
Inter-American Principles on Academic Freedom and University Autonomy

PREAMBLE

REAFFIRMING the need to ensure the respect for and full exercise of individual freedoms and fundamental rights of all persons in the hemisphere through the rule of law, as well as the importance of promoting debates and standards that strengthen the protection and guarantee of academic freedom in the Americas.

RECOGNIZING that academic freedom is an independent and interdependent human right, which enables the exercise of a series of other rights, including the right to freedom of expression, the right to education, the right of assembly, freedom of conscience, freedom of association, equality before the law, freedom of belief and religion, and the right to the benefits of culture and scientific progress, as well as labor and trade union rights, all of which are recognized in the American Declaration of the Rights and Duties of Man, the American Convention on Human Rights, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights, as well as in the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (“Protocol of San Salvador”), the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (“Convention of Belém do Pará”), the Inter-American Convention against Racism, Racial Discrimination, Xenophobia and Related Forms of Intolerance, the Inter-American Convention against All Forms of Discrimination and Intolerance, the Inter-American Convention on Protecting the Human Rights of Older Persons, and Convention 169 of the International Labour Organization on Indigenous and Tribal Peoples, among other international instruments and national constitutions;

EMPHASIZING that academic freedom enables the consolidation of democracy, pluralism of ideas, scientific progress, human and societal development, and the full guarantee of the right to education, whereas obstacles to academic freedom slow the advancement of knowledge, undermine public debate, and reduce democratic spaces;

AWARE that knowledge is a public and social good and a fundamental pillar of democracy, the rule of law, sustainable development, pluralism of ideas, scientific progress, and the betterment of the individual and society, as it is an indispensable requirement for a free, open, pluralistic, fair, and non-discriminatory society;

EMPHASIZING that free access to information and education through, among other resources, Internet access, new technologies, libraries, and print and online publications together exponentially increases the possibilities of universalizing the right to education and access to knowledge, empowers people, strengthens relations among peoples, provides conditions for closing the gaps in quality of life between urban and rural areas, and fosters a diversity of positions on matters of public interest;

EMPHASIZING that students, faculty, academic staff, researchers, and other individuals as well as institutions of the academic community play an essential role as catalysts, generators of knowledge, and agents for discovery, self-reflection, progress, the promotion of democratic principles, ownership of human rights, respect for diversity, the fight against authoritarianism in the Americas, the education of individuals, and the response to and search for solutions to the challenges facing humanity, and are subject to particular vulnerability in authoritarian contexts, since they may face restrictions, risks, and violations of their human rights as a result of their research, thinking, and criticism, especially when they are involved in the discussion of matters of public interest, and therefore enjoy special protection;

RECALLING the scope given by the Committee on Economic, Social and Cultural Rights ("CESCR") to academic freedom and institutional autonomy in its 1999 General Comment No. 13 on the right to education (Article 13), based on the 1997 United Nations Educational, Scientific and Cultural Organization (UNESCO) Recommendation concerning the Status of Higher-Education Teaching Personnel, as a freedom with a personal dimension of protection of the individual and an institutional dimension embodied in university autonomy; as well as Article 14 of the United Nations Declaration on the Rights of Indigenous Peoples and the Rabat Plan of Action of the Office of the United Nations High Commissioner for Human Rights.

RECALLING that the right to education has the purpose of contributing to the full development of the human personality and the sense of one's dignity and strengthening respect for human rights, pluralism of ideas, and fundamental freedoms, and also works to mitigate the psychosocial impact of situations of emergency, conflict, or crisis; that the commercialization of academic activities can undermine these qualities and that States have the duty of progressive introduction of free education;

SIGNALING concern over reports in several countries in the hemisphere about repression of student groups and university unions, as well as harassment, assaults, attacks, budget cuts to academic institutions, and others kinds of retaliation against members of the academic community for arbitrary or discriminatory reasons;

VALUING the role of various declarations created by the international academic community for the conceptualization and consolidation of standards of protection and guarantee of academic freedom, of which the Declaration of Principles on Academic Freedom and Academic Tenure of the American Association of University Professors and the Association of American Colleges and Universities as well as the Lima Declaration on Academic Freedom and Autonomy of Institutions of Higher Education are of special relevance to the hemisphere;

TAKING INTO CONSIDERATION the Abidjan Principles on the obligations of States to provide public education and regulate private involvement in education, as well as the applicable standards of the report "Business and Human Rights: Inter-American Standards" from the Office of the Special Rapporteur on Economic, Social, Cultural and Environmental Rights (SRESCER) of the Inter-American Commission on Human Rights (IACHR);

RECOGNIZING the need to effectively protect academic freedom in the Americas, the Inter-American Commission on Human Rights, in support of the Office of the Special Rapporteur on Economic, Social, Cultural and Environmental Rights (SRESCER) and the Office of the Special Rapporteur for Freedom of Expression (SRFOE), by virtue of the functions conferred on it by Article 106 of the Charter of the Organization of American States, in application of Article 41.b of the American Convention on Human Rights and Article 18.b of its Statute, adopts the following Declaration of Principles;

PRINCIPLES

Principle I

Scope of protection of academic freedom

Academic freedom entails the right of every individual to seek, generate, and transmit knowledge, to form part of academic communities, and to conduct independent work to carry out scholarly activities of teaching, learning, training, investigation, discovery, transformation, debate, research, dissemination of information and ideas, and access to quality education freely and without fear of reprisals. In addition, academic freedom has a collective dimension, consisting of the right of society and its members to receive the information, knowledge, and opinions produced in the context of academic activity and to obtain access to the benefits and products of research and innovation.

Academic freedom is protected equally inside and outside educational institutions, as well as in any place where teaching and scientific research occur. The academic community is a space for deliberation about issues of concern to society. For this reason, academic freedom is protected in both formal and informal educational settings, and also encompasses the right to express oneself, to assemble, and to protest peacefully concerning issues being researched or discussed within the academic community in any space, including the media, as well as to demand better conditions in educational services and to participate in professional or representative academic organizations.

Academic freedom encompasses the dissemination and discussion of knowledge based on individual experience or field research, or of matters related to academic life in general. This right also encompasses the freedom of workers, employees, and students in academic institutions to express themselves with respect to said institutions and the educational system, among other things.

For indigenous peoples, the protection of academic freedom also includes the possibility for education within their communities or that responds to their particular needs, encompassing their history, knowledge, skills, value systems, and social, economic, and cultural aspirations, as well as the guarantee that they can receive educational opportunities in their own indigenous language or in the language most commonly spoken in the group to which they belong.

Academic freedom protects the diversity of methods, topics, and sources of research in accordance with the internal practices and rules of each discipline;

Principle II

Autonomy of academic institutions

Autonomy is an essential prerequisite for academic freedom and works to guarantee that higher education institutions can fulfill their mission and objectives of production and dissemination of knowledge. As a pillar of democracy and expression of the self-governance of academic institutions, autonomy guarantees the exercise of teaching, research, and extension services, as well as financial, organizational, educational, scientific, and personnel-related decision-making. By virtue of this principle, state regulations concerning education should be directed toward guaranteeing the process of learning, teaching, researching, and disseminating knowledge in a manner that is pluralistic, participatory, and democratic, and should guarantee the self-governance of academic institutions, which includes, among other things, the free functioning of teaching staffs and student bodies.

The distribution of resources cannot become a tool for attacking academic institutions and groups, nor a threat to critical thinking. The public budget must observe the necessary proportionality so that all institutions of higher education can develop their activities with equal autonomy. Transparency is an indispensable requirement for States in the management of their budgets.

Autonomy also entails duties and responsibilities of higher education institutions in fulfilling the objectives of the right to education and in respecting the fundamental rights of the people who make up their academic community. By virtue of these duties and responsibilities, these institutions are obligated to provide transparency in their management, financing, and decision-making; to establish policies and procedures that guarantee job stability and decision-making based on equitable and reasonable requirements; and to guarantee due process in decisions that affect the rights of those who form part of their academic community. Likewise, they must guarantee and not interfere with the freedoms of conscience, expression, association, assembly, belief, and religion; the exercise of labor and union rights; the use and enjoyment of the material and immaterial aspects of authorship rights as well as other rights over appropriable and potentially valuable tangible or intangible goods; and other internationally recognized human rights.

In implementing the right to academic freedom without any form of discrimination, academic institution's evaluation policies should aim to reduce the limitations or obstacles faced by groups and individuals subject to special protection for having been historically excluded or who are at greater risk of experiencing discrimination, adopting affirmative measures to facilitate their full participation;

Principle III

Non-discrimination

Academic freedom must be promoted, protected, and guaranteed equally and without discrimination on any ground, including political or other opinions, ethnic-racial origin, nationality, age, gender, sexual orientation, gender identity and expression, language, religion, cultural identity, social origin, socioeconomic status, educational level, situation of human mobility, disability, genetic characteristics, mental or physical health condition, including those of infectious or contagious disease, mental impairment, and any other.

These categories are considered suspect under international and inter-American human rights law and, therefore, any distinction or differential treatment based on them must be subject to a strict test of proportionality. This implies that the adoption of any of these measures must pursue aims that are not only legitimate under the American Convention on Human Rights, but also compelling. It also requires that the means chosen be adequate, effective, and necessary, meaning that the measure cannot be replaced by a less harmful alternative. In addition, the benefits of adopting the measure must clearly outweigh the restrictions it imposes on the conventional principles affected by it. In such measures, no discriminatory rule, act or practice based on such criteria suspected of discrimination, whether by state authorities or by private individuals, may in any way diminish or restrict the rights of a person in the exercise of his or her academic freedom.

States have a duty to harmonize their obligation not to discriminate with respect for religious freedom in the context of educational institutions of a religious nature. The application of this principle of non-discrimination cannot be interpreted in such a way as to prevent the existence of these religious associations. However, respect for religious freedom does not authorize the use of religious dogma as a basis for violations of the principle of non-discrimination or for contravening human rights obligations. In any case, States should adopt regulatory frameworks that establish measures such as certifications of suitability of teachers to teach in educational institutions of a religious nature, provided that they adhere to this strict test and that they do not have disproportionate effects on the individuals affected by decisions applying these measures.

States are obligated to eliminate conditions of structural discrimination in the academic sphere and must therefore establish, among other things, measures that allow and encourage equitable access to this sphere, especially through the adoption of measures that promote the full participation of groups or persons who have been historically excluded or who are at greater risk of experiencing discrimination. In addition, States are obligated to establish affirmative measures that guarantee equitable professional development without discrimination, especially through the reduction of gaps in income, opportunities, and scholarships, such as measures of job stability and access for such individuals or groups. In particular, measures should be adopted to eradicate obstacles faced by women in academia in comparison with those of their male colleagues due to prejudices, customs, or practices based on gender stereotypes, race, or other discriminatory grounds.

Principle IV

Protection against State interference

Any state interference in academic curricula or programs must comply with the requirements of legality and legitimate aim within the framework of the American Convention on Human Rights, as well as adequacy, necessity, and proportionality under the precepts of a democratic society. Legitimate aims for interference may include, among other things, the eradication of discrimination against certain groups or individuals, or the prevention, punishment, and eradication of violence against women. Nevertheless, in accordance with inter-American jurisprudence, the legitimacy of an aim does not necessarily imply its legality, adequacy, necessity, or proportionality. Disproportionate state interference in academic curricula or programs through, among other things, the imposition of guidelines contrary to the purposes of education as a right, severely affect academic freedom.

State interference negatively affects academic freedom through the imposition of indirect pressures on curricular content through professional accreditation requirements or state exams, or on activities associated with academic activity, such as attendance and participation in spaces such as academic conferences, research, and meetings. The same occurs with high-ranking officials' negative discourse against such institutions, the academic community, or its members; the adoption of or failure to repeal rules that discriminate against individuals or groups contrary to the provisions of Principle III; the failure to progressively introduce free education; the establishment of discriminatory barriers to admission, attendance, and graduation; and the implementation of budgetary measures or measures that affect the budget of academic institutions in order to punish, reward, or privilege them. In the same sense, the closure or non-renewal of the accreditations of institutions, libraries, laboratories, or other spaces in which academic activity is carried out as retaliation for disagreeing with the ideological vision of the government;

Principle V
Protection against acts of violence

Killing, kidnapping, intimidation, assault, harassment, threats, gender-based violence, and other attacks against individuals because of their participation in the academic community or the exercise of its activities, as well as physical attacks against institutions, libraries, or laboratories, violate the fundamental rights of individuals, restrict academic freedom, and prompt self-censorship in society. It is the duty of States to prevent and investigate these acts, punish the perpetrators, and ensure adequate reparation to the victims. In complying with this duty of prevention and investigation, States must apply an approach that recognizes and responds to the differentiated and intersectional impacts and forms of physical and psychological violence in accordance with inter-American standards on the subject;

Principle VI
Inviolability of academic space

The intervention of State security forces in academic institutions violates their autonomy and has a chilling effect on the academic community. Although such interventions may occur in exceptional cases and by virtue of States' duties to preserve security, stability, and democratic governance, they must take place within the limits and in accordance with the procedures that enable the preservation of both public security and human rights. Therefore, States may not invoke the existence of exceptional situations as a means of suppressing or denying, denaturalizing, or depriving of real content academic freedom, university autonomy, or, in general, the rights guaranteed by the American Convention on Human Rights, or as a justification for practicing or tolerating acts contrary to peremptory norms of international law. The implementation of national security legislation, anti-terrorism regulations, and, in general, any action by security forces on campuses must comply with the standards of proportionality, reasonableness, legality, and necessity;

Principle VII
Restrictions and limitations on academic freedom

States are obligated to create a favorable environment for participation in higher education institutions, as well as for research, discussion, and dissemination of academic knowledge. This

provision should not limit the spaces for cooperation between the public sector and academia in the development of research and other projects for public purposes.

Academic freedom expressly excludes any propaganda for war or advocacy of hatred against any individual or group of individuals on any grounds, including nationality, ethnicity, race, religion, sex, gender, gender identity, and sexual orientation, that constitute incitement to violence or any other unlawful action. For speech to qualify as propaganda for war or advocacy of hatred requires strict compliance with the threshold test contained in the United Nations Rabat Plan of Action.

Any interference with academic freedom must meet the requirements of legality, legitimate aim, suitability, necessity and proportionality in accordance with the American Convention on Human Rights in a democratic society, which safeguard against arbitrariness on the part of authorities both inside and outside academic institutions, as established by inter-American standards.

Professional accreditation, state examinations, and other forms of licensing play a crucial role in ensuring the quality of higher education institutions. However, these procedures may not be used to impede or retaliate against legitimate academic content. Excessive legal or regulatory requirements for the operation, supervision, sanctioning, or evaluation of the quality of academic institutions designed to retaliate against or otherwise limit academic conduct in a manner inconsistent with Principle III constitute a violation of academic freedom.

Illegitimate restrictions on academic freedom may be generated by acts or omissions of state agents or private groups or individuals, including actors within the academic institutions themselves;

Principle VIII

Prohibition of censorship and exceptionality of the exercise of States' punitive power

The imposition of state restrictions on research, discussion, or publication concerning certain topics, as well as the imposition of restrictions on access to publications, libraries, or physical or online databases, constitutes prior censorship, expressly prohibited by Article 13.2 of the American Convention on Human Rights and contrary to the right to education contained in Article 13 of the Protocol of San Salvador.

It is contrary to academic freedom and the rights with which it is interdependent for there to be any state measure aimed at imposing discretionary limitations or fostering taboos with respect to any field of knowledge, individuals, ideas, or any element recognized within the scope of protection described in Principle III.

The application of administrative or disciplinary processes against institutions or individuals who are exercising their academic freedom, as well as the imposition of subsequent employment or civil sanctions, must occur under the application of the minimum rules of transparency, due process, judicial guarantees, and non-discrimination, and must be based on criteria that comply with the requirements of legality, legitimate aim within the framework of the American Convention on Human Rights, adequacy, necessity, and proportionality under the precepts of a democratic society. In this sense, the imposition of restrictions in response to criticism by members of the academic community of institutions of higher education or the educational system,

as well as on personal decisions to adopt positions that diverge from the official positions of the institutions of higher education of which they are part, that do not meet those criteria, are contrary to academic freedom.

The use of criminal law to punish individuals who are exercising their academic freedom is incompatible with the protections that the inter-American system provides for this right. Any state interference to punish the alleged commission of a crime by a person who is legitimately exercising their academic freedom must be analyzed with special caution, considering the extreme seriousness of the conduct of the alleged perpetrator, the malice with which they acted, the characteristics of the harm unjustly caused, and other elements that demonstrate the absolute necessity of exercising, in a truly exceptional manner, the punitive power of the State.

States should presume the good faith of the opinions and information disseminated by members of the academic community based on participation in research processes under the application of any of the scientific methods accepted by the academic community;

Principle IX

Protection against and prevention of private parties' acts or omissions

The duty of States to guarantee also includes the imposition of measures to prevent, investigate, and punish violations of academic freedom by private parties and to respond to differentiated risks based on the suspect criteria of discrimination set out in Principle III, including, among other things, the adoption of protocols of assistance, investigation, and punishment in cases of sexual violence and assault, as well as violence against women or violence based on sexual orientation or gender identity and other forms of oppression or discrimination, and the creation or promotion of mechanisms for external and independent review of academic institution's punitive or meritocratic decisions. In any case, the design and application of these protocols should have a focus on non-revictimization and work to counteract sociocultural patterns based on assumptions of inferiority or superiority of any gender or stereotyped roles for men and women that legitimize violence against women;

Principle X

Human rights education

In accordance with international obligations regarding the right to human rights education and the elimination of all forms of discrimination, States must adopt measures, including national plans, to ensure that all individuals are educated in human rights in accordance with the American Convention on Human Rights and other applicable international instruments, throughout their lives and that public and private educational institutions develop curricula and programs to guarantee interdisciplinary human rights education at all educational levels and with a gender equality and intersectionality perspective, as well as to guarantee comprehensive sexual education.

Freedom of expression and academic freedom should be protected with respect to the content of these subjects, without persecuting those who teach them, or establishing discriminatory restrictions on individuals in vulnerable conditions. In addition, States have a duty to promote and implement the design and application of comprehensive educational programs that promote a culture of human rights, counteracting all prejudices and practices that entrench, promote or instigate discrimination against individuals and groups in situations of special vulnerability or

historical discrimination. States should ensure that all their civil servants receive human rights training in a systematic and continuous manner.

Principle XI

Access to information

When members of the academic community or any other individual seek access to statistics, databases, and other information held by the State, they do so in exercise of their fundamental right to access public information in conjunction with the right to academic freedom and all related human rights. States are obligated to guarantee the exercise of this right through prompt and appropriate response to requests for information, proactive disclosure, and public, free, and timely access to statistics, databases, and other sources relevant to the development of academic activity. This principle only admits exceptional limitations that must be previously established by law as well as necessary and proportional to accomplish legitimate aims within the framework of the provisions of the American Convention on Human Rights;

Principle XII

Internet and other technologies

Everyone has the right to carry out their academic activities by any means and in any form. Given the essential role played by the Internet and other technologies in access, dissemination, and enjoyment of the right to education and knowledge in the communication of ideas and opinions through spaces such as classrooms, institutions, libraries, virtual databases, and remote or online education, among other things, States must establish measures that work toward guaranteeing universal Internet access, the elimination of the digital divide, and the use of such technologies by the academic community. Correspondingly, respect for academic freedom implies, among other things, that States should refrain from exercising censorship or establishing arbitrary limitations on the Internet or unduly interfering in the development of academic activities in virtual spaces.

Platforms that serve as intermediaries for accessing content derived from the application of scientific methods accepted by the academic community can contribute to guaranteeing the right to academic freedom through: transparency in the criteria for organizing search results hierarchically; deliberation about the scope of the personalization of results when there is solid scientific evidence on the subject of the search; promoting diversity along lines of geography, race, gender, and sexual orientation among the individuals in charge of programming; and strengthening dialogue with the academic community to take advantage of the potential of the Internet to disseminate knowledge;

Principle XIII

Cross-cutting application in public and private institutions

These principles should be applied equally with regard to both public and private educational institutions, taking into consideration the duty of States to respect and guarantee the right to academic freedom and university autonomy by adopting effective measures, including regulatory, supervisory, and accountability measures, to ensure the right to education and other rights when private actors are involved, including their extraterritorial application;

Principle XIV

Protection of international mobility and cooperation

Academic freedom includes the freedom to seek, receive and disseminate information and ideas of all kinds, regardless of borders. Since international academic exchange, including conferences, research, research stays, exchanges, and academic meetings, is a fundamental aspect of academic life and necessary expression of academic freedom, States must not arbitrarily prevent persons from leaving or entering their borders in order to limit or halt the exchange or cross-border flow of ideas and must promote international academic mobility and cooperation.

Principle XV

Inclusive dialogue in the context of higher education

States are obligated to foster spaces for dialogue among all interested parties involved in academic activity in order to promote the debate about the respect and guarantee of academic freedom and the implementation of these principles.

Principle XVI

Duty to implement

States, academic institutions and other members of society should take affirmative action, within their capabilities, aimed at the practical application of the above principles. This duty extends to all persons within institutions of higher education, as well as to third parties and individuals involved in research and academic activity in general.