

Academic Freedom, the Autonomy of Institutions of Higher Education and the Social Responsibility of Academics

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Abstract

This paper critically examines ‘The Dar es Salaam Declaration on Academic Freedom and Social Responsibility of Academics’ (1990), in view of arousing interest around and stimulating discussion concerning the provisions of the declaration. It argues that for the declaration to serve its purpose, it needs do more than generate an African debate on academic freedom and social responsibility of intellectuals generally, and on the use of a legal format in crystallising democratic political perspectives in particular. The paper stresses the need for more concrete action by scholars in the interest of academic freedom and social responsibility of academics, if they are to be taken seriously.

Résumé

L’article jette un regard critique sur la « Déclaration de Dar es Salaam sur les Libertés Académiques et la Responsabilité Sociale des universitaires » (1990), afin de susciter un certain intérêt de même qu’une discussion autour des dispositions de ladite Déclaration. Pour que cette Déclaration puisse atteindre son objectif, elle doit faire davantage que susciter simple débat sur les libertés académiques et la responsabilité sociale des intellectuels de façon générale, et sur un comportement juridique permettant de cristalliser les perspectives politico-démocratiques, en particulier. Pour être plus crédibles, les universitaires doivent mener des actions plus concrètes dans l’intérêt des libertés académiques et de la responsabilité sociale des intellectuels.

Introduction

When I was first invited to present a paper on ‘Academic Freedom, the Autonomy of Institutions of Higher Education and the Social Responsibility of Academics’ for a workshop on Academic Freedom, Social Responsibility and

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the State of Academia,¹ the topic did not appear to pose much difficulty. However, upon later reflection, it increasingly became clear that this huge topic was heavily loaded, as it involves consideration of three sub-themes, each of which could constitute a topic on its own for a sizeable paper. My aim is to address the exhortation of the workshop organisers to review the commitment of the various associations to the basic principles of the two declarations,² and reinvigorate the social commitment of intellectuals. However, to avoid an inordinately lengthy rendition, this paper focuses on just one of the basic instruments in which the three sub-themes are to be found. Since the Dar es Salaam and Kampala declarations on academic freedom were made over a decade ago, some questions need to be posed relating to practice, both in terms of implementation of the principles laid down in the declarations and of what has been happening in the practical academic sphere since then. However, it is not necessary to examine both declarations, since, according to a reliable source, the 'Kampala Declaration' is closely modelled on the 'Dar es Salaam Declaration' (Shivji 1991a). I therefore refer only to the Dar es Salaam document in this paper, the declaration that most of my audience at the workshop were more familiar with.

In revisiting the Dar es Salaam declaration, I will attempt to see if there are provisions in it regarding a practical implementation mechanism, particularly for the prescriptive aspects of the declaration. If there are no such provisions, why is this the case? If there are such provisions, then the question is whether implementation measures have ever been taken and with what results. If no such measures have so far been taken, what should generally be done to remedy the situation? To facilitate a focused discussion of the three components of our complex topic, I will address each aspect in turn, prior to a generalized visualisation of the topic as a whole. However, as one can reach a holistic position only by starting from a holistic perspective, my discussion commences against a general view of the topic, considers its three main components and then concludes with a general view of the whole complex subject.

General Critique of the Dar es Salaam Declaration

The Dar es Salaam declaration was adopted on 19 April 1990 by delegates of staff associations from six institutions of higher education in Tanzania.³ In its preamble, the declaration made it clear that academic freedom, like other rights, needs to be constantly defended. It states: 'But rights are not simply given; they are won. And even when won, they cannot endure unless protected, nurtured and continuously defended against encroachment and curtailment' [The Dar es Salaam Declaration on Academic Freedom and Social Responsibility of Academics' (1990)]. The substantive provisions of the declaration are ex-

plicit on such themes as ‘Education for Human Emancipation’, ‘Obligations of the State’ and ‘Rights and Obligations of Communities’. Moreover, in Parts II, III and IV of the declaration there are not only normative (‘shall’) provisions but most of them are expressly stipulated as ‘Rights and Freedoms’, ‘Obligations of the State and Administration’, ‘Responsibility of Institutions’, and ‘Responsibility of Academics’.

One therefore expects to find statements in the declaration regarding how follow-up actions will be handled, by whom or by what organ of the signatory institutions. One expects to find a provision on how the signatory institutions will carry out their obligations under the declaration and with what consequences or expectations for compliance or non-compliance. However, the signatory institutions, assuming the delegates had the requisite mandate to commit the memberships of their respective constituencies, do not seem to have established any forum, secretariat or other form of leadership that one can point at with certainty in the declaration or any instrument referred to therein. Who or what organ is supposed to monitor compliance with the principles set out in the declaration or to mobilise action in the event of non-compliance? Did the draftspersons and signatory institutions regard such a basic issue as irrelevant, unimportant or unnecessary? If so, why? Ordinary common sense and common practice would seem to require some kind of compliance mechanism. However, although the declaration made many fine enunciations, it seems to have left them hanging in mid-air without any legs to stand on, any heads to carry them forward or any hands to guide them along the charted path.

One finds an interesting, though controversial, explanation for this apparently inexcusable omission in a 1991 article by Prof Issa G. Shivji, the only article I am aware of that seriously attempts to discuss the declaration from a jurisprudential viewpoint. Let us hear him in his own words before making any specific comments. In the course of contextualising the declaration in terms of its ‘inspiration and style’, Prof. Shivji observes:

The Dar Declaration overturns the usual conceptualisation of human rights instruments/declarations which on the philosophical level proclaim universal values and see their realisation at the technical level of justiciability/enforcement machinery. In the Declaration universal values are embodied and seen to be realised in the process of particular historical and political struggles. The authority of the Declaration lies primarily in its potential to *legitimate* the struggle for academic freedom rather than influence the setting of legal standards in a justiciable instrument. The aim of the Dar Declaration is probably most appropriately illustrated by the ringing call of the Algiers Declaration:

‘May all those who, throughout the world, are fighting the great battle, at times through armed struggle, for the freedom of all peoples, find in this Declaration the assurance of the legitimacy of their struggle.’

...In keeping with the nature and tenor of the document, the Declaration does not provide any sanction for a breach of an article’. The ‘sanction’ presumably would be the collective social censure exercised by the academic community as a whole. (Emphasis in the original, Shivji 1991a: 129-30.)

If the above-quoted excerpt captures well the spirit underlying the Dar es Salaam declaration, then the glaring omission of implementation provisions was both deliberate and ideologically motivated. What was produced was an enunciation of principles, norms, rights and obligations for the general guidance and legitimisation of the member organisations and individual academics. As for sanctions there was felt to be no need for these, beyond presuming that there would be so-called ‘collective social censure’ by the whole academic community. But surely even such highly ‘democratic’ censure would need some organisational initiator whose leadership legitimacy would need to be specifically stipulated. Otherwise – and this is how matters seem to stand under the present provisions of the declaration – everything has to be left to chance and good fortune.

As Prof Shivji points out, at the very beginning of the declaration it is stated that, following the formal launch of the declaration in July 1991, the next step was supposed to have been ‘for the staff associations to pressurise the respective administrations at their institutions to accord the declaration formal recognition. Eventually, the Government itself will be approached to accord the declaration political acceptance’ (Shivji 1991a: 128). However, one finds no clearly defined person(s) or organ(s) charged with these stated tasks. The staff associations are not required to ‘pressurise’ the administrations of their institutions, nor is there any responsibility placed on any person or organ to approach the government to press for political acceptance of the declaration. Yet, when the normative word ‘shall’ is used, as it is in this declaration, one has to wonder how such provisions are to be enforced. Since the declaration is self-executing, in the sense that it is meant to establish legitimatising principles, the ‘shall’ becomes a moral or political, not a legal, justiciable imperative.

The Need for Implementation Mechanisms

It is now evident that the Dar es Salaam declaration has a serious gap that requires serious consideration, even if this gap was intended by its authors and signatories. It lacks general or specific implementation provisions or any

practical implementation organs. That the practical dimensions of the declaration are to be viewed, if at all, not in terms of any prescribed implementing organs and their performance, but only how, in voluntarist fashion, the signatories have lived up to the declaration's principles, makes further analysis of the significance of the declaration largely speculative, if not futile. One of the advantages we would all have derived from having specific implementation provisions in the declaration would presumably have been systematic reporting on matters and issues of basic significance to the declaration and its stakeholders. Observances and derogations alike would indicate what has happened along the path traversed from the launching of the declaration to the present day. We would have been able to revisit the provisions with the help of documented practical instances. We would be able to learn from both past successes and failures in implementation and therefore plan for better approaches and more effective action in the future. Therefore, one of my recommendations would be to revisit the declaration with a view to making provisions that will address its practical shortcomings without unduly watering down the declaration's principles or diverting it from its areas of concern, focus and emphasis.

Article 52 of the Dar es Salaam declaration, which falls under 'Part V: Ratification and Accession', is the only provision in the document that envisages the establishment of any follow-up body. Article 52 states that 'any autonomous staff association or autonomous student organization of an institution of higher education in Tanzania may accede to this Declaration by depositing instruments of ratification with the body established in that behalf.'

This provision has no parallel elsewhere in the declaration, nor is there any substantive provision under which such a 'depository' body could be established. But at least by way of exception, one finds here a sense of 'implementation practicality', if one may put it that way.

At the same time I can see no reason, either in principle or in terms of practicality, why the original and subsequent signatory institutions could not constitute themselves into implementing and/or monitoring agencies of the declaration, with accountability obligations for the various matters stipulated in the document, on behalf of an apex coordinating body representing all of them. Such a body could be responsible, for instance, for overseeing or monitoring implementation, and for pushing for adoption of the declaration by the state. Meanwhile, the signatory institutions' staff associations and/or student organisations could be assigned respective institutional matters under the declaration.

For instance, the provisions of Chapter One: Education for Human Emancipation and Chapter Three: Rights and Obligations of Communication (both under Part I: Basic Principles) and Chapter Four: Obligations of the State and

Administration (Part II: Academic Freedom) could be shared between the two levels, each concerning itself with aspects that relate to its area of focus. The rest of the provisions – Chapter One: Rights and Freedoms, Chapter Two: Autonomous Academic Organisations, Chapter Three: Security of Tenure (all under Part II Academic Freedom), all those in Part III: Autonomy of Institutions of Higher Education and those in Chapter One: Responsibility of Institutions and Chapter Two: Responsibility of Academics in Part IV: Social Responsibility – would seem to fall squarely within the areas of the respective staff associations and/or student organisations. It would be necessary to have some common guidelines or criteria on which follow-up, implementation or monitoring activities would be based in order to facilitate consistency in reporting, dissemination and analysis, decision making and implementation, etc.

Academic Freedom

Against this background I do not intend to say much about the sub-theme of academic freedom, since there is a danger of stating the obvious. However, some critical remarks need to be made on some of the provisions with a view to rendering them less ambiguous in a future revised version of the declaration.

Academic freedom is covered under Part II of the declaration. It is conceived of quite rightly as involving the basic rights and freedoms of members of the academic community (both staff and students) at higher education institutions, partly in their roles as members of society and partly as persons specifically engaged in academic activity as teachers, researchers, administrators/workers and students. As such the document draws its inspiration from international and regional instruments on rights and freedoms, particularly those subscribed to or ratified by Tanzania. The declaration also cites the post-1984 inclusion of a Bill of Rights in Tanzania constitution, noting in the preamble the Bill of Rights' provisions on 'the right to education and the right to opinion and expression which include academic freedom'. Therefore, it is evident that the declaration takes a bold step by relating the universal rights and freedoms, and the principles underlying them, to the specific interests and concerns of the members of the academic community in higher education institutions.

This is important because it means the declaration is not claiming anything special for any elite interest but only restating and reasserting, for the academic community, the rights and freedoms already guaranteed in theory for all. For that reason, in a formal sense, the declaration has complete legitimacy; it is an expression of people endeavouring to exercise some of their most basic rights and freedoms, namely, the rights of association and freedom of expression. This should augur well for the acceptability of the declaration to the state

and the institutional administrations, whatever their suspicions about the import and potential implications of adopting or accepting it wholly or partly. The promotion of the declaration should only face the usual opposition from the conservative inhibitions and attitudes of institutional cultures rather than any accusation that it is impertinent or even 'revolutionary'. Ironically, the difficulty of 'selling' the declaration to the powers-that-be may lie precisely in its unquestionable legitimacy. Its expression of rights and obligations in such lucid language is likely to pose an embarrassment to the authorities, given their frequent non-observance of these rights and obligations in daily practice.

In brief the rights and freedoms clauses of the declaration are simply asserting, for all members of the academic community in their various lines of activity, the right to pursue the same rights and freedoms stated in the constitution freely and without unjustifiable interference from authority. To be justifiable any such interference must stem from clear grounds of public health, morality or evident national security, etc., and must observe basic democratic principles. The declaration also espouses the right of participation in organs of institutional governance by students and staff, as well as the right of students to challenge or differ with their instructors in academic matters without suffering any reprisals or prejudice in consequence. None of the articles states anything new or strange, let alone unacceptable, in principle, in a democracy. But what is of crucial importance, of course, is the actual realisation of the stated rights and freedoms, which cannot be accomplished without both pro-active and reactive measures being taken to assert, protect, nurture and continuously defend them against encroachment and curtailment.

The articles under Chapter One of Part II are generally well-formulated. They are reasonably balanced, enunciating individual rights and freedoms amply, but without prejudice to the rights of others or to generally accepted norms and principles as well as democratic culture. This is reassuring and makes the articles capable of standing up to generally accepted democratic standards and to the test of time. The exception is Article 25, which concerns among others, 'the right of students on academic grounds to challenge or differ from their instructors in academic matters without fear of reprisal or victimization.' To whom is this last phrase addressed? This right can only be exercised where there is a conducive teaching and learning environment which, among other things, includes a tolerant attitude on the part of instructors and an academic culture that espouses free and critical exchange of ideas. In such an environment constructive ideas, questions and criticisms, even dissent, are respected and tolerated. In such an environment fear of 'reprisals' or 'victimisation' would have no basis and would not arise. If there are grounds for fear, then students will be discouraged from expressing themselves.

Article 24, therefore, rather than requiring institutions to create, nurture and sustain such an environment, is pronouncing a right to have no fear of reprisal or victimisation, even in institutions where the academic culture is in diametric opposition to freedom of expression. What is important in this article is the pronounced right; the 'fear' aspect could be expressed in a separate article dealing with the obligation of institutions to create and nurture an academic culture and environment that espouses tolerance of differing views, etc. and that therefore removes any grounds for fear of reprisals or victimization by students or staff who challenge or differ from instructors in academic matters. If I may venture a suggestion for reformulation, the word 'fear' should be deleted and the whole phrase from there to the end of the article be rendered as 'without being subjected to any reprisal or victimisation or any other form of direct or indirect prejudice'.

Autonomous Academic Organizations

The provisions of the declaration on autonomous academic organisations are contained in two articles (26 and 27) in Chapter Two of Part II. These articles basically restate rights and freedom of association, assembly and expression with specific reference to members of the academic community in their pursuit of furthering their 'academic and professional interests'.

It is important to underscore the point that the declaration does not deal with rights and freedoms outside the academic domain. If it were to address itself to rights and freedoms in any other domain, then one would say it would be wholly or partly *ultra vires*, as it were, and would lack basic legitimacy. The right to self-expression envisages 'the right to write, print and publish their own newspapers or any other form of media including wall literature, posters and pamphlets' (Article 27). Being aware that such a right may be abused, to the prejudice of others, both within and outside the academic community, the article quite responsibly imposes a condition upon the exercise of the right. It is worth reproducing this carefully phrased condition in full: 'The exercise of this right shall have due regard to the obligation of the members of the academic community not to interfere with the right of others to privacy and in any manner or form that unreasonably arouse religious, ethnic, national or gender hatred' (Article 27). Anyone who is aware of the ugly incidents caused by the so-called Mzee Punch wall literature in the 1970s and early 1980s at the University of Dar es Salaam (Peter and Mvungi 1986) will easily appreciate the point of this limitation.

Security of Tenure

The Dar es Salaam declaration deals with the issue of security of tenure in Chapter Three, Part II. Security of tenure is perceived in terms of entitlement

to a fair and reasonable remuneration commensurate with one's social and academic responsibilities, secure tenure for those confirmed in employment, whose dismissal or removal from employment should abide by the principles of due process, and the right to know of any alleged adverse information obtained by officials in their course of duty. The general idea is that members of the academic community should be reasonably secure to carry on their academic pursuits freely and with a sense of tranquillity of mind and career certainty.

However one wonders whether some of the expectations are not pitched a bit too high and others somewhat too low. For instance, Article 28 talks of 'fair and reasonable remuneration', but such remuneration may not amount even to a living wage for some, if not all, members of the academic community. The article also limits itself to those who are in active employment and ignores the issue of retirement. Security of tenure which does not look into the future after tenure ends is likely to be half-baked, if not fundamentally flawed. That is why the issue of adequacy, not just fairness, of remuneration is crucial. If one's remuneration is inadequate, the retirement benefits will be doubly inadequate! That is why members of the community will, before they come to that limbo, look for greener pastures elsewhere, engage in moonlighting sidelines, and thus fail to render the benefits or attain the objectives which the provisions enunciate to be the underlying considerations.⁴ On the other hand, we should not forget that members of the academic community will, individually or collectively, commit themselves contractually to do or not to do certain tasks according to certain requirements, and that failure to meet these commitments may result in dismissal or transfer/recategorisation. Security of tenure therefore has to be understood as a somewhat elusive goal for academics: publish or perish, remember.

Obligations of the State and the Administration

The obligations of the state and the administration are covered in Chapter Four, Part II. In assigning obligations to the state and to the administrations of institutions, the declaration seems to assume either that these authorities will be convinced by the generally accepted nature of the rights and freedoms being asserted to recognise and abide by them or that some pressure will be exerted (by whom or what is not clear) to persuade them to do so. Since, as we have seen, no implementation mechanisms are mentioned in the declaration, the achievability of the provisions is not envisaged by the document itself. In this respect one obligation placed on the administration deserves special mention. Article 37 states that the administration has 'an obligation not to divulge any

information regarding members of the academic community which may be used to their detriment in any criminal, or other investigation or proceedings of the like nature'. But surely if one is suspected to have committed a crime against one's employer or a fellow member of the academic community, or is threatening the peace and tranquillity of the community, it would be very strange to expect the administration to be willing or to appear to condone such conduct by refusing to reveal pertinent information.

Autonomy of Institutions of Higher Education and the Social Responsibility of Academics

In this section, I examine the remaining two sub-themes: autonomy of institutions of higher education and the social responsibility of academics. I do not intend to go into much detail but only to raise some issues for discussion.

Autonomy of Institutions

In Articles 38–40 the declaration spells out its view of the autonomy that higher education institutions should have. Most such institutions are of course established under individual statutory instruments which declare them to be 'bodies corporate', capable of suing and being sued, with perpetual succession and a common seal, etc. As such they may own, dispose of and generally deal in property, movable and immovable, etc. The declaration, however, is not much concerned with such matters. Its focus is on the independence of higher education institutions from state or other institutional interference, especially in relation to teaching, research and general administration. The declaration requires the observance of democratic principles of participatory governance involving all stakeholders. In particular it denounces any entry into the premises of higher education institutions by 'armed personnel, military or paramilitary forces, intelligence and security personnel or forces of law and order, singly or collectively', except under stated conditions where 'the Head of the institutions concerned has invited such intervention in writing; Provided that such invitation shall not be extended without consultation with and approval of a special standing committee of elected representatives of the academic community instituted in that behalf' (Article 40). These principles are laudable, but they face obvious problems arising from the fact that most higher education institutions in Africa rely on direct state funding, as well as funding by donor agencies. This tends to attract interference from those that 'pay the piper' as a matter of course, as it was.

According to a Commonwealth study conducted in the 1990s, the following were identified as the main potential areas of friction between universities and governments in developing countries:

- Who may teach and what may be taught.
- Who makes key appointments.
- Determination of enrolment growth rates.
- Financial and other resource management.
- Use of state security on campuses.
- Management of staff promotions and travel.
- Freedom to criticize the state.

(Richardson and Fielden 1997: 30)

To minimise such conflicts the study called for the establishment of objective criteria for funding and suggested that the function of setting institutional budgets and disbursing funds be given to an independent regulatory authority. This is already the practice in some Commonwealth countries outside Africa, and I would urge that similar measures be adopted in Africa, where state interference is a real threat to academic freedom and institutional autonomy.

Social Responsibility of Academics

Issues concerning the social responsibility of academics are covered in Part IV, Chapter Two of the declaration (Articles 46–50).⁵ These provisions are exhortative; indeed, the normative word ‘shall’ is used sparingly, as though it would offend even the authors and promoters of the declaration. Members are exhorted to accept a responsibility or obligation to do one noble thing or another! These do’s and don’ts include fulfilment of ‘academic roles with competence, integrity and to the best of [one’s] ability and performance of academic functions in accordance with ethical and highest scientific standards’ (Article 46). However no model of such ‘ethical and highest scientific standards’ nor any mechanism for the establishment of one is provided for in the declaration.

Members of the academic community are said to have an obligation to inculcate the spirit of tolerance of differing views (Article 48) and to exercise their rights responsibly without prejudicing the rights of others (Article 47). They are urged not to participate in or be a party to anti-people actions or endeavours, including those that may be prejudicial to the members of the academic community. They are urged not to compromise scientific, ethical and professional principles and standards (Article 49) and to contribute to the cause of redressing historical and contemporary inequalities in our society (Article 50). The provisions sound fine in principle but are very weak in expression. The militancy one senses when others are being addressed in favour of the academic community becomes musing in the direction of the proponent interests. But the more serious problem, the bane of the declaration as a whole, is that even here no self-regulation machinery or guidance instruments are pro-

vided, nor is the need for any mentioned at all. The whole matter is left to the good sense of members of the academic community to handle in the best way possible. Thus we end where we began after all, with no legs to stand on, no heads or shoulders to bear the weight of the task and no hands to handle it!

Conclusion

I have addressed a complex issue under three sub-themes, each of which deserves separate treatment. The aim of this discussion has been to arouse interest around and stimulate discussion concerning the provisions of the Dar es Salaam declaration. Prof Shivji suggests that the declaration ‘will have served its purpose if it generates an African debate on academic freedom and social responsibility of intellectuals generally, and [on] the use of a legal format in crystallising democratic political perspectives in particular’ (Shivji 1991a: 134), but if that is all that is realised from the declaration is this really sufficient for the achievement of the provisions of the declaration? Do we not need to do much more? Hitherto what African debate on the issues raised by the declaration have we had? The very fact that the events mentioned on page one of his article ‘overshadowed the document’ suggests that something more concrete and more mundane was and is necessary. Otherwise we shall have to wait indefinitely for another workshop to ‘debate’.

Notes

1. CODESRIA-University of Dar es Salaam Academic Staff Assembly (UDASA) forum held at Whitesands Hotel, Dar es Salaam, Tanzania, 10–11 February 2005.
2. ‘The Dar es Salaam Declaration on Academic Freedom and Social Responsibility of Academics’ (1990) and ‘The Kampala Declaration on Academic Freedom and Social Responsibility of Intellectuals’ (1991).
3. The Ardhi Institute (now the University College of Lands and Architectural Studies, UCLAS), the Co-operative College, Moshi, the Institute of Development Management, Mzumbe, (now the University of Mzumbe), the Institute of Finance Management, Sokoine University of Agriculture and the University of Dar es Salaam.
4. For instance, Article 28 envisages members discharging ‘their roles with human dignity, integrity and independence’.
5. Chapter One covers ‘Responsibility of Institutions’ in Articles 41-45.

References

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