering general comments in order to provide comprehensive interpretation of substantive provisions of the two *Recommendations*.

The African Commission on Human and Peoples' Rights also has a role to play to ensure that academic freedom finds its rightful place among the list of human rights provisions in the African Charter on Human and Peoples' Rights. The Commission's *Principles and Guidelines on the Implementation of the Economic, Social and Cultural Rights Guaranteed in the African Charter on Human and Peoples' Rights* provides room for the recognition of academic freedom⁷⁰ but not in the *Declaration of Principles on Freedom of Expression in Africa*.⁷¹ This was in spite of the fact that at the time the Declaration came

into existence in 2002, a number of African states had broken away from the past and began to give explicit recognition of academic freedom in their constitutions. Probably on the basis of that narrow approach to the elucidation and expansion in the application of academic freedom, the Special Rapporteur on Freedom of Expression and Access to Information⁷² has shied away from making public interventions where violations of academic freedom have taken place in countries such as Malawi,⁷³ Sudan and Egypt even where they fall directly in the realm of freedom of expression.⁷⁴ It is therefore suggested that the African Commission reformulate the Declaration of Principles on Freedom of Expression in Africa to cover academic freedom and extend the mandate of the Special Rapporteur to specifically cover academic freedom issues,⁷⁵ as it did in the case of *Good v. Botswana*.⁷⁶

Also, it would appear that the previous impetus towards protecting academic freedom provided by the *Kampala* and *Dar-es-Salaam Declarations* has dissipated. Moreover, the historical circumstances which gave birth to the two *Declarations* have changed dramatically. In 1990, the transition to democracy had just been triggered and most African states were still in the throes of dictatorship; the UNESCO *Recommendation* was seven years away from birth. For this reason, it is perhaps now time for academics across Africa to start to consider drafting an African version of a *Magna Charta Libertatis Academicae*⁷⁷ (similar to the AAUP Statement on academic freedom, described as constituting a professional ‘common’ or customary law of academic freedom and tenure).⁷⁸ In the current socio-economic and political climates of many African states, such a task will prove to be daunting. However, the costs of failing to protect this basic human right, as the remainder of nations across the globe use universities to create new ideas and intellectual properties essential for the growth of the knowledge economy, will be great to both African universities and nation states alike.

Furthermore, this study reveals that the general absence of formal legal constraints on the abuse of academic freedom means that departmental customs, standards and mores, which have frequently been developed in response to the dearth of legal protection, may be of crucial significance within the day-to-day running of university departments, as they undertake their duties of teaching and research, often despite unwelcome and unnecessary pressures from national governments. In consequence, future studies are now needed for a more detailed analysis of academic freedom which takes into consideration the continent’s history and culture, and the level of development of university education. It is equally important to move away from a *de jure* protection of academic freedom to a *de facto* one, which is underpinned by a university’s internal cultural norms and attitudes that shape the relationship between faculty and management.

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Notes

1. UNESCO is the intergovernmental organization with responsibility for setting standards or norms within education.
2. As the *Recommendation* concerned employment conditions, there was also consultation with the ILO.
3. ILO, ‘UNESCO Recommendation concerning the Status of Higher-Education Teaching Personnel, 1997. Text adopted by the 29th Session of the General Conference of UNESCO’ (GB.271/LILS/9, 271st Session, Geneva, March 1998).
4. UNESCO, 1997, ‘Recommendation concerning the Status of Higher-Education Teaching Personnel’, in *Records of the General Conference*, Twenty-ninth Session, 21 October to 12 November 1997, Volume 1 Resolutions, Paris: UNESCO, Paragraph 74, p. 34.
5. See for example: Karran, T., 2007, ‘Academic freedom in Europe: a preliminary comparative analysis’, *Higher Education Policy* 20 (3): 289–313.
6. See for example Gerber, Larry G., 2001, “‘Inextricably linked’: shared governance and academic freedom’, *Academe* 87 (3): 22–24. Also, Latif, M.A., 2014, ‘Academic freedom: problems in conceptualization and research’, *Higher Education Research and Development* 33 (2): 399–401.
7. *UNESCO Recommendation*, Paragraph 27.
8. *UNESCO Recommendation*, Paragraph 18.
9. **Adopted on 5 October 1966 at a conference held in Paris at the UNESCO headquarters and organized in close cooperation with the ILO.**
10. Page, J., 2007, ‘Australian universities and international standards: Australian compliance with the 1997 UNESCO Recommendation Concerning the Status of Higher Education Teaching Personnel’, *Journal of Higher Education Policy and Management* 29 (1): 95–101.
11. *UNESCO Recommendation*, Paragraph 17.
12. Democratic representation of academic unions in decision-making bodies of the institutions of higher education. *UNESCO Recommendation*, Paragraphs 31, 32.
13. *UNESCO Recommendation*, Paragraphs 25–30.

14. Paragraph 46 of the UNESCO *Recommendation* states this as ‘Security of employment in the profession, including tenure or its functional equivalent’. There are also special rights for disabled persons, women and part-time teaching personnel.
15. *Kenneth Good v. Republic of Botswana* Communication 313/05 26 May 2010.
16. Lebeau, Y., and Mills, D., 2008, ‘From “crisis” to “transformation”?’ Shifting orthodoxies of African higher education policy and research’, *Learning and Teaching* 1 (1): 58–88; Lulat, Y.G.-M., 2003, ‘The Development of Higher Education in Africa’, in Teferra, D. and Altbach, P.G., eds, *African Higher Education: An International Reference Handbook*, Bloomington: Indiana University Press; and, G. Mohamedbhai, 2008, *The Effects of Massification on Higher Education in Africa*, Accra: Association for the Development of Education in Africa and Association of African Universities.
17. Adopted by delegates from six academic staff associations at the end of the Inaugural Workshop held in April 1990.
18. Adopted in Kampala in 1990.
19. ‘The Bologna Process in Africa: a case of aspiration, inspiration, or both?’, 25 May 2008. Available at <http://globalhighered.wordpress.com/2008/05/25/the-bologna-process-a-case-of-aspiration-and-inspiration-in-africa/>
20. Revitalising Higher Education in Africa. Report of First Experts’ Meeting, held 27–28 October 2005, Johannesburg. Available at http://www.aau.org/au_experts/docs/midrand_rep.pdf
21. Ghana, South Africa, Uganda, Kenya, Malawi, Sierra Leone, Liberia, Tunisia, Libya, Sudan, South Sudan, Namibia, the Gambia and Zimbabwe.
22. Explicit recognition means specific use of the term ‘academic freedom’ in addition to other rights essential to the full exercise of academic freedom.
23. Algeria, Burkina Faso, Central African Republic, Cape Verde, São Tomé and Príncipe, Gabon and Ethiopia.
24. Direct recognition of academic freedom by including constituent elements of academic freedom, such as ‘scientific research’ or ‘artistic creativity’.
25. Indirect recognition.
26. The fifth indicator is the reference to academic freedom in the constitutions of African countries.
27. Megan Lindow, 2011, *Weaving Success: Voices of Change in African Higher Education*, New York: Institute of International Education.
28. Kudzai Mashininga, ‘Private universities set to overtake public institutions’, in *University World News* 4 March 2012, Issue No. 211. Available at <http://www.universityworldnews.com/article.php?story=20120302141207184>
29. N.V. Varghese, ed., 2006, *Growth and Expansion of Private Higher Education in Africa*, Paris: UNESCO 2006.
30. UNESCO *Recommendation*, Paragraph 17.

31. In this regard, one can refer to the statutes of the *Universidade Agostinho Neto* of Angola which has a comprehensive set of statements on autonomy, covering statutory, scientific, pedagogical, administrative, proprietary, financial and disciplinary autonomy: Article 8(1) *Estatuto Organico da Universidade Agostinho Neto*, Decreto Presidencial 229/11, 19 August 2011. For a critical review of the subject in the context of Nigeria, see A.K. Okorosaye-Orubite et al., 2012, 'University autonomy, academic freedom and Academic Staff Union of Universities' (ASUU) struggles in Nigeria: a historical perspective' *Asian Social Science* 8: (12): 265.
32. Or Government or a Minister of State.
33. Or Rector or President is not influenced in any way.
34. Information on this indicator could not be found for the following countries: Chad, Liberia, Guinea, Guinea-Bissau, Niger, Mali, Togo, São Tomé and Príncipe, SADR, Somalia, Sudan and South Sudan.
35. See Table 2 *infra*.
36. Section 1 of the University of Ghana Act, 2010.
37. See, for example, section 6(1) and (2) of the University of Ghana Act, 2010 (Act 806).
38. Section 3(5) of the Statutes of the University of Ghana: 'A person shall not be nominated and elected to the Office of Chancellor unless he or she satisfies the requirements of Clause 2(b)-(e) Article 94 of the Constitution of the Republic of Ghana.'
39. Article 68 (1) of the Constitution of the Fourth Republic of Ghana.
40. University of Botswana Act, 1982 (Act 24).
41. Section 5(1) of the University of Botswana Act, 1982 (Act 24).
42. Section 5(3) of the University of Botswana Act, 1982 (Act 24).
43. Rosalyn Higgins refers to a claw-back clause as a limitation clause 'that permits, in normal circumstances, breach of an obligation for a specified number of public reasons'. See 'Derogations Under Human Rights Treaties' in Vol. 48 *British Yearbook of International Law* 281 (1976–77).
44. Table 2 *infra*.
45. Article 12 of l'Ordonnance N°81/160 du 7 octobre 1981 portant statut du personnel de l'Enseignement Supérieur et Universitaire.
46. Articles 7–15 of l'Ordonnance N°81/160 du 7 octobre 1981 portant statut du personnel de l'Enseignement Supérieur et Universitaire.
47. Articles 20–26 of the l'Ordonnance N°81/160 du 7 octobre 1981 portant statut du personnel de l'Enseignement Supérieur et Universitaire.
48. UNESCO *Recommendation*, Paragraph 16.
49. See Table 3 *infra* for details.
50. National Board on Higher Education, "Guidelines for Travel to Attend Workshops and Conferences," at 4.

51. UNESCO *Recommendation*, Paragraph 31. See also Paragraph 32: ‘Collegial decision-making should encompass decisions regarding the administration and determination of policies of higher education, curricula, research, extension work, the allocation of resources and other related activities, in order to improve academic excellence and quality for the benefit of society at large.’
52. S27(6) of the Higher Education Act, 1997 (Act 101).
53. S26(3) of the Higher Education Act, 1997 (Act 101).
54. S28(4) of the Higher Education Act, 1997 (Act 101).
55. Article 4 Décret n°2007-0167/PR/MENESUP fixant le statut particulier de l’Université de Djibouti.
56. Article 32 Of Law N°27/2013 Of 24/05/2013 Governing Organisation and Functioning of Higher Education.
57. Article 50 of the Higher Education Proclamation.
58. See, e.g. ILO Convention concerning Employment Policy (ILO No. 122), 569 UNTS 65, *entered into force* 15 July 1966 and Article 6 of the ICESCR.
59. Roos, P., and Gatta, M., 2007, ‘Gender (In)Equity in the Academy: Subtle Mechanisms and the Reproduction of Inequality’. Available at <http://www.yale.edu/ciqle/INAUGURAL%20PAPERS/genderequity507entire.pdf>
60. S32(2) of the University of Ghana Act, 2010 (Act 806). Also see s33(1) of the University of Ghana Act, 2010 (Act 806): ‘University Council may enact Statutes for carrying this Act into effect and in particular to (a) regulate the (i) appointment, (ii) conditions of service, (iii) termination of appointment.’
61. s51. (1) of the University of Ghana Act, 2010 (Act 806).
62. Article 12 of the Statut Général des Agents Permanents de l’Etat Decret N° 2005-386 du 23 juin 2005.
63. Article 132 of the Statut Général des Agents Permanents de l’Etat Decret N° 2005-386 du 23 juin 2005.
64. Article 51 of the Statut Général des Agents Permanents de l’Etat Decret N° 2005-386 du 23 juin 2005.
65. Article 10 of the Ordonnance n° 2006-007 /CMJD portant organisation de l’Enseignement Supérieur.
66. Article 36 the decret N° 2006-136 /PM portant statut particulier du Corps Des Enseignants Technologues.
67. Article 36 of the decret N° 2006-136 /PM portant statut particulier du Corps Des Enseignants Technologues.
68. The body set up to monitor progress towards international compliance with the UNESCO *Recommendation* and investigate allegations of non-observance. Available at http://www.ilo.org/global/industries-and-sectors/education/WCMS_162256/lang--en/index.htm
69. Such as the Human Rights Committee which monitors compliance with the International Covenant on Civil and Political Rights.

70. African Commission on Human and Peoples' Rights, *Principles and Guidelines on the Implementation of Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights*, at 34 and 36.
71. ACHPR /Res.62(XXXII)02: Resolution on the Adoption of the Declaration of Principles on Freedom of Expression in Africa (2002) The African Commission on Human and Peoples' Rights, meeting at its 32nd Ordinary Session, in Banjul, the Gambia, 17–23 October 2002.
72. The Special Rapporteur on Freedom of Expression was established by the African Commission on Human and Peoples' Rights with the adoption of Resolution 71 at the 36th Ordinary Session held in Dakar, Senegal, 23 November–7 December 2004. At the 42nd session held in Brazzaville, Republic of Congo in November 2007, the Commission decided to renew the mandate of the Special Rapporteur with the following amended title: *Special Rapporteur on Freedom of Expression and Access to Information in Africa*.
73. Dr Blessing Chinsinga, Associate Professor in the Department of Political and Administrative Studies at Chancellor College, University of Malawi (UNIMA), was summoned to the police station over the contents of one of his class lectures in which he gave examples of reasons for popular protest taken from Egypt and Tunisia. He was subsequently dismissed together with other staff. The decision to sack these persons was, however, set aside by the Malawian courts. See CODESRIA, 'Violations and abuses of Academic Freedom in Malawi: CODESRIA Postpones Holding of International Colloquium in Honour of Professor Thandika Mkandawire'. Available at http://www.codesria.org/IMG/article_PDF/article_a1302.pdf
74. As well as keeping a proper record of violations of the right of freedom of expression and publishing this in his/her reports submitted to the African Commission.
75. Relying on Articles 60 and 61 of the African Charter on Human and Peoples' Rights.
76. ACHPRS Communication 313/05.
77. Karran, T. 2009, 'Academic freedom in Europe: time for a Magna Charta?' *Higher Education Policy* 22: 163–89.
78. *ibid.*

