Human Rights and Academic Freedom in Kenya's Public Universities: The Case of the Universities Academic Staff Union

Abstract

Human Rights Quarterly 21.1 (1999) 179-206 The wind of change that has been sweeping the African Continent since the end of the Cold War has rekindled and catalyzed demands for respect for human rights and the establishment of viable and durable democratic institutions. These demands are, of course, not new or alien to the millions of oppressed people of Africa. The main differences, however, are that the lone voices that have consistently challenged the autocratic, oppressive, and one-party regimes in Africa since independence are now being joined by a large number of groups advocating for human rights, democracy, and multiparty state systems. During the Cold War, more than 90 percent of the independent sovereign states in Africa were ruled by autocratic civilian and military regimes. However, even with the absence of the Cold War, most of the African countries have still not laid the foundation for democratic rule. A second reason that makes the current demands for change different is that the Western donor countries, which originally supported the oppressive and dictatorial one-party regimes in Africa during the Cold War period (and in the process sanctioned and legitimized the suppression of human rights), are now pushing for democratic change based on multiparty state systems. During his testimony before the House of Representatives Subcommittee on Africa of the Committee on Foreign Affairs in 1963, G. Mennen Williams, the US Assistant Secretary of State for African Affairs, argued that Williams was comparing the Africa of the 1960s with the United States of the 1700s. This trend of thinking dominated the minds of foreign policymakers in the United States and the West in general during the Cold War era. However, the end of the Cold War has paved the way for a different style of articulation, perception, and application of human rights issues in Africa by the West. In his contribution on the issue of human rights and democracy after the end of the Cold War, the US advisor to the UN Commission for Human Rights, Marc Northern, stated that the "division in the world today is not between East and West. . . . The real division in the world today is between those committed to democracy and liberty and those against." Similarly, the US Ambassador to Kenya during the Bush Administration, Smith Hempstone, publicly stated that the United States would give assistance to countries in Africa that "nourished democratic institutions, defend human rights and practised multi-party politics." At this time, Kenyans had joined hands in the call for respect for human rights and advocated for the repeal of section 2(A) of Kenya's Constitution, which legally sanctioned the de jure one-party state system in the country since 1982. As a result of the internal and international pressure culminating in the withholding of funds by the donor countries, President Moi allowed the repeal of section 2(A) in December 1991. Thereafter a number of political
academic knowledge. The Kenyan academics formed the Universities Academic Staff Union (UASU) in 1992 to advocate for academic freedom, the depoliticization of the academic institutions, the promotion of academic standards and development, and the advancement of the general welfare of its members. This article focuses on human rights and academic freedom as they relate to the UASU since its inception. Specifically, it examines the extent to which the functions of the UASU have been rendered nugatory as a result of lack of academic freedom and the subjugation of human...

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"While no universally accepted definition of academic freedom exists (Altbach, 2001), each higher education institution will have its own conceptualisation of how academic freedom applies to the administration, teaching, learning, research, dissemination and other activities on and even off campus. Academic freedom is not directly protected in the human rights texts (Mehedi, 1999) but it is addressed by several of the rights in International Covenant on Civil and Political Rights: freedom of thought, conscience and religion (Article 18); freedom of expression (Article 19); freedom of association (Article 22) and assembly (Article 21); the rights to liberty, security of person and freedom from arbitrary arrest (Article 9) and liberty of movement (Article 12); freedom from torture (Article 7) (Adar, 1999). As noted, individual institutions may determine behaviour that is acceptable and conforms to their notion of academic freedom (Harrison and Weightman, 1974), they should also ensure they adhere to these human rights standards. "

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“In most African countries if you lose your university job, perhaps because of political or social criticism, you are likely to have few employment alternatives. This was clear, for example, even in relatively prosperous Kenya after a long strike of university lecturers, when union officials, all of whom were dismissed from their teaching posts, ended up in low-paid or part-time employment, or abroad (Adar 1999). It is the relatively abundant material resources, and their relatively wide distribution, at least amongst the educated elite, that enable a proportion of the South African intelligentsia the space, if they choose to so use it, to criticise and challenge power.”

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“edom? We are certainly uncomfortable with the notion’s elitest overtones, the suggestion that academics should have more protection than other members of society. Yet at the same time, we are more than aware of the dangers of eroding an idea of academic freedom which seeks to protect critics of dictatorship from oppression, not least in Africa (eg. Adar 1999). However, what we do argue is the importance of including, within any development of the idea of academic freedom which seeks to beyond the liberal formula, the demand that just as academics are accountable to their managers, so should the managers be responsible to those they manage in the way, certainly, that they are not at the mome”
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