

The Stellenbosch University Senate ought to remain neutral on the Israel-Palestine war in Gaza - A response to Mahomed and Hendricks

In a recent article in the South African Journal of Bioethics and Law, Mahomed and Hendricks convey their disappointment in the Stellenbosch University Senate (henceforth Senate) for failing to pass a resolution on the Israel-Palestine war in Gaza.^[1] I will argue that their position, although well-intentioned, is misguided and undermines the Senate as an independent body of Stellenbosch University (SU). By evaluating each of the three arguments made by Mahomed and Hendricks, I will demonstrate that their position is fundamentally antithetical to the appropriate functioning of the Senate.

From the outset, I wish to make it clear that I strongly support the academic freedom of individual academics, students, activists, private organisations and student bodies to adopt positions on current affairs. Moreover, if these individuals/groups wish to demonstrate their disapproval of an ongoing situation through open debate, free inquiry, peaceful public demonstration or boycotts, I would support their right to do so. These activities are partly what universities exist to protect. However, it is precisely because I am a proponent of these civil liberties that I am concerned with the argument made by Mahomed and Hendricks.

I will also be more charitable to Mahomed and Hendricks than they are to those who do not hold their view. Their assertion that 'Silence in the face of conflict amounts to a tacit endorsement of the status quo and can contribute to the perpetuation of injustice,' suffers under scrutiny.^[1] First, it excludes the possibility that individuals may condemn the conflict, but possess compelling reasons why it is not the role of the Senate or university bodies to do so. I will outline some of these reasons in this article. Second, it infers motive into the action of others, which cannot reasonably or reliably be known by the authors. Lastly, it asserts a view that those who do not feel the Senate ought to take a position on the Israel-Palestine war are contributing to injustice. This is not necessarily the case. Ironically, I will demonstrate that Mahomed and Hendricks overlook their own potential injustice to members of SU through their desire for an inappropriate overreach of the powers conferred to the Senate.

I will also not challenge any factual claims made by Mahomed and Hendricks regarding the Israel-Palestine war. The rightness/wrongness of the conflict as it pertains to the facts is not the issue in question. The facts about the war outlined by the authors could be entirely accurate or entirely false and it would have no bearing on whether it is the function of the Senate to adopt a stance on the conflict. The question at hand is whether it is the appropriate function of the Senate to pass a resolution on the Israel-Palestine war (or any other questions of socio-political interest for that matter). Since that it is the argument made by the authors, that is the argument I will address.

Addressing the arguments made by Mahomed and Hendricks

Argument 1: The responsibility of academics to shape public discourse

This overarching statement by Mahomed and Hendricks is a relatively uncontroversial one. Few people, both in public and private life, would argue against academics weighing in on the currents of public discourse. It is true that academics providing information to the public on politics/current affairs is useful. Furthermore, I do believe that individual academics have a duty to engage their critical thinking faculties to shape public discourse where the need arises. However, where this line of thinking becomes untenable on the part of the authors is in their subtle shift from the aforementioned argument to an argument that it is the function of the Senate to do so. By conflating individual academics with the Senate, Mahomed and Hendricks amalgamate two entities with vastly different powers and functions in the university setting. It does not follow that if we accept academics have a duty to shape public discourse, that we must accept the Senate has the same duty as well. The hidden premise needed to sustain such an assertion would be the claim that the duty to shape public discourse falls within the scope of both these entities.

Argument 2: Implications of a vote against the resolution

Mahomed and Hendricks next argue that the position of neutrality from the Senate will 'inadvertently suppress important dialogues and critical debates...'^[1] Not only is it unclear how the Senate's neutrality on the Israel-Palestine war will stifle academic freedom at SU, but it is in fact the opposite of the truth. It is precisely when university bodies with specific functions (such as the Senate) adopt public stances on fraught socio-political issues that there is risk to free inquiry. Academics and students within the university will inevitably self-censor their work on a particular issue if they feel that the university publicly holds a different position. Faculty members, administrative staff and students will not take the risk of thinking for themselves or expressing their opinion when doing so runs against the explicit position of the Senate (the same Senate that is responsible for deliberating how degrees are conferred and students assessed). By maintaining neutrality on the issue, the Senate leaves room for the debate to occur in the appropriate forum and does not run the risk of poisoning the well of public debate at SU. Moreover, by not taking an explicit position, the Senate ensures that no person who wishes to contribute to the debate will have to grapple with the burden of institutional overreach or the repercussions thereof.

Mahomed and Hendricks write that 'among the students and staff, there is a palpable sense of disappointment and disillusionment...'^[1]

Naturally, this applies to only *some* students and staff, not the university community as a whole. Moreover, even if this were the shared sentiment of the university as a whole, it would say nothing of the merits of the argument or whether it is appropriate for the Senate to adopt a position on the war. The authors also argue that the Senate's decision runs the risk of, 'alienating academic and research partners worldwide who prioritise institutions aligned with their ethical and humanitarian values'.^[1] Setting aside the obvious false dichotomy in that statement, even if the assertion were true, it would only be applicable to those partners with particular beliefs and values on the matter. SU would then have to evaluate whether they agreed with those particular beliefs and values. It could also just as plausibly be said that those international partners of SU who prioritise the cause of academic freedom and abhorred institutional overreach would be attracted to the Senate's decision.

The importance of institutional neutrality as a necessary condition for academic freedom at universities cannot be overstated. I will refer to arguments made by other leading international universities that provide important reasons for adopting institutional neutrality on socio-political affairs. For example, Harvard University recently announced that the university and its leadership structures would refrain from adopting positions on controversial socio-political issues such as the Israel-Palestine war.^[2] The Institutional Voice Working Group that drafted the Harvard report,^[3] with input from over 1 000 Harvard faculty members, cited three compelling reasons in favour of institutional neutrality:

1. Institutional credibility is undermined when the university issues public statements on matters outside its area of institutional expertise.^[3] Individual members of the university community, with domain-specific knowledge, are welcome to engage publicly on socio-political matters. However, university leaders are hired based on their ability to run a university, not their political views.^[3] As such, when speaking or adopting positions in an official capacity, they should practice self-restraint and limit their activities to matters within their institutional realm of expertise and mandate.
2. If a university develops a precedent of issuing official statements on matters beyond its well-defined core functions, inevitable pressure will arise for the university to issue statements on nearly all current affairs issues.^[3] This will distract time and energy from the university's core purpose. The university, '...is not a government, tasked with engaging the full range of foreign and domestic policy issues...'^[3]
3. As stated earlier, once the university adopts official positions on socio-political issues, it will be construed that the university (as an official institution), endorses a perspective on a particular issue and alienates its members who may have differing viewpoints.^[3]

Argument 3: A Senate that leads the fight for social justice is needed

This final portion of the article by Mahomed and Hendricks provides us with a revealing line of argumentation. They argue that the Senate ought to lead the fight for social justice. I argue that this represents the fundamental confusion on the part of Mahomed and Hendricks on what the function of the Senate is. According to the Senate

website (correct as of 05 June 2024), the function of the Senate is, 'contained in the Statute of the University of Stellenbosch'.^[4] I will therefore refer to this document as a guide to the appropriate functions of the Senate.

According to section 19 of the Statute of the University of Stellenbosch, the Senate is '... responsible, and accountable to the Council, for the academic and research functions of the University. The Senate regulates learning, teaching, research and academic support functions at the University, and makes recommendations to the Council in respect of policies concerning academic matters'.^[5]

Section 19 of the Statute then proceeds to list particular examples of Senate functions, such as determining the conditions for obtaining qualifications and setting the rules for examinations.^[5] No injunction requires the Senate to take a stance on political issues or current affairs. As such, if one were to take the governing document of the Senate as it is stipulated, there exists no explicit instruction to the Senate to perform this function. In fact, to perform activities outside of the mandate of the Senate might reasonably be construed as the Senate adopting powers and privileges it has no authority to wield. Hence, Mahomed and Hendricks' assertion that the Senate ought to lead the fight for social justice is either confused or shows a wanton disregard for the appropriate function of university bodies.

If one were to be more charitable to Mahomed and Hendricks, we could posit that they believe the Senate's engagement on the Israel-Palestine war protects academic freedom at SU. I do believe that where socio-political issues infringe on the ability of SU to preserve academic freedom for its members, it is the responsibility of the Senate to address these issues. However, it is not clear that the Senate's position on the Israel-Palestine war *does* affect academic freedom at SU. It is entirely possible (and probable) that the Senate could maintain academic freedom for its own members without engaging in the complex geopolitics of the Israel-Palestine war. If Mahomed and Hendricks wish to make this argument, they have to demonstrate the causal link between the Israel-Palestine conflict and the academic freedom of SU members being undermined. There is little evidence that this is the case at SU. Moreover, evidence is abundant to the contrary. First, SU is situated in a country (South Africa) that has led the legal challenge at the International Court of Justice against Israel. There are a significant number of people within the country who have openly expressed support for Palestine. Thousands of people recently led a march through Cape Town, organised by the Muslim Judicial Council and the Al-Quds Foundation.^[6] This march was supported by several political parties, including the ANC, GOOD, PAC and Al-Jama-ah.^[6] This is hardly a context in which diverse perspectives in the debate regarding the Israel-Palestine conflict are under threat of being undermined or stifled. Second, SU accommodates a wide range of organisations pertinent to the debate on campus such as the Palestinian Solidarity Forum. When SU members have gathered peacefully on campus to express their solidarity with the cause of the Palestinian people, the university has permitted them to do so without institutional coercion or intimidation.^[7] SU Rector Wim de Villiers released an internal memorandum to the SU community on 3 November 2023 in which he expressed support for those, '...with differing perspectives on the Israel-Palestine issue, in expressing their views peacefully and engaging in constructive discussions within the boundaries of University policies and the law'.^[8] As such, Mahomed and Hendricks have little to no evidence of academic freedom being

undermined at SU with regard to the Israel-Palestine war. This, in turn, renders even a modified form of their initial argument, invalid.

Conclusion

In conclusion, while I do support ongoing debate and action regarding the Israel-Palestine conflict, I do not believe it falls within the purview of the Stellenbosch University Senate's function to do so. The protection of institutional neutrality on socio-political issues is the best strategy to ensure that the core functions of Stellenbosch University are achieved.

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1. Mahomed H, Hendricks L. A disappointing vote by the Stellenbosch University Senate on Gaza, Palestine: A lost opportunity to show ethical and moral leadership in support of social justice *S Afr J Bioethics Law* 2024;17(2):e2231. <https://doi.org/10.7196/SAJBL.2024.v17i2.2231>
2. Haidar EH, Kettles CE. Harvard will refrain from controversial statements about public policy issues, 2024. <https://www.thecrimson.com/article/2024/5/28/harvard-institutional-neutrality-report/> (accessed 05 June 2024).
3. Institutional Voice Working Group. Report on Institutional Voice in the University. 2024. https://provost.harvard.edu/sites/hwp.harvard.edu/files/provost/files/institutional_voice_may_2024.pdf (accessed 05 June 2024).
4. Stellenbosch University. Senate. 2024. <https://www.sun.ac.za/english/management/Pages/Senate.aspx> (accessed 05 June 2024).
5. South Africa. Department of Higher Education and Training. Higher Education Act, 1997 (Act No. 101 of 1997). Institutional Statute Stellenbosch University. Government Gazette No. 42636: 40-41 https://www.google.com/search?q=sTATUTE+OF+THE+STELLENBOSCH+UNIVERSITY+SENATE&oeq=sTATUTE+OF+THE+STELLENBOSCH+UNIVERSITY+SENATE&gs_lcrp=EgZjaHJvbWUyBggAEEUYOTIHCAEQIRigATIHCAlQIRigAdlBCDg1NTlqMGo3qAlAsAlA&sourceid=chrome&ie=UTF-8#:~:text=Institutional%20Statute%20Stellenbosch,controlled%20%E2%80%BA%20SU%20Stat (accessed 05 June 2024).
6. Hirsh M, Geffen N. Thousands march in Cape Town in support of ICJ order against Israel. 2024. <https://groundup.org.za/article/thousands-march-in-cape-town-in-support-icj-order-against-israel/> (accessed 05 June 2024).
7. van Jaarsveld D. Students protest for academic boycott of Israel. 2024. <https://www.smfnews.org/students-protest-for-academic-boycott-of-israel/> (accessed 05 June 2024).
8. de Villiers W (communication@sun.ac.za). Internal memorandum: Israeli-Palestinian situation. Message from the Rector. Stellenbosch University. 03 November 2023 (internal university communication sent via email to all staff and students – available on request).