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Academic Freedom as a Complex Legal Phenomenon: International Standards, National Models, and Implementation Challenges

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Abstract
This study is motivated by the growing global threats to academic freedom, even in democratic societies. Academic freedom is a key indicator of democratic health and scientific development amid political transformations and constraints on university autonomy. Despite an extensive international legal framework, the effective implementation of academic freedom guarantees remains a challenge, underscoring the need for comprehensive analysis at both the international and national levels. This article examines contemporary scientific approaches to defining academic freedom, exploring its legal nature and role within the international human rights system. It analyzes relevant international legal instruments and their application in national contexts. It identifies key gaps, including the lack of a specialized treaty, unclear implementation mechanisms, and dependence on state political will. Practical recommendations are proposed to strengthen legal regulation and institutional safeguards for academic communities.

Keywords
Academic Freedom; University Autonomy; International Law; Human Rights; Legal Regulation; Institutional Safeguards; Liberty

INTRODUCTION

Academic freedom is a fundamental principle of higher education and democratic governance. Its current legal status, both internationally and nationally, remains fragmented and derivative, which is widely regarded as insufficient. Academic freedom enables scholars, researchers, and students to acquire knowledge, express ideas, conduct research, and disseminate results without undue interference from political authorities, ideological pressures, or institutional constraints. In this sense, it represents both a professional privilege of the academic community and a vital component of the broader human rights and democratic governance framework.

As one of the core principles of modern academic inquiry and education (Zaiets 2025), academic freedom underpins society's democratic structure. Universities that foster open thinking and dialogue help cultivate engaged citizens capable of resisting authoritarian tendencies. Attacks on academic freedom are often viewed as indicators of a weakening democracy and rising censorship. Conversely, protecting academic freedom promotes free expression throughout society and strengthens the broader culture of human rights (Kostruba 2019).

However, in recent decades, academic freedom has faced increasing global challenges. Even in democratic states, universities operate in environments shaped by political polarization, governmental influence on higher education policy, restrictions on institutional autonomy, and pressures related to national security, economic interests, or ideological conflicts. Researchers and instructors often avoid topics perceived as controversial, leading to self-censorship, limitations on critical research, slower innovation, and diminished public trust in scientific findings.

Education can become a means of perpetuating established views rather than a space for fostering independent thought. When academic independence is undermined, universities are subjected to political or administrative pressures. One significant consequence of such restrictions is the brain drain of researchers and students to countries with stronger guarantees of freedom. This results in the loss of creative and engaged citizens, decreased competitiveness of universities, and the spread of disinformation and authoritarian practices in society, undermining scientific and educational development and threatening democratic processes. These trends illustrate that academic freedom is not a static legal concept but a dynamic socio-legal phenomenon reflecting the interplay of political power, legal guarantees, and the human dimension of scholarly activity.

Although international legal instruments indirectly protect academic freedom through broader human rights frameworks, such as freedom of expression, the right to education, and freedom of association, regulation remains fragmented. The absence of a comprehensive, binding international treaty specifically dedicated to academic freedom, coupled with weak enforcement mechanisms, creates significant challenges for its practical implementation. Consequently, the protection of academic freedom often depends on national legal systems, political conditions, and the institutional culture of universities.

In this context, a thorough conceptual and legal analysis of academic freedom is particularly relevant. This study aims to assess the current legal status of academic freedom under domestic and international law and identify the normative and structural shortcomings that impede its full protection. Specifically, the study seeks to: summarize the perspectives of contemporary Ukrainian and international researchers on the nature, challenges, and opportunities for safeguarding academic freedom under international law; examine international legal actions that restrict academic freedom and evaluate their substance and legal relevance; identify the primary limitations of international legal oversight in this area; reinforce the necessity of national legislation and the role of states in protecting academic freedom; and propose practical recommendations for enhancing both national and international mechanisms for its preservation. Particular attention is given to the relationship between academic freedom, university autonomy, and the broader international human rights framework.

The article is structured as follows. First, it analyzes the theoretical and conceptual foundations of academic freedom. Next, it examines the international legal framework governing academic freedom. It then identifies the main gaps and challenges in implementing academic freedom guarantees. Finally, the article offers recommendations for strengthening legal and institutional mechanisms to protect academic freedom at both international and national levels.

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LITERATURE REVIEW

Studies show that academic freedom has a direct positive impact on scientific and technological progress. As Audretsch et al. (2024) note, higher levels of academic freedom correlate with increased inventions and patents, highlighting its importance for the innovative development of society. Academic freedom can thus be seen as an institutional facilitator of innovation, creating an environment in which scientists can experiment with new ideas, formulate alternative hypotheses, and critique established approaches without fear of political or administrative persecution. This intellectual autonomy fosters breakthrough research and technological advancements with long-term socio-economic benefits.

International legal instruments recognize academic freedom as a fundamental component of the human right to education and scientific endeavor. As UN Special Rapporteur Shaheed emphasizes in her 2024 report, academic freedom enables individuals to be creative, develop critical thinking, "think outside the box," and exercise their right to seek and share knowledge for the benefit of society (United Nations 2024). Therefore, academic freedom should be understood not only as an intrinsic value but also as an indispensable condition for societal progress and democracy. From an international law perspective, academic freedom is part of a broader set of cultural and educational human rights, closely linked to freedom of expression, scientific creativity, and the right to education. This perspective recognizes that universities play a critical role in shaping democratic discourse and fostering critical thinking in society.

The Academic Freedom Index 2022 highlights concerning global trends. Scholars report two key findings regarding 177 countries: (1) a substantial and statistically significant decline in academic freedom in 19 countries, with improvements in only two compared to 2011; (2) this decline coincides with an accelerating wave of autocratization (Kinzelbach et al. 2022). These results indicate a global trend toward the narrowing of academic freedom, occurring not only in authoritarian or hybrid regimes but also in states with established democratic institutions. Such trends demonstrate that threats to academic freedom may arise both from state authorities and internal university governance.

Encroachments on academic freedom are evident across countries with varying levels of democratic development. For instance, public and legal debates arose over allegations that the University of New Mexico discriminated against a female student because of her political views (Thomas 2017). These cases illustrate that conflicts surrounding academic freedom often emerge where academic standards, political beliefs, and institutional policies intersect, underscoring its complex and multidimensional nature.

In late November 2018, the American Association of University Professors (AAUP) identified clear deviations from accepted standards of shared governance at Vermont Law School, a private institution in South Royalton, Vermont, USA. The AAUP report noted that the school's administration and board had "restructured" the faculty by cutting salaries and reducing the number of full-time positions without faculty involvement in decision-making (AAUP National 2018). This case illustrates the close connection between academic freedom and the principle of university self-governance. When faculty lack meaningful participation in strategic decisions, institutional guarantees of academic freedom can be weakened, as collegial governance is traditionally considered a key mechanism for protecting it.

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The situation in the United Kingdom remains ambiguous. Karran et al. (2021) found that while the de jure protection of academic freedom in UK universities is lower than in EU states, empirical evidence shows that staff in the UK are more likely than their EU counterparts to report declines in de facto freedoms related to teaching, research, autonomy, tenure, and governance. Even when regulations nominally protect academic freedom, university working conditions can impose restrictions on research and teaching autonomy.

Across the European Higher Education Area, universities themselves have, in some cases, become "direct violators of academic freedom" (Beiter et al. 2021). This conclusion is based on a comprehensive analysis of constitutional provisions, higher education laws, and other relevant regulations in EU member states. Scholars used a standardized scorecard based on UNESCO's Recommendation on the Status of Higher Education Teaching Personnel to assess protection levels (Beiter et al. 2021). However, contemporary management trends, including the commercialization of education, increased administrative control, and stronger managerial governance models, can alter internal institutional dynamics and create new risks to academic autonomy.

The Free to Think 2025 report recorded 395 incidents targeting scholars, students, and institutions across 49 countries and territories between 1 July 2024 and 30 June 2025 (Laifer 2025). These data underscore the global relevance of academic freedom. Cases involving the persecution of scholars, restrictions on research, and interference with university operations highlight the urgent need to strengthen both international and national mechanisms to protect academic freedom.

Despite numerous studies, contemporary scholarship on academic freedom remains somewhat fragmented. Most research either empirically measures levels of academic freedom or analyzes its legal codification in international and national norms. Less attention has been paid to understanding academic freedom as an integrated phenomenon that combines political, legal, and humanistic dimensions. Furthermore, the interaction between international standards, national legal frameworks, and institutional practices is insufficiently addressed. This gap calls for a more integrated analysis of academic freedom that considers its political, legal, and human aspects. In this context, the present study aims to provide a comprehensive examination of academic freedom through the interplay of politics, law, and the human dimension, while identifying key challenges and prospects for improving mechanisms that protect it in the contemporary global environment.

METHODOLOGY

The methodological basis of this study combines general scientific and specialized legal methods to provide a comprehensive, systematic, and critical examination of academic freedom in international law.

First, the formal-legal method was employed, following established approaches to legal interpretation that emphasize systematic and teleological analysis of normative texts (McDougal and Lasswell 1967; Peters and Schwenke 2002). This method enabled an in-depth examination of international legal instruments regulating academic freedom, including the 1948 Universal Declaration of Human Rights, the 1966 International Covenant on Civil and Political Rights, the 1966 International Covenant on Economic, Social and Cultural Rights, UNESCO

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recommendations, and regional declarations and charters. Analysis involved interpreting their provisions and comparing norms that directly or indirectly guarantee academic freedom, thereby clarifying its legal nature and its place within the broader system of international human rights law.

The historical-legal approach was used to situate academic freedom within its historical context and to trace the evolution of international legal approaches. This method, grounded in the tradition of contextual interpretation in international law, emphasizes understanding normative development within its socio-political environment (Koskenniemi 2009). It enabled the identification of the shift from declarative formulations to attempts at institutional operationalization and allowed for a retrospective analysis of the formation of modern initiatives. This approach highlighted the gradual transition from the declarative proclamation of scientific freedom to the specification of its legal content and the creation of relevant protective mechanisms.

The system-structural method was applied to achieve a comprehensive understanding of academic freedom as a multi-level phenomenon. The study considered academic freedom at the individual level (the rights of teachers and students), at the collective level (university autonomy), and as a component of the international legal order. This method facilitated analysis of the interrelationships among international legal norms and identification of gaps and contradictions. The system-structural perspective aligns with structural-functional analysis in legal theory, viewing legal institutions as interdependent elements within a normative order (Lytvyn et al. 2022). It thus allowed academic freedom to be examined simultaneously as an individual right, an institutional guarantee, and a part of the international legal system.

The comparative approach, drawing on methodologies from comparative constitutional law, emphasized contextual and functional analysis (Zweigert and Kötz 1998; Tushnet 2018). It was employed to compare the legal approaches of various international institutions and regions, identifying structural similarities and differences in constitutional protections of academic freedom. This approach also enabled tracing trends toward the concretization of academic freedom in specific legal systems, such as its codification in the Charter of Fundamental Rights of the European Union.

Finally, the method of analysis and synthesis was applied to systematize scientific sources and contemporary research. Scientific articles by Ukrainian and international scholars were reviewed to identify leading approaches to understanding academic freedom, its current threats, and protective mechanisms. The synthesis of these findings facilitated the formulation of generalized conclusions and arguments to substantiate the study's main thesis. Overall, the methodology provides a multi-faceted, systematic, and critical framework for studying academic freedom in international law, integrating legal, historical, comparative, and analytical perspectives.

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RESULTS

International Legal and Conceptual Approaches to Academic Freedom

The normative standing and degree of protection of academic freedom are strongly influenced by the ongoing conceptual uncertainty surrounding its definition, which remains a subject of debate in legal scholarship (Fish 2014). Recognition of academic freedom as an independent legal right in both national and international law depends largely on how it is construed (Semenets-Orlova et al. 2022). The Humboldtian paradigm, which formalized the concepts of freedom of teaching and learning, laid the foundation for the modern notion of academic freedom in nineteenth-century Europe (Darian-Smith 2025). These ideas later informed regulatory frameworks and contemporary international standards.

According to paragraph 26 of the UNESCO Recommendation concerning the Status of Higher-Education Teaching Personnel, academic freedom encompasses a set of interrelated rights that provide intellectual independence in the academic environment (UNESCO 1997). As Yermachenko et al. (2023) note, it includes freedom of teaching and learning, research and publication, expression of opinions, participation in debates, and elements of self-governance. Academic freedom should be understood as responsible freedom grounded in professional standards and accountability to the academic community rather than as unrestrained liberty (Börzel and Spannagel 2025). It functions both as a guarantee of independence and as a mechanism for safeguarding the quality of knowledge and public trust in science (United Nations 2024).

While closely related to freedom of expression, scientific integrity, and institutional autonomy, academic freedom cannot be reduced to any of these concepts. It evolved alongside constitutional traditions of free speech but also acquired distinct institutional and professional characteristics. Academic freedom presupposes institutional conditions that allow autonomous inquiry while ensuring that research, teaching, and publication are conducted responsibly within academic obligations (Kalina et al. 2022). These conditions are supported by university autonomy but cannot replace individual academic rights; a stable system depends on the interaction of both.

The American Association of University Professors' traditional definition (AAUP 1940) emphasizes the freedom of academics and researchers to conduct research, teach, publish, and participate in institutional governance without external interference. Similarly, the Rome Communiqué of the European Higher Education Area (2020) underscores engagement with society beyond the campus and provides comparable safeguards for students. The UN Special Rapporteur on Cultural Rights also stresses that academic freedom encompasses participation in public discourse and applies equally to educators, researchers, and students (United Nations 2024). While the scope of these formulations differs, they share two core elements: independence in academic duties and freedom from interference.

There are two primary ways to interpret academic freedom. A narrow interpretation focuses on the professional autonomy of researchers and instructors (Stone 2015; Slowey and Taylor 2024). A broader view situates academic freedom within the human rights framework and considers institutional autonomy (Pil et al. 2023). Contemporary approaches combine these perspectives, recognizing both institutional and human dimensions. Accordingly, academic

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freedom can be defined as a legally protected and institutionally supported status that allows teachers, researchers, and students to acquire, create, and disseminate knowledge through research, teaching, learning, publication, and public debate without undue interference or censorship.

From a conceptual perspective, academic freedom is a legal right that is both independent and institutionally grounded. For analytical clarity, it should be distinguished from related concepts. University autonomy, for example, refers to the institutional independence of higher education institutions in governance and decision-making and serves as a structural guarantee of academic freedom. However, it is conceptually distinct from academic freedom. Similarly, freedom of expression is a universal constitutional right, while academic freedom is a specific legal concept tied to the performance of academic functions and duties. Blurring these distinctions can weaken the legal protection of each.

At the international level, academic freedom is not fully codified or enforced through any global convention (Nowak 1995). Traditionally, states retained primary responsibility for educational matters, and soft law instruments served as the primary tools for developing international standards. Key documents include the World Declaration on Higher Education (1998), the Declaration on Human Rights Education and Training (2011), the UNESCO Recommendation concerning the Status of Higher-Education Teaching Personnel (1997), and related United Nations treaties. These instruments outline standards such as the freedom to conduct research, publish findings, express professional opinions, and participate in academic organizations.

Indirect protection is also provided through legally binding human rights treaties. Article 15(3) of the International Covenant on Economic, Social, and Cultural Rights obliges states to ensure the freedom necessary for scientific inquiry and artistic endeavor (United Nations 1966b). Article 19 of the International Covenant on Civil and Political Rights guarantees the right to seek, receive, and disseminate information (United Nations 1966a). International bodies interpret these provisions as encompassing academic activities, thereby providing indirect protection for academic freedom (UN Economic and Social Council 1999; Darian-Smith 2025).

Regional systems further develop these standards. Article 13 of the Charter of Fundamental Rights of the European Union (2000) recognizes academic freedom as a universal right and a public good. The Bonn Declaration on Freedom of Scientific Research (2020) reinforces this, emphasizing that academic freedom is both a fundamental right and a public good. The European Court of Human Rights has addressed academic freedom indirectly through freedom of expression, highlighting the special role of universities and applying proportionality analysis in cases such as *Sorguç v. Turkey* and *Kula v. Turkey*. However, the Court has not recognized academic freedom as an independent right, underscoring its derivative nature within the European Convention framework.

Other regional initiatives strengthen the normative articulation of academic freedom. The 2021 Inter-American Principles on Academic Freedom and University Autonomy impose clear obligations on governments and articulate both individual and institutional dimensions within the Inter-American system (Inter-American Commission on Human Rights 2021). In Africa, the Kampala and Dar es Salaam Declarations (1990) affirm academic freedom as essential for advancing democracy. These regional efforts reflect a growing attempt to formalize academic independence normatively.

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Despite the expansion of international and regional standards, these instruments primarily provide conceptual frameworks rather than enforcement mechanisms. In practice, academic freedom is largely ensured through national constitutional and legislative frameworks. Since no international treaty specifically codifies academic freedom, it is often protected indirectly through general rights, such as the right to education or freedom of expression. Consequently, academic freedom may be formally recognized but remain structurally vulnerable, with its effective protection heavily dependent on national legal systems and standards of judicial review.

Case Law and Constitutional Issues in Academic Freedom

The selection of the United States, Germany, Spain, and Ukraine is not intended to provide an exhaustive comparative analysis. Rather, these jurisdictions serve as illustrative examples of different constitutional frameworks governing academic freedom: (1) a model where academic freedom evolved primarily through judicial interpretation of the First Amendment, without explicit constitutional recognition as a separate right (United States); (2) a system with a clear constitutional guarantee that includes loyalty clauses (Germany); (3) a framework combining free speech, university autonomy, and emergency restrictions (Spain); and (4) a post-Soviet constitutional system operating in a war-torn context (Ukraine). These examples demonstrate how constitutional design and political context shape the scope and limitations of academic freedom.

Many constitutions contain explicit or implicit protections related to academic freedom, yet comparative research shows that such protections are far from universal (Spannagel 2024). In the United States, academic freedom developed primarily through judicial interpretation of the First Amendment, which provides that "Congress shall make no law abridging the freedom of speech." Although the US Constitution does not explicitly mention academic freedom, the Supreme Court gradually recognized it through landmark cases (Lewis 2022).

The courts largely shaped the US concept of academic freedom. In *Sweezy v. New Hampshire* (US Supreme Court 1957), the Court addressed a state attorney general's attempt to interrogate a university professor regarding his lectures and political affiliations. The Court concluded that such interference seriously threatened the university's essential freedoms, including the right to determine who may teach, what may be taught, how instruction is conducted, and who may study. While the Court did not explicitly recognize academic freedom as an independent constitutional right, this ruling established the unique constitutional position of academic research. Subsequent rulings reinforced this approach. In *Keyishian v. Board of Regents*, the Supreme Court declared that academic freedom is a "special concern of the First Amendment," invalidating the requirement that university teachers take a loyalty pledge. These cases illustrate that in the United States, the protection of academic freedom relies more on judicial interpretation of broad free speech principles than on explicit constitutional provisions.

In contrast, academic freedom is codified differently in other jurisdictions. For example, Article 5(3) of Germany's Basic Law guarantees that instruction, research, and the arts and sciences are free. However, this independence is coupled with a duty to uphold the constitution (German Bundestag 1949). The German constitutional model thus combines explicit protection

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of academic freedom with loyalty requirements, demonstrating that safeguards for democratic governance can coexist with institutional autonomy and individual rights.

The Federal Constitutional Court of Germany (Bundesverfassungsgericht) has played a central role in interpreting the constitutional right to academic freedom. In its 24 April 1996 ruling (1 BvR 712/86), concerning a university professor's disciplinary accountability for remarks made in an academic setting, the Court highlighted the scope and importance of academic freedom (Federal Constitutional Court 1996). It emphasized that conducting research and teaching, as well as publicly communicating scholarly ideas arising from academic work, are protected under Article 5(3) of the Basic Law. The Court stressed that the ability to express controversial or critical viewpoints is essential for scientific progress, and state authorities must exercise particular caution when evaluating statements made during academic discussions. At the same time, the Court clarified that academic freedom does not exempt scholars from all legal obligations; state intervention may be warranted when academic remarks exceed the bounds of scholarly discourse and infringe upon the rights of others or violate general laws.

Another landmark ruling, the Juniorprofessor case of 27 July 2004 (2 BvF 2/02), addressed the institutional dimension of academic freedom (Federal Constitutional Court 2004). The case involved a federal statute that replaced the traditional Habilitation requirement for professorships with a new academic career model. Several German states challenged the law, claiming federal overreach. Although the Court ultimately overturned the statute on federalism grounds, it reaffirmed key principles regarding academic freedom under Article 5(3) of the Basic Law. The Court emphasized that academic freedom encompasses both the institutional structures governing research and instruction and the individual rights of scholars. Consequently, academic freedom can be shaped by regulations governing appointments, academic careers, and university administration. These rulings illustrate how Germany's constitutional framework protects both individual intellectual endeavor and the systemic conditions of academic labor.

In Spain, the 1978 Constitution guarantees freedom of expression (Art. 20), academic freedom (Art. 20(c)), freedom of teaching (Art. 27(1)), and university autonomy (Art. 27(10)), while permitting limitations only to protect the rights of others or the interests of the State—such as honour, privacy, reputation, and the protection of minors—through legally established procedures (Art. 20(4–5)) (Cortes Generales 1978). Spanish constitutional jurisprudence has primarily addressed academic freedom through interpretations of freedom of expression and university autonomy. In the Constitutional Court ruling STC 146/1987, the Court underscored that academic freedom protects university teachers' ability to formulate and express scholarly opinions without undue interference from public authorities (Spanish Constitutional Court 1987). The Court emphasized that universities must remain spaces of intellectual diversity where competing scientific viewpoints can be expressed. At the same time, Spanish law recognizes that academic freedom may be restricted when it conflicts with other fundamental rights, such as the protection of honour, privacy, or public order. This jurisprudence demonstrates that academic freedom in Spain operates within a broader constitutional framework that balances competing rights and societal interests.

Political disputes at universities and corresponding court rulings have tested academic freedom in Spain. One prominent example involves debates over political participation and freedom of expression on college campuses during the Catalan independence movement. In

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2017, several Spanish universities issued statements affirming academic freedom and the right to political expression in the classroom amid the Catalan constitutional crisis. These controversies raised questions about whether universities can adopt political stances or whether such expressions exceed the autonomy permitted under Article 27(10) of the Spanish Constitution (Senado de España). The disputes, which resulted in litigation and administrative challenges, highlight a fundamental tension in the Spanish model. While academic freedom is constitutionally guaranteed, its practical implementation may conflict with the neutrality expected of public institutions. Courts are sometimes required to balance universities' autonomy with the constitutional obligation of public institutions to serve all citizens, regardless of political beliefs (Carranza Galaico 2024).

In Ukraine, academic freedom is protected under Articles 34 and 54 of the Constitution. Article 34 guarantees freedom of thought and speech, including the expression of personal views and beliefs. In contrast, Article 54 ensures freedom of literary, artistic, scientific, and technical creativity, alongside the protection of intellectual property and associated moral and material rights (Verkhovna Rada of Ukraine 1996). The concept of academic freedom is further elaborated in Article 1(1.3) of the Law on Higher Education, which defines it as the independence and autonomy of participants in the educational process in conducting teaching, research, and innovation. These rights are exercised in accordance with the principles of freedom of expression and creativity, dissemination of knowledge, and application of research results, while remaining subject to limitations established by law (Verkhovna Rada of Ukraine 2014).

Ukrainian legislation explicitly sets boundaries on these freedoms, including national security, public order, and health considerations (Verkhovna Rada of Ukraine 1996). These restrictions have gained particular importance in light of ongoing armed aggression against Ukraine. Since the imposition of martial law in 2022 following Russia's full-scale invasion, the practical implementation of constitutional protections for academic freedom has been significantly affected (Verkhovna Rada of Ukraine 2022). Wartime legislation has altered university governance and imposed restrictions on certain forms of international collaboration. Even when such activities remain constitutionally permissible under provisions on public order and national security, they pose complex challenges for maintaining academic autonomy while addressing pressing security concerns.

Political and security conditions significantly influence the practical scope of academic freedom. In Ukraine, public debates over university restructuring in conflict-affected areas and the suspension of cooperation with organizations linked to the aggressor state illustrate this impact. The exercise of academic freedom is inevitably constrained by martial law, and while such restrictions are justified under international law, they carry an increased risk of expansive or arbitrary interpretation. The Ukrainian case, therefore, highlights the tension between safeguarding democratic order and maintaining academic independence amid existential threats.

By contrast, New Zealand provides a constructive example of direct legal protection for academic freedom. Unlike systems that rely primarily on general constitutional guarantees, New Zealand enshrines academic freedom in specific legislation. Article 267 of the Education and Training Act (2020) explicitly recognizes the freedom of teachers and students to challenge established views, propose new ideas, and express unpopular or controversial positions. The

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legislation further defines universities as the "critic and conscience of society," emphasizing their public role in fostering democratic discourse. This approach strengthens the practical protection of academic freedom and provides a clear framework for its implementation (see Table 1).

Table 1: Constitutional Models and Limits of Academic Freedom (Source: Authors' depiction)

Jurisdiction	Constitutional Basis	Model of Protection	Explicit Grounds for Limitation	Structural Implications for Academic Freedom
USA	First Amendment (freedom of speech); no explicit reference to academic freedom.	A judicially constructed doctrine developed through Supreme Court case law.	General Limitations under the First Amendment	Academic freedom is derivative of the free speech doctrine and lacks autonomous constitutional status; its protection depends on judicial balancing tests.
Germany	Basic Law, Article 5(3): "Arts and sciences, research and teaching shall be free."	An explicit constitutional guarantee combined with a constitutional loyalty clause.	Loyalty to the constitutional order; forfeiture under Article 18 for abuses against the democratic order.	Strong textual protection coexists with structured democratic-order safeguards; academic freedom is autonomous but conditioned by constitutional identity.
Spain	Constitution, Articles 20 (freedom of expression), 27 (education and autonomy), and 55 (state of emergency).	An integrated model combining freedom of expression, academic freedom, and university autonomy.	Protection of honor, privacy, and youth; statutory limitations; suspension during a state of emergency.	Academic freedom is constitutionally recognized but vulnerable to suspension during emergencies; it illustrates the interaction between autonomy and constitutional emergency powers.
Ukraine	Constitution, Articles 34 (freedom of expression) and 54 (creativity); Law on Higher Education, Article 1(1.3).	A hybrid model: general guarantees of freedom of expression combined with statutory academic autonomy.	National security, territorial integrity, public order, health, reputation, and confidentiality; martial law regime.	Academic freedom is formally protected but highly susceptible to security-based restrictions during wartime; it demonstrates the risk of expansive interpretation under existential threats.
New Zealand	Education and Training Act 2020, Article 267: "Academic freedom and the institutional autonomy of institutions."	A direct legislative definition of academic freedom and university autonomy.	General legal restrictions; no specific constitutional "emergency" model.	A clear normative definition of academic freedom, including the university's role as the "critic and conscience of society," ensures an autonomous and operationalized legal status.

A comparative analysis demonstrates that constitutional protections alone do not determine the practical strength of academic freedom. Judicial practice can provide substantial safeguards even in the absence of explicit legislative recognition, as in the United States. In systems with specific constitutional guarantees, such as Germany, restrictions are sometimes

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imposed to ensure adherence to constitutional norms and the broader democratic order. Spain illustrates how academic freedom functions within a larger constitutional framework that balances competing rights, institutional autonomy, and freedom of expression. Ukraine shows how political conditions can shape the real-world implementation of academic freedom. Taken together, these cases highlight the interplay of judicial interpretation, political context, and legal provisions in determining the effectiveness of constitutional protections.

The effectiveness of judicial review and the constitutional recognition of academic freedom are critical factors. When academic freedom is not explicitly acknowledged as a distinct right, it often relies on broader principles, such as freedom of expression or national security. Article 10(2) of the European Convention on Human Rights allows such limitations to protect individuals and society. However, some constitutional restrictions, particularly those related to public order and national security, can be interpreted expansively, placing undue pressure on academic institutions and researchers.

Historical experience shows that academic independence has never been absolute (Byrkovych et al. 2023). Contemporary restrictions are often enforced through commercialization or regulatory frameworks, rather than by religious or governmental authority as in the past (Lynovytska 2011). This underscores the importance of clearly defining the legal status of academic freedom. State constitutions may provide rational limitations, but these should not serve as a basis for discrimination against scholars. The explicit legislative enshrinement of academic freedom establishes a firm foundation for its protection, including judicial safeguards. In its absence, protection depends on general legal principles, leaving academic freedom formally recognized yet practically vulnerable due to gaps between international standards and national implementation.

DISCUSSION

Research indicates that the primary obstacle to academic independence is not conceptual uncertainty but rather the structural characteristics of the international legal system. While academic freedom is widely recognized in international declarations, recommendations, and regional agreements, its legal status largely depends on more general human rights guarantees, such as freedom of expression, the right to education, and freedom of scientific research (Özmen 2024). The derivative nature of this right explains variations in interpretation and uneven effectiveness across legal systems.

The study also highlights a persistent gap between legal guarantees and their practical implementation. Constitutional or statutory recognition does not automatically ensure that academic freedom can be exercised in practice. In many countries, restrictions on public order, national security, or emergency powers substantially constrain academic freedoms. These examples demonstrate that the mere existence of legal guarantees is not the decisive factor; rather, the strength of institutional safeguards and the precision of legal language, which prevent excessive expansion of restrictions, are more important. This aligns with research showing that contemporary limitations on academic freedom often arise from legal frameworks that subtly narrow scholars' autonomy, rather than from explicit prohibitions.

The complexity of legal protection for academic freedom presents another significant challenge. Although regional systems offer interpretive guidance, international agreements

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generally provide only broad normative standards. The primary responsibility for implementation rests with national legal systems. This multi-level governance structure produces complex interactions between international norms and domestic constitutional traditions. On one hand, it allows countries to tailor protections to their historical and institutional contexts; on the other hand, it results in substantial variation in the level of protection afforded to academics across different jurisdictions (Koskenniemi 2005).

The absence of a comprehensive, legally binding international treaty on academic freedom reflects broader institutional and political constraints in international law. These constraints are closely linked to the political role of universities in modern states. The legal status of academic freedom is therefore not merely a matter of conceptual ambiguity in international law; it also illustrates how structural political incentives shape state behavior in higher education governance (Altbach 2001). Historically, universities have served not only as educational institutions but also as centers of intellectual critique, political debate, and elite training. Consequently, governments have often been reluctant to recognize academic freedom as a distinct, internationally guaranteed right. Experts in international law and higher education governance note that states frequently preserve regulatory flexibility in areas that influence public discourse and political legitimacy (Darian-Smith 2025).

From the perspective of political realism, states tend to adopt legal frameworks that indirectly protect academic activities through general rights, such as the right to education or freedom of expression, rather than through specialized international treaties that would impose strict limits on state authority. Karran and Mallinson (2017) observe that nations retain discretion to balance academic autonomy with competing objectives, including national security, ideological stability, and the strategic direction of research policy. Accordingly, the fragmented legal framework governing academic freedom should be understood both as a normative gap and as a product of deliberate institutional design, reflecting the continued political sensitivity of universities within national governance systems.

The findings of this study confirm that academic freedom occupies a unique position within the broader system of international human rights law. Unlike many other rights, its effective protection relies not only on individual legal remedies but also on institutional conditions that enable universities to function as independent centers of knowledge creation. Academic freedom thus extends beyond the personal autonomy of scholars; it serves as a structural guarantee that allows academic institutions to fulfill their social functions, particularly the generation of critical knowledge and participation in public debate. In today's environment of political polarization, geopolitical conflict, and the commercialization of research, academic freedom safeguards the integrity of science and the independence of academic institutions. It should be recognized as a foundational element of higher education governance and democratic systems, requiring both a clear legal status and supportive institutional conditions.

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CONCLUSION

Academic freedom remains a foundational principle for the functioning of higher education and the development of democratic societies. This analysis demonstrates that academic freedom should be understood as a multidimensional phenomenon situated at the intersection of political governance, legal regulation, and the human dimension of intellectual activity. Its protection is essential for safeguarding the independence of scientific research, fostering critical thinking, and generating knowledge that benefits society as a whole. The study confirms that international legal instruments recognize academic freedom primarily as a derivative component of broader human rights frameworks, including freedom of expression, the right to education, and cultural rights. However, current international regulation remains fragmented and largely declarative. While numerous legal instruments emphasize the importance of academic freedom, they rarely provide clear and binding mechanisms to ensure its protection. Consequently, the practical exercise of academic freedom depends largely on national legal systems and the prevailing political context.

This study highlights a significant gap between normative recognition and practical implementation. Although many states formally enshrine academic freedom in constitutional or legislative frameworks, its effective protection is often constrained by political pressures, institutional governance practices, and broader socio-political dynamics. In this context, academic freedom should be regarded as a complex institutional and cultural practice that requires ongoing support from both state institutions and academic communities.

The primary contribution of this study lies in its integrated approach, analyzing academic freedom through the combined lenses of politics, law, and the human dimension. This perspective offers a more comprehensive understanding of the factors shaping its protection and implementation. It allows for a nuanced interpretation of academic freedom as a dynamic institution influenced by legal norms, political conditions, and internal university governance.

The findings have implications for both international and national legal frameworks. At the international level, there is a clear need for a more coherent and structured system of legal guarantees. Future efforts could focus on strengthening international standards and developing legal instruments specifically dedicated to academic freedom. At the national level, states should prioritize institutional mechanisms that ensure the practical exercise of academic freedom, rather than relying solely on formal legislative recognition. Such mechanisms may include transparent governance structures, robust protection of academic autonomy, and the promotion of a culture that values intellectual independence and critical inquiry.

Beyond legal reform, academic freedom is vital as a foundation for democratic dialogue, scientific advancement, and social development. In an era marked by political polarization, technological transformation, and global crises, safeguarding academic freedom is crucial to maintaining an open intellectual environment where new ideas can flourish and societal challenges can be critically examined.

Despite the integrated approach adopted in this study, several limitations should be acknowledged. First, the research focuses primarily on the legal and conceptual dimensions of academic freedom and does not include extensive empirical analysis of its practical implementation across diverse national contexts. Therefore, conclusions are largely based on interpretations of international legal documents, academic literature, and selected illustrative

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examples. Second, the study employs a predominantly normative and analytical perspective, which may limit its capacity to capture the diversity of institutional practices in universities worldwide. Academic freedom is shaped not only by formal legal frameworks but also by institutional culture, governance models, and political environments, which can vary considerably between countries and regions. Finally, the multidimensional nature of academic freedom means that certain aspects, such as the impact of digital technologies, economic pressures on higher education, and geopolitical dynamics, cannot be explored in depth within the scope of this article.

Subsequent studies could expand on the concept of academic freedom by examining the interactions among global governance mechanisms, national legal systems, and institutional university policies. Such research could contribute to the development of more effective strategies to protect academic freedom in a complex, rapidly evolving global academic environment.

CRediT AUTHOR STATEMENT

Liliana Tymchenko: conceptualization, methodology, software, resources, supervision. **Rostyslav Shchokin:** formal analysis, validation, investigation, writing – review and editing, and funding acquisition. **Serhii Baranov:** formal analysis, data curation, writing – original draft, visualization, project administration.

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