

**CONSTITUTIONAL GUARANTEES AND THE INSTITUTIONAL REALITY OF
ACADEMIC FREEDOM: A COMPARATIVE PERSPECTIVE FROM POST-
SOVIET HIGHER EDUCATION**

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Abstract

Academic freedom is widely recognized as a foundational principle of modern higher education and democratic knowledge production. Many contemporary constitutions formally protect the freedom of scientific research and recognize various forms of university autonomy. However, constitutional guarantees do not necessarily ensure the effective realization of academic freedom in practice.

This article examines the relationship between constitutional recognition of academic freedom and the institutional conditions necessary for its meaningful implementation. Drawing on comparative constitutional analysis and the experience of post-Soviet higher education systems, the article argues that academic freedom functions not only as a legal right but also as a governance principle embedded in institutional structures.

Using Uzbekistan as an illustrative case, the study demonstrates how centralized academic governance, bureaucratic regulation of doctoral education, and publication-based research evaluation systems may constrain the practical realization of academic freedom despite formal legal protections.

The article shows that constitutional guarantees of academic freedom are most effective when supported by institutional autonomy, transparent research governance, and a resilient research ecosystem. By linking constitutional design with higher education governance, the article contributes to contemporary debates on the institutional foundations of academic freedom.

Keywords: Academic freedom, constitutional law, university autonomy, higher education governance, post-Soviet academic systems, research integrity, comparative constitutionalism.

Introduction

Academic freedom is widely regarded as a foundational principle of modern universities and a necessary condition for the advancement of knowledge and democratic societies. By enabling scholars to pursue research, teaching, and public critique without undue interference, academic freedom allows universities to function as institutions that generate independent knowledge and foster critical inquiry (Altbach, 2001; Post, 2012). In democratic systems, the protection of academic freedom is closely connected to broader commitments to freedom of expression, intellectual pluralism, and the autonomy of institutions responsible for knowledge production (Rabban, 2024).

In recent decades, academic freedom has increasingly been recognized in constitutional and supranational legal frameworks. More than half of the world's constitutions now include provisions related to freedom of scientific research, university autonomy, or the rights of scholars to pursue inquiry (Ginsburg, 2025). In Europe, the Charter of Fundamental Rights of the European Union explicitly states that scientific research shall be free of constraint and that academic freedom must be respected. These developments reflect a growing recognition that academic freedom is not merely a professional norm within universities but also a constitutional value closely linked to democratic governance and the production of knowledge.

However, the presence of formal legal safeguards does not automatically ensure the effective protection of academic freedom in practice. Even in countries where academic freedom is explicitly protected by legislation or constitutional provisions, organizational structures, governance models, and political dynamics may significantly shape how these protections operate in reality. Empirical studies have demonstrated that the implementation of legal protections often encounters challenges arising from managerial governance, political polarization, and economic pressures within higher education systems (Naepi et al., 2025). In particular, unclear definitions of academic freedom, the conflation of academic freedom with general freedom of speech, and tensions between institutional responsibilities and individual scholarly autonomy continue to generate controversy across different national contexts (Altbach, 2001; Karran, 2009).

Despite the growing literature on academic freedom, relatively little attention has been paid to the relationship between constitutional guarantees and the institutional governance structures that shape their implementation in practice. Much of the existing scholarship focuses either on legal protections or on broader political threats to academic freedom. Less attention has been devoted to how governance arrangements within higher education systems—such as research evaluation rules, doctoral training structures, and bureaucratic oversight—mediate the practical operation of constitutional guarantees. This gap is particularly visible in post-Soviet higher education systems undergoing institutional transformation.

Recent scholarship also highlights the growing complexity of academic freedom in contemporary higher education environments. Universities increasingly operate within systems characterized by performance-based funding, commercialization of research, and heightened political scrutiny of academic work. These developments have created new forms of pressure on scholars and institutions, raising concerns that academic freedom may be constrained not only by direct state intervention but by systemic governance structures and economic incentives within higher education systems (Olssen & Peters, 2005; Shore, 2010). At the same time, ongoing debates about the boundaries of academic freedom that including questions about professional responsibility, disciplinary expertise, and the relationship between academic freedom

and public speech, demonstrate that the concept remains contested and evolving (Ramlo, 2025).

These tensions are particularly visible in academic systems undergoing structural transformation, including those shaped by post-socialist transitions. In several post-Soviet states, higher education systems continue to operate within governance frameworks characterized by centralized regulation, limited research funding, and evolving academic institutions. In such contexts, formal legal recognition of academic freedom may coexist with structural conditions that constrain the development of independent scholarly communities and robust research cultures. These dynamics raise important questions about the relationship between constitutional protections of academic freedom and the institutional environments necessary for their meaningful realization.

The central argument of the article is that constitutional recognition of academic freedom, while important, is insufficient on its own to guarantee meaningful protection. Since academic freedom ultimately depends on the interaction between constitutional design, institutional autonomy, and the governance structures that regulate academic life.

Methodologically, the article combines comparative constitutional analysis with an institutional examination of higher education governance. While the first part of the analysis reviews constitutional approaches to academic freedom in different jurisdictions, the second part examines the institutional environment in which these guarantees operate. Uzbekistan is used as an illustrative case because its constitution formally recognizes academic freedom while its higher education system continues to operate within governance structures shaped by post-Soviet institutional legacies. This case allows the article to explore how constitutional protections interact with centralized research governance, doctoral education regulation, and publication-based evaluation systems.

The article proceeds as follows. The first section discusses the constitutional foundations of academic freedom in comparative perspective. The second section examines the institutional conditions necessary for the effective realization of academic freedom within higher education systems. The third section analyses the Uzbek higher education system as an illustrative case. The final section discusses the broader implications for constitutional design and higher education governance.

Conceptual Foundations of Academic Freedom

Academic freedom has long been recognized as a defining feature of modern universities, yet its precise meaning and scope remain contested. At its core, academic freedom refers to the freedom of scholars to conduct research, teach, publish, and engage in intellectual debate without undue interference from the state, university authorities, or external actors. This principle is commonly understood as a necessary condition for the production of reliable knowledge and for the ability of universities to

fulfill their broader societal role as institutions of critical inquiry (Altbach, 2001; Post, 2012).

Historically, the modern concept of academic freedom emerged in the nineteenth-century European university tradition, particularly within the Humboldtian model of higher education. The Humboldtian ideal emphasized the unity of teaching and research and envisioned universities as autonomous institutions dedicated to the pursuit of knowledge free from political or ecclesiastical control. Within this framework, academic freedom was understood as both an individual right of scholars and an institutional principle protecting the autonomy of universities (Nybom, 2003; Scott, 2006). Over time, this concept spread internationally and became a foundational norm in modern higher education systems.

Contemporary scholarship generally identifies several core components of academic freedom. These include the freedom to pursue research, the freedom to teach and determine course content, the freedom to publish and disseminate research findings, and the freedom to participate in public debate related to one's scholarly expertise. These elements are reflected in international normative frameworks, including the 1997 UNESCO Recommendation concerning the Status of Higher-Education Teaching Personnel, which defines academic freedom as the right of scholars to engage in research, teaching, and public criticism without fear of institutional censorship or discipline (UNESCO, 1997).

Despite broad agreement on its importance, scholars continue to debate the boundaries and internal structure of academic freedom. One important distinction concerns whether academic freedom should be understood primarily as an individual right of scholars or as a collective institutional right of universities. In some legal traditions, academic freedom is framed mainly as a personal liberty of scholars to pursue inquiry and express ideas without external interference. In others, the focus is placed on institutional autonomy, emphasizing the ability of universities to govern themselves, determine research agendas, and regulate teaching independently of political authorities (Barendt, 2010; Karran, 2009).

Another central debate concerns the relationship between academic freedom and freedom of speech. While these concepts are closely related, many scholars argue that they should not be treated as interchangeable. Academic freedom is typically understood as a professional freedom grounded in disciplinary expertise, scholarly standards, and the governance responsibilities of universities, whereas freedom of speech is a broader civil liberty applicable to all individuals. Robert Post argues that academic freedom derives from the distinctive epistemic function of universities and is therefore linked to professional norms governing the production of knowledge rather than to unrestricted individual expression (Post, 2012). Similarly, Rabban emphasizes that academic freedom evolved historically as a professional norm within academic communities before it was recognized as a legal principle in constitutional and statutory frameworks (Rabban, 2024).

The boundaries of academic freedom are also shaped by expectations of professional responsibility and scholarly integrity. Academic freedom does not protect conduct that violates established academic standards, such as deliberate misrepresentation of research findings or persistent failure to fulfill teaching responsibilities. Rather, it operates within a framework of disciplinary norms that regulate scholarly conduct and maintain the credibility of academic institutions (Altbach, 2001). In this sense, academic freedom is both a right and a responsibility, balancing intellectual independence with professional accountability.

Recent debates have further highlighted the complexity of academic freedom in contemporary higher education systems. Scholars increasingly emphasize that academic freedom is not merely an abstract legal principle but also a socially embedded practice within academic communities. That means universities operate within complex governance structures shaped by state regulation, market pressures, and internal managerial systems. These institutional conditions significantly influence how academic freedom is exercised and protected in practice (Olssen & Peters, 2005; Shore, 2010).

Empirical research also suggests that perceptions of academic freedom vary among different stakeholders within higher education institutions. Studies examining faculty, administrators, and students reveal divergent understandings of the concept, ranging from views emphasizing institutional autonomy to perspectives focusing on individual scholarly professionalism and ethical responsibility (Ramlo, 2025). These differences underscore that academic freedom is not a fixed concept but an evolving normative framework shaped by governance arrangements and political environments.

Constitutional Protection of Academic Freedom

In recent decades, the protection of academic freedom has increasingly been incorporated into constitutional and supranational legal frameworks. Historically, academic freedom developed primarily as a professional norm within universities. Many modern constitutional systems now recognize the freedom of scientific research and teaching as a fundamental legal principle. This constitutionalization reflects a broader understanding that the autonomy of knowledge production plays a important role in democratic societies and in the development of scientific progress (Barendt, 2010; Ginsburg, 2025).

According to recent analyses, more than half of the constitutions currently in force include provisions that directly or indirectly protect academic freedom, scientific research, or university autonomy (Ginsburg, 2025). These provisions often appear within broader guarantees of freedom of expression, cultural rights, or the freedom of scientific inquiry. For example, the Charter of Fundamental Rights of the European Union explicitly provides that scientific research shall be free of constraint and that academic freedom shall be respected. This recognition at the supranational level reflects the growing importance of academic freedom as a legal and democratic value within the European constitutional tradition.

Germany provides one of the most prominent examples of constitutional protection of academic freedom. Article 5(3) of the Basic Law for the Federal Republic of Germany guarantees that “art and science, research and teaching shall be free.” German constitutional jurisprudence has interpreted this provision broadly, recognizing both individual scholarly freedom and institutional autonomy of universities. Violations of academic freedom may be challenged through administrative courts, which play an important role in safeguarding the autonomy of academic institutions and protecting scholars from undue interference (Barendt, 2010).

At the same time, constitutional approaches to academic freedom vary significantly across legal systems. In some countries, constitutional provisions focus primarily on the autonomy of universities as institutions, emphasizing the importance of self-governance in academic decision-making. Taking Uzbekistan as an example, Article 51 of the Constitution of the Republic of Uzbekistan provides that higher education institutions have the right, in accordance with the law, to academic freedom, self-governance, the conduct of research, and freedom of teaching. In others, academic freedom is framed as an individual right of scholars to pursue research and express ideas without censorship or disciplinary pressure. These different constitutional models reflect broader differences in how legal systems conceptualize the relationship between universities, the state, and society (Karran, 2009).

In contrast, the United States represents a distinctive constitutional model in which academic freedom has developed largely through judicial interpretation and governance practice rather than explicit *constitutional text*. The United States Constitution contains no specific provision protecting academic freedom, scientific inquiry, or the right to education. Apart from the clause empowering Congress to promote scientific progress through intellectual property protections, the constitutional text largely leaves matters of education and research governance to individual states and private institutions (Ginsburg, 2025). Nevertheless, American courts have recognized certain aspects of academic freedom through First Amendment jurisprudence, treating it as a special concern of freedom of expression within higher education (Post, 2012).

This contrast between constitutional silence and constitutional recognition illustrates an important paradox in the comparative study of academic freedom. On the one hand, explicit constitutional guarantees may symbolically affirm the importance of academic freedom within a legal system. On the other hand, as argued above, the practical effectiveness of such protections requires supportive structural conditions, including judicial enforcement mechanisms, university governance structures, and the political environment in which universities operate. As a result, the presence of constitutional protections does not necessarily translate into effective safeguards for scholars and universities.

Indeed, recent comparative research suggests that academic freedom can face significant challenges even in jurisdictions where it is formally protected by constitutional or legislative provisions. Political pressures, managerial governance

models, and economic constraints may shape the conditions under which scholars conduct research and express ideas. In this sense, constitutional protections should be understood as one component of a broader governance ecosystem that shapes how academic freedom functions in practice.

Institutional Conditions of Academic Freedom

Constitutional and legislative guarantees provide an important legal foundation for academic freedom. Their practical effectiveness, however, depends heavily on the institutional environments in which universities operate. Academic freedom is not exercised in a legal vacuum; it is embedded in complex governance structures that shape the organization of research, teaching, and scholarly communication. As a result, the degree to which academic freedom is protected in practice is often determined by institutional arrangements such as university governance systems, funding models, administrative oversight, and professional norms within academic communities (Altbach, 2001; Olssen & Peters, 2005).

Recent scholarship treats academic freedom as both a legal principle and an institutional practice shaped by the structures of the university. Universities operate within broader political and economic frameworks that influence their internal governance and decision-making processes. In many higher education systems, managerial reforms, performance-based funding mechanisms, and increasing reliance on external research financing have introduced new pressures on academic institutions. These developments can affect the autonomy of scholars by shaping research agendas, influencing hiring decisions, and encouraging forms of self-censorship linked to institutional priorities or financial incentives (Shore, 2010).

Empirical research also demonstrates that formal legal protection alone does not necessarily guarantee the effective exercise of academic freedom. A comparative study of academic freedom in New Zealand illustrates this dynamic particularly clearly. New Zealand provides one of the strongest legislative frameworks protecting academic freedom among OECD countries, with detailed statutory provisions safeguarding the freedom of research, teaching, and institutional autonomy within universities (Naepi et al., 2025). However, despite these strong legal protections, controversies surrounding academic expression continue to emerge within the country's higher education system. The New Zealand case demonstrates that legal recognition of academic freedom does not eliminate institutional tensions surrounding its application. As one recent study shows, even in a system where academic freedom is clearly defined in legislation, ambiguities regarding the scope of academic freedom, the relationship between individual scholars and university administration, and the distinction between academic expertise and personal expression may still generate conflict within universities (Naepi et al., 2025). These tensions reflect broader global debates about the boundaries of academic freedom and its relationship to professional responsibility and university governance.

In addition to legal ambiguity, economic and governance pressures within higher education systems may further complicate the protection of academic freedom. The increasing adoption of market-oriented reforms in universities has transformed many institutions into complex organizations operating within competitive funding environments. These reforms often introduce managerial practices emphasizing efficiency, accountability, and performance measurement. While such policies may improve administrative oversight, they can also influence the conditions under which scholars conduct research and engage in public debate (Olssen & Peters, 2005).

Another dimension of these challenges concerns the relationship between academic freedom and professional responsibility. Academic freedom is frequently associated with the right of scholars to express controversial ideas and challenge established knowledge. However, many scholars argue that this freedom must be balanced with expectations of scholarly integrity, disciplinary competence, and ethical responsibility. As a result, debates about academic freedom often revolve around questions about whether academic expression falls within the scope of professional expertise or constitutes personal opinion outside the domain of scholarly authority (Ramlo, 2025). Thus, academic freedom requires supportive institutional arrangements beyond legal guarantees.

Academic Freedom in Post-Soviet Academic Systems

The relationship between constitutional guarantees and the practical realization of academic freedom becomes particularly complex in higher education systems shaped by post-socialist institutional legacies. In many post-Soviet countries, universities continue to operate within governance frameworks characterized by centralized regulation, hierarchical academic cultures, and limited institutional autonomy. Although several of these legal systems formally recognize academic freedom, the institutional conditions required for its effective implementation often remain underdeveloped.

In many post-Soviet countries, higher education systems continue to operate within governance structures characterized by centralized regulation, hierarchical academic cultures, and limited university autonomy. Many legal systems, including Uzbekistan, formally recognize academic freedom. However, the institutional conditions necessary for its effective implementation often remain underdeveloped.

Scholars examining the constitutional foundations of university autonomy in post-Soviet legal systems emphasize that academic freedom cannot be understood solely as an individual liberty of scholars but must also be linked to the broader principle of self-governance within universities. Comparative legal analysis shows that in many European constitutional systems university autonomy is treated as a structural element of democratic governance, closely connected to the freedom of scientific inquiry and the decentralization of knowledge production (Gorsky-Mochalov, 2022). In contrast, post-Soviet legal frameworks frequently recognize the concept of “autonomy of educational

organizations” in legislation without fully developing the structural mechanisms required for genuine academic self-governance.

This gap between formal legal recognition and institutional reality reflects broader structural characteristics of post-Soviet higher education systems. During the Soviet period, universities functioned primarily as state-controlled institutions tasked with implementing centrally defined educational and research agendas. Academic research was organized through hierarchical administrative structures, and ideological conformity often shaped the boundaries of scholarly debate. Although many post-Soviet states have formally adopted principles of university autonomy and academic freedom since the 1990s, institutional cultures and governance models inherited from this earlier system continue to influence academic life.

In addition to governance structures, resource constraints represent another significant challenge for the development of academic freedom in transitional academic systems. Research funding in several post-Soviet countries remains relatively limited compared to global standards, restricting the ability of universities to build independent research infrastructure and maintain competitive scholarly communities. Limited access to international research databases, insufficient training in advanced research methodologies, and weak integration into global academic networks further constrain the development of high-quality academic research.

Empirical studies of higher education reforms in Uzbekistan illustrate the persistence of these institutional legacies. Despite extensive reforms introduced after 2017 to modernize the higher education sector and expand doctoral education, the governance of research and doctoral training remains highly centralized. Doctoral degrees and academic titles continue to be regulated by the Higher Attestation Commission, a state body responsible for approving dissertation topics, overseeing dissertation defenses, and enforcing publication requirements. This centralized governance structure reflects institutional arrangements inherited from the Soviet academic system and continues to shape the organization of academic research and doctoral education.

These institutional conditions may also contribute to the emergence of practices that undermine the integrity of academic research. Recent empirical research examining doctoral education reforms in Uzbekistan highlights growing concerns about unethical academic practices linked to publication requirements and dissertation procedures. In particular, the increasing emphasis on publication output as a prerequisite for doctoral defense has contributed to the expansion of predatory publishing and the commercialization of dissertation writing services. Some studies report that doctoral dissertations or journal articles may be prepared by third parties for substantial financial compensation, reflecting structural weaknesses in research training and evaluation mechanisms.

These dynamics have been further reinforced by policies encouraging publication in international citation databases such as Scopus and Web of Science. While these policies aim to integrate Uzbek scholarship into global research networks, they have also

generated significant publication pressure for researchers and doctoral students. In some cases, this pressure encourages strategic behavior aimed at meeting formal publication requirements rather than producing substantive scholarly contributions.

In addition to bureaucratic governance structures, informal political boundaries may also influence the scope of academic inquiry in certain fields. In particular, research topics related to politically sensitive issues such as corruption, governance practices, or human rights may receive limited institutional support within the academic system. As a result, doctoral candidates often select research topics aligned with officially endorsed policy priorities, which may narrow the range of scholarly debate in social science disciplines.

The persistence of these practices illustrates a broader institutional dilemma: while formal requirements for doctoral degrees often emphasize publication output and dissertation defense procedures, the underlying research ecosystem may lack the resources necessary to support rigorous academic work. In such circumstances, scholars may face strong incentives to prioritize formal compliance with administrative requirements over genuine research innovation. As a result, the formal structure of academic qualification systems may coexist with informal practices that undermine academic integrity and weaken the credibility of academic institutions.

These dynamics are closely connected to the governance structure of doctoral education in several post-Soviet academic systems. In some cases, the centralized regulation of doctoral degrees and academic titles places significant emphasis on quantitative indicators such as the number of publications or formal compliance with administrative procedures. These mechanisms are intended to standardize academic evaluation. They may also encourage strategic behavior aimed at meeting formal requirements rather than advancing substantive scholarly contributions.

At the same time, the supervisory model of doctoral education in many post-Soviet academic systems often follows a traditional “mentor–apprentice” structure in which individual supervisors exercise substantial authority over doctoral candidates. While such relationships can provide valuable intellectual guidance, they might also limit the diversity of academic perspectives available to doctoral researchers and reduce opportunities for independent scholarly development. In situations where supervisors themselves have limited access to contemporary international research or advanced methodological training, this model may inadvertently perpetuate structural weaknesses in academic research capacity.

Taken together, these institutional factors demonstrate the complex relationship between constitutional guarantees of academic freedom and the organizational environments in which academic research is conducted. Even where legal frameworks formally recognize the freedom of scientific inquiry or university autonomy, the effective realization of these principles depends on institutional conditions such as decentralized academic governance, adequate research funding, and strong professional norms within the scholarly community. Without these supporting structures, constitutional

protections risk remaining largely symbolic rather than functioning as effective safeguards for independent academic inquiry.

Conclusion

This article has argued that the protection of academic freedom cannot be secured solely through formal constitutional protections. Constitutional provisions recognizing the freedom of scientific research and university autonomy provide an important normative foundation. The practical realization of these principles, however, requires a broader institutional ecosystem.

In several democratic systems, constitutional courts and legislative frameworks treat university autonomy not merely as an institutional privilege but as a structural component of democratic governance, closely linked to the freedom of scientific inquiry and the decentralized production of knowledge.

The analysis of academic practices in Uzbekistan reflects these broader structural dynamics. Challenges such as commercialization of academic work, the emergence of predatory publication practices, and pressure to meet formal academic indicators highlight the importance of strengthening the institutional conditions that support genuine academic research. These issues do not necessarily indicate the absence of legal protections for academic freedom, but rather reveal the gap that can exist between formal legal norms and the everyday functioning of academic institutions.

From a comparative constitutional perspective, this analysis suggests that academic freedom should be understood as a multi-layered institutional principle. Its effective protection requires the interaction of at least three interconnected elements: constitutional provisions of freedom of research and expression, institutional autonomy of universities, and a functioning research ecosystem characterized by professional academic norms, adequate funding, and transparent governance structures.

Future debates on academic freedom should therefore move beyond the question of whether academic freedom is formally recognized in constitutional or legislative texts. The more important question concerns the institutional conditions under which academic freedom becomes meaningful in practice. As higher education systems worldwide face increasing political pressures, economic constraints, and technological transformations, strengthening these institutional foundations will remain essential for safeguarding the independence and integrity of academic knowledge production.

Contribution

This article contributes to the growing scholarship on academic freedom in three ways. First, it bridges constitutional law and higher education governance by examining academic freedom not only as a legal principle but also as an institutional governance problem. Second, it develops an analytical framework that connects constitutional guarantees of academic freedom with the organizational structures that shape their implementation, including university autonomy, research governance, and doctoral

education regulation. Third, by analysing the case of Uzbekistan within the broader context of post-Soviet higher education systems, the article provides empirical insight into how centralized governance structures, publication-based evaluation systems, and resource constraints may limit the practical realization of academic freedom despite formal constitutional protections.

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