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**University Teachers' Classroom Speeches:
How Far Can It Go? A Reflection from the
Perspective of Academic Freedom Birhanu
Beyene Birhanu***

1) Introduction

We have witnessed quite many violent incidents sparked by teacher's classroom speeches in several campuses of government universities. Students taking offenses in the speeches reacted violently and disrupted the learning-teaching process in many occasions. These incidents put university teachers in uncertainty as to their class room speeches. On the one hand, they do want to enjoy the maximum freedom to critically examine issues and express their opinion freely .On the other hand, it is so painful for them to see violence sparked by their classroom speech. Beyond, the emotional pain, they even fear that they could be subjected to any disciplinary measures or any other punishment for their speech. Therefore, it is needed to formulate, to the extent possible, which classroom speeches of university teachers are protected by their academic freedom of speech and which are not.

The issue of classroom speeches also arises in different scenario where students complain against their teachers for making speeches in the classroom not related to the course they deal with⁴¹ Most teachers out-rightly turn-down these complaints as against their academic freedom of speech while some hold these complaints as well-founded.

Therefore, in this writing, I will show where a line which delineates those speeches guaranteed by academic freedom of speech from those ones not guaranteed should be drawn. However, before embarking on that business, I will briefly explain the need for academic freedom of speech and its recognition in our laws.

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⁴¹ The writer personally knows one incident where students accused their civics teacher of going astray by raising such concepts in the classroom not falling with in the ambit of the course syllabus as "the existence of God"

2) The Need for Academic Freedom of Speech and Its Recognition in the Law

Universities are places where existing knowledge should be not only transmitted but also examined, evaluated and then expanded to ultimately find out the truth. To this end, they must be a free market place of ideas where there is active interplay of clashing views. As Justice Holmes put it, “[t]he best test of truth is the power of thought to get itself accepted in the competition of the market.”⁴² Therefore, it escapes nobody’s cognition that university teachers must have an academic freedom which, among many other things, guarantees them to freely express their views. Unsurprisingly, our laws extend recognition and protection to the academic freedoms.

Academic freedom is recognized in the *Constitution of the Federal Democratic Republic of Ethiopia*. Of course,

⁴² Craig R. Ducat, *Constitutional Interpretation* (6th ed., 1996), 922.

one may not find a provision in the constitution which literally refers to academic freedom. However, Art. 41(4) (*indirectly*)⁴³ and 90(1) of the constitution recognize the right to education and this right must be considered to include academic freedom. The first reason is that the right to education cannot be complete with out academic freedom.

The right to education is one of the rights recognized by the *International Convention on Economic, Social and Cultural Rights*.⁴⁴ This right is understood to be inclusive of academic freedom. The comment by The *United Nations Committee on Economic, Social and Cultural*

⁴³ Here note that Art.41 (1) of the Constitution states that “*the state has the obligation to allocate ever increasing resources to provide to the public health, education and other services*” The flip side of this provision is that Ethiopians can enjoy access to education by holding the government to live up to its obligation.

⁴⁴ Ethiopia has ratified this convention and thus this convention is the integral part of the Ethiopian legal system(see,Art.9(4) of the FDRE Constitution)

Rights clearly states so.⁴⁵ Therefore, we have also an extra ground to interpret the part of the constitution dealing with the right to education to include academic freedom as its provision on human rights must be interpreted in harmony with international standards.⁴⁶ In addition to the constitution, academic freedom is recognized by other legislations like *Higher Education Proclamation No. 351/2003*.

When it comes to *who* are to enjoy academic freedom and its constituent elements, it is a freedom enjoyed by learning institutions, teachers and students. It guarantees these bodies, among other things, their liberty to express their opinion freely. Therefore, it is out of question that university teachers have legally well protected academic freedom which guarantees them to express their opinion freely, without fear of repression by any body else, including the state.

⁴⁵ Committee on Economic, Social and Cultural Rights, General Comment 13 (1999)

⁴⁶ See, Art. 13 of the FDRE Constitution

In general, as universities must be a free market place of ideas and as university teachers have an academic freedom of free speech, and as classrooms are among the most important places where a university teachers shall enjoy their academic freedom of speech, I subsequently deal with university teachers' classroom speeches in light of their academic freedom of speech.

4) Classroom Speeches Not Related to the Subject

Academic freedom is a role related freedom. University teachers are guaranteed with this freedom to make them feel free in playing their role of transmitting, examining and expanding knowledge. Teachers making classroom speeches which have no relation to their subject can not claim that their speeches are protected by their academic freedom of speech. Teachers talking about the matter not related in any way to the topic assigned for class discussion are drifting away from the role they are supposed to play. In a context of classrooms, they must be considered as playing their role if and only if their

speech is limited to the subject which is assigned for them.

Classroom speeches unrelated to the subject can even be held as a violation of the academic freedom of universities and students. Universities have an institutional academic freedom to determine for themselves on academic grounds what may be taught, among other things.⁴⁷ Teachers making unrelated speech are thus undermining universities' academic freedom of determining what may be taught. One more argument can also be developed along the line universities and teachers stand in their relationship. Teachers are employees to universities to teach subjects assigned to them. They are failing to discharge their employment obligations if they engage themselves in classrooms in speeches not related to the subject they are supposed to deal with.

⁴⁷ Other academic freedoms of universities include the freedom to determine who may teach, what may be taught, how it shall be taught, and who may be admitted to study.

Teachers making unrelated speech in classrooms to their subject are giving a big blow to students' academic freedom to learn. Students make themselves available in classrooms to learn and get knowledge on the subject they are registered for, not to hear any other agenda of teachers. Therefore, university teachers making unrelated classroom speeches are violating students' right to learn by hijacking classrooms for their own personal agenda.

In general as teachers' classroom speeches not related to their subject does not have any place in their role of teaching the subject assigned to them, and as it conflicts with both universities institutional academic freedom and students right to learn, they can not invoke the protection of academic freedom to such speeches⁴⁸

⁴⁸ Some of my colleagues ask me whether I mean that a teacher should not even crack jokes to put students in a receptive mood. If the joke is too brief and have a pedagogical value of putting students in a receptive mood, we can at least say that such jokes must be prohibited if not protected by academic freedom. However, if the jokes are offensive to some students of a certain ethnic group, sex, religion, the joke cannot have a pedagogical value (as it is

5) Classroom Speeches Related to the Subject

Classrooms must be open to all sorts of speeches as long as the speeches are germane to subject matters teachers deal with. If classrooms are perceived as places where only popular ideas or ideas validated by political, social or cultural life of a society are entertained, then universities' role of critically questioning popular ideas to broaden the knowledge database and to introduce the society with new perspectives and knowledge will come to cease. And the final result will be "stagnation and death of civilization." Therefore, university teachers have an academic freedom of making any kind of speeches related to the subject matter they are handling.

Here one may wonder whether teachers have an academic freedom of making, for e.g., offensive speeches, just because the speeches are germane to the subject. Generally speaking, teachers have academic freedom in the classrooms to express any idea of

creating hostile classroom environment for those students), we may thus be held liable and can't invoke the protection of academics freedom.

whatsoever nature as long as it is in germane with the subject. There are, however, some necessary cautions they need to take. In ensuing sections, I will argue for that teachers need to be guaranteed a freedom in classrooms to make even offensive speeches and show the cautions they must take in making such speeches. In addition, I will show cautions that must be taken in making speeches on controversial issues. I am limiting my discussions to these points with a belief that the discussions on these points recap many of the issues arising in relation to classroom speeches.

5.1) Offensive Speeches

It may be argued that teachers must not make offensive speeches (based on ethnical origin, sex, physical appearance, etc) in classrooms as it may harass students belonging to the class the offensive speech is directed at. And exposing students to hostile educational environment by itself amounts to denial of equal educational opportunities. However, this argument is not

sound when examined in light of the unique nature of class rooms.

Classrooms are unique in that they provide a space in which marginalized and silenced voices can respond and be heard and thus critical analysis of offensive expressions are made possible. It may not be reasonable to allow offensive speeches in the *streets or supermarkets since in such places the environment does not allow the targets of the speech to respond and be heard, but very reasonable to allow it in classrooms. Even it may be good to encourage a voicing of hostilities in classrooms to have the voice of class members against whom the speech is directed heard and to make speakers reflect and become critical about their expression. Therefore, university teachers have an academic freedom to make offensive speeches in classrooms as long as it is in germane to their subject. The most important caution the teacher must take here is that they must allow students to not only freely react to the matter, but also they must present their speech in a way suitable for scientific investigation. If a teacher of, for

e.g., '*comedy writing*', say in the class that "women can never be funny" and he refrains from giving his reasons how he arrives at the conclusion, he cannot claim the protection of academic freedom. He is not helping the search for truth (academic freedom is there to facilitate the search for truth). He is simply making the classroom environment hostile for female students. He has to show in his speech his premise, his analysis, his sources etc. Thus, students offended by the assertion can point out what leads to the wrong conclusion.

Once, an American professor of *Tort Law* made an expression in a classroom that "Marxism, feminism, homosexual and blacks contribute nothing to tort law" Defending himself he said that he made the assertion based on a science called *Critical Race Theory*. The position held by many members of the community of academics on this issue is that the professor has an academic freedom to make such a speech though it could be offensive to black, homosexual, feminist and

Marxist students.⁴⁹ Here one may wonder what arguments could be invoked in favor of such a position. Primarily, universities are places where unpopular ideas must be tolerated than any other places. There offensive speeches must be confronted by rebuttal, not by suppression. In universities, one important matter that must be developed is academic civility and one of the behaviors academic civility admonishes is intolerance. Therefore, offensive speeches must be dealt with tolerance by invoking refuting arguments, not by censoring them. Censoring offensive speeches simply fosters intolerance.

The other argument is that prohibiting offensive speeches is trying to address the symptom but not the

⁴⁹ Donna R. Euben, *Academic Freedom of Professors and Institutions* (2002), available at <http://www.aaup.org/AAUP/protect/legal/topics/AF-profs-inst.htm> visited 15 January 2009

real problem. Expressions of offensive speeches in classrooms encourage critical analysis of them and that speakers may finally find themselves unreasonable to use such expressions any more. Prohibiting them is, however, simply restraining speakers from doing what they think right without showing them what they think right is really wrong. One more argument that could be raised for allowing offensive speeches in classrooms is that targets of offensive speeches must be presumed as critical persons. If they are allowed to respond and be heard, they will be able to show how the speech has root in ignorance or prejudice. The discovery of this fact that the expression has root in ignorance makes them less vulnerable to be offended by the expression than they could be otherwise.

In general university teachers must be considered as having academic freedom of making offensive speech in germane to their subject. Holding otherwise goes against the ultimate goals of universities to find out the truth. However, teachers must give targets of the offensive speech a chance to respond and be heard. Also, they

must present the speech in a way appropriate for scientific critical analysis. Teachers making offensive speeches in dogmatic manner (not in a proper way for critical analysis) can not expect academic civility of tolerance. They may be held liable for making classrooms hostile and thus denying equal opportunity of education to targets of the speech.

5.2) Speeches on Controversial Issues

One of the main tasks of universities is to introduce the society with a new knowledge to help it tackle its social, political and economical problems. This task of universities is clearly indicative of the fact that university teachers must be guaranteed to deal with controversial issues. It may not be that much a point of controversy that university teachers are guaranteed with academic freedom which warrants them to express their opinion in classroom over controversial matters in relation to their subject, but it is not without controversy the way they should handle controversial matters. The next discussions are devoted to address the latter issue.

a) Education versus Indoctrination

Knowledge must be open to challenge. The knowledge base can be expanded if individuals feel free to express their challenge. Unsurprisingly, academic freedom is there, among other things, to encourage academicians to freely express a view over the existing knowledge, however dissenting. University teachers who show in classrooms only one line of argument either against or for a controversial matter are, therefore, setting aside these underlying principles of academic freedom.

Students have an academic freedom to learn. University teachers who speak only one side of a story in classrooms are denying students their right to know about the other side of the story. They are, therefore, not educating rather indoctrinating students. To educate their students, university teachers must balance their speech on controversial matters by raising and discussing different opinions. Teachers whose subject requires them to talk, for example, about globalization must not raise arguments that show only the good or bad side of these matters. They must balance their speech by raising all

possible arguments that can be invoked against or for this issue.

The very purpose of universities is making students ready for challenges of the real world by exposing them to different ideas, by making them think critically and by putting them in a position to choose the side they think right by themselves. University teachers³ who offer unbalanced speeches over controversial matter are simply indoctrinating their students to take their stand and denying student the right to exercise their free thinking to or not to endorse an idea as a right one on their own.. Therefore it is reasonable to conclude that university teachers' academic freedom guaranteeing them to speak on controversial matter comes together with an obligation of maintaining the balance of their speech by airing opposing ideas.

Here it must be noted that the above conclusion is premised on the general principle that knowledge is open for challenge. Besides, it is based on the important belief upheld by many philosophers and justices at a high

position for many centuries that silencing opposing views, considering them as false, being intolerant and holding views of certitude to our own idea_ lead to the failure of democracies and the shift to authoritarianism. However, it does not mean that all knowledge is open for challenges and no settled issue. To hold a position that all knowledge is subject to challenges under any circumstance amounts to reducing knowledge to mere opinion. Therefore university teachers, with a view to maintain balance, must not waste time over the search of frivolous opposing idea with regard to an issue which is widely considered as settled by academics.

In general, university teachers must not use their position to exploit students' unawareness to the existence of different or opposing views. Keeping students in the dark about opposing views amount to indoctrination of students with their belief. Equally teachers must not introduce every trivial opposing idea to every issue in the name of balance as students must first grasp the general framework. Therefore, university teachers must consider the sophistication of students in balancing their speech

both to avoid an accusation of indoctrinating students with their belief and to avoid confusion on the part of students(by reducing knowledge to an opinion) as they must first be equipped with the necessary framework of knowledge. Don't forget that universities have the goal to produce a productive individuals who can contribute something to society, not confused individuals who are over skeptical on everything.

6) Conclusions

Universities are places where knowledge is not only transmitted but also examined and expanded to ultimately find out the truth. Truth can be found out if a free market place of ideas is created in universities. As classrooms are one of important places of universities where academics are engaged to find out the truth, they must be free from any pall preventing free flow of ideas. One important device to ensure a classroom of such environment is to guarantee teachers that they will not be held liable for statements they make in playing their role of teaching. That is the reason why teachers are

guaranteed with academic freedom which, among other things, warrants free speech in classrooms.

However, as teachers' classroom speeches not related to their subject does not have any place in their role of teaching the subject assigned to them, and as it conflicts with either universities institutional academic freedom or students right to learn or their employment obligation, they cannot invoke the protection of academic freedom to such speeches.

When it comes to teachers' classroom speeches related to their subject, they are free to make any kind of speeches including such speeches as offensive ones. But teachers making such speeches must take necessary cautions. They must give targets of the offensive speech a chance to respond and be heard and must present their speech in a way subject to scientific critical analysis. Offensive speech not well handled has the risk of making classrooms hostile and thus denying equal opportunity of education to targets of the speech.

In making speeches on controversial matters, since the very purpose of universities is to make students ready for challenges of the real world by exposing them to different ideas, by making them think critically and by putting them in a position to choose the side they think right by themselves, university teachers who offer unbalanced speeches over controversial matter are simply indoctrinating their students to take their stand and denying students the right to exercise their free thinking. Thus, university teachers must try to balance their classroom speeches, to the extent possible and reasonable, considering the sophistication of their students.