



Academic Freedom as an Institutional Right

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ABSTRACT Academic freedom seems to be under assault from all political angles. Opposed sides invoke academic freedom when it serves their purposes but ignore it when doing so serves the purposes of attacking their political enemies. Most at risk in the midst of these on-going battles is the future of the university as a space for free inquiry, debate, criticism, and the extension of human knowledge in all fields of intellectual inquiry. As a step towards safeguarding the future of the university as a space for open inquiry, the meaning and value of academic freedom needs to be clarified. While it is often (and understandably) identified with the constitutional right to free speech, it is in fact different in significant respects. Academic freedom is both a broad principle of free inquiry and argument upon which the university as an intellectual institution rests and a narrow collective agreement right. In both dimensions it is subject to limitations to which the right to free speech is not subject (curricular decisions, for example, must pass the test of relevance to the subject matter, while there are no constraints on introducing extraneous material into public political debates). Since all academics' professional lives depend upon the institutional commitment to academic freedom, those who would undermine it in favour of their political priorities contradict themselves and raise questions about their fitness for the vocation of teacher-researcher.

KEYWORDS academic freedom; free speech

The campus protests and encampments set up in the spring and early summer of 2024 in response to the Gaza war have renewed attention to the relationship between academic freedom and freedom of speech on campus. Supporters of the student encampments argue that the forcible clearing of protest camps is a clear violation of freedom of speech, but whether the clearings were also a violation of academic freedom is more difficult to decide. Defenders of the encampments argued that universities are not only institutional spaces for argumentative contestation between sharply opposed positions, they are also committed to the struggle for social justice understood broadly as opposition to manifest forms of oppression and domination. To force the removal of the camps was viewed as tantamount to suppressing the arguments the protestors

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were trying to make against the violent denial of Palestinian rights to self-determination. To their supporters, suppression of their arguments was a violation of their speech rights and their university's commitment to social justice, but whether or not that was true, it does not necessarily follow that there was any violation of academic freedom. Academic freedom is not a constitutional right, but (where it is formally recognized by collective agreements) an institutional right held by academics, but not students, whose purpose is not to protect all (legal) speech, but to ensure that the university remains a space for free inquiry, free dissemination of the results of research, rational contestation between opposed positions, in the service of better understanding of the truth in the different domains of human experience and activity. In this view the university remains committed to serving principles of social justice, but not by institutional commitment to one substantive position as opposed to another, but by cultivating the intellectual capacities required to understand the causes of social problems and resolve them through marshalling evidence in democratic debate. As Jaimie Cameron (2024) argues in relation to the legal and political questions posed by encampments in the Canadian context:

The rights of protest on university campus are precarious. In the aftermath of the 2024 encampment movement, universities must develop policies protecting freedom of assembly and freedom of collective expression in the public spaces of the university. Perhaps more to the point, student organizations and academic staff associations need to take the initiative and advocate for universities to recognize and protect peaceful assembly on campus grounds" (p. 23).

Notably, Cameron (2024) does not argue for a more expansive conception of academic freedom that would include the student right to publicly advocate in politically organized but academically relevant ways in response to global and national political problems.

While I agree that academic freedom is first and foremost an institutional right conferred by collective agreement on the teaching and research faculty of universities, I will argue that this narrow right rests on a more fundamental principle of academic freedom that could plausibly be extended to students. If my argument is correct, the right of academic freedom conferred by collective agreements presupposes a more general ethical-political principle of academic freedom that is presupposed by the university in so far as it is an institutional space for open inquiry, free dissemination of the results of research, and rational contestation between opposed positions. As students are increasingly partners in the production and dissemination of research, and as the whole point of university teaching and learning is not to prepare workers for job markets but to enable critical reflection and cogent articulation of positions relevant to the understanding of the different domains of human experience and activity, public manifestation of political argument like the encampments should be protected by this more general principle of academic freedom, even if its

extension cannot be protected by collective agreements between faculty and the administration.

The uproar over the encampments is yet another instance in which principled analysis of the nature, limits, and value of academic freedom was often lost in the smoke generated by partisan sloganeering. Too often academic freedom is weaponized by both sides locked in a tense political standoff to silence the other side. I will try to tone down the noise and offer a more dispassionate examination of academic freedom, explain why it is distinct from the constitutional right to free speech, define its limits, explain its proper value, and, on that basis, suggest that we should think of academic freedom as an institutional right with both broad and narrow applications. In broad application, academic freedom is a principle on which the university as a space for free inquiry is founded. This principle ought to protect students as well as faculty's intramural and extramural freedom to argue and criticise. In narrow application, academic freedom is a right held by teaching and research faculty conferred by collective agreements between faculty unions and the administration. Since there is neither faculty nor administrators without students and the university institution, the collective agreement right presupposes the existence of the university, and its value, I will argue, follows not from the give and take pragmatics of collective bargaining or partisan positions in the struggle for social justice, but the fundamental defining values of the university. While I will focus on the general philosophical and political issues and not the practicalities of how the broader conception of academic freedom might be protected or what role faculty unions can and should play in advancing it, I will conclude that we cannot appreciate the full value of academic freedom to the university institution unless we grasp clearly the general institutional purposes that both the broad and narrow conceptions of it serve. I will begin by distinguishing academic freedom in both senses from constitutional rights to free speech and expression. I will conclude that its limits are not determined by the political preferences of different movements or the sensibilities of members of campus communities but by the constitutive conditions of free inquiry and rational argument.

A complete history of the development of academic freedom is beyond the scope of this paper, but a brief note on its modern origins and the process by which it expanded into its current scope is important for understanding both its value and limits. The principle first emerged in the reformed universities of mid-nineteenth century Germany (Dea, 2018).¹ The Humboldtian universities

¹ While there was no academic freedom per se in pre-nineteenth century universities, there was considerable latitude for debate in medieval universities, whether Catholic or Islamic. Scholars in early European universities could find themselves censured if their positions ran counter to Papal authority, but in practice "the university community allowed a considerable range of debatable propositions, even ones which on the surface might seem blasphemous or heretical" (Courtenay, 1989, p. 179). Medieval Islam was suffused with a humanist spirit of open enquiry which, while it regarded God's law as supreme, still recognized the importance and value of the properly human intellect and the disputes that its free exercise generated (Goodman, 2003, pp. 23-25, 82-122).

explicitly recognized the right of scholars to research according to their interests, using methodologies appropriate to the problem, and to organize their classes according to their own professional decisions and form and content. However, this right was far from absolute and was extended only in exchange for a pledge of allegiance to the state (Axelrod, 2021, p. 53). So long as the boundary between state policy and the university was respected, neither religious nor political authorities would impose prior constraints on the content and methodology of research programs or classes. The German state thus still exercised control over the university system, but the Humboldtian university represented a genuine advance for the value of free inquiry.

The problem with the Humboldtian compromise is that it is impossible in practice to maintain a strict separation between research, teaching, and its real-world effects. If academics are allowed to critically examine public policy and find it wanting, publicizing their results cannot but be at odds with the authorities whose policy it is. Nevertheless, the Humboldtian system would, interpreted strictly, prevent them from publishing their results. That would leave academics in a contradictory position. Their freedom to research and criticise would have led them to certain publicly important conclusions which the imposed limits on disseminating results critical of state policy would have prevented them from publishing. But freedom of research without freedom to disseminate the results is not freedom of research, because the point of research is to share results and make a difference in the world. University research cannot be confined to the university campus: its ultimate value is to extend understanding into new spaces and improve existing practices. As David Robinson (2024), Executive Director of the Canadian Association of University Teachers (CAUT) argues:

Extramural academic freedom should be seen as buttressing the right of academics to freedom in teaching, research, and service to the institution. As Princeton professor Keith Whittington put it, ‘If faculty members could be dismissed for what they say in public, then the core mission of the university to advance and disseminate knowledge would come under pressure and be subverted.’ (p. 19)

The German model was valuable as a first step towards uncoupling academic work from the control of state and church authorities, but it lacked what is today the third pillar of academic freedom: freedom to challenge and contest existing institutional and social structures and norms.

The American Association of Universities Professors (AAUP) was the first academic body to demand the addition of the right of extramural criticism to the existing tiers of freedom of research and teaching (see Scott, 2024, p. 151). Founded in 1915, the AAUP’s (1940) statement on academic freedom soon became canonical across North American campuses. The relevant sections of the 1940 statement assert:

1. Teachers are entitled to full freedom in research and in the publication of the results, subject to the adequate performance of their other academic duties [...]
- 2.

Teachers are entitled to freedom in the classroom in discussing their subject, but they should be careful not to introduce into their teaching controversial matter which has no relation to their subject. Limitations of academic freedom because of religious or other aims of the institution should be clearly stated in writing at the time of the appointment. 3. College and university teachers are citizens, members of a learned profession, and officers of an educational institution. When they speak or write as citizens, they should be free from institutional censorship or discipline, but their special position in the community imposes special obligations. (AAUP, 1940, paras. 9-11)

The AAUP (1940) statement explicitly recognizes freedom of extramural argument as an integral element of academic freedom, but still allows for religious and administrative limitations on academic freedom, provided that these limitations are specified clearly in the employment contract at the time of hire.

The AAUP (1940) statement is thus a step forward and a step sideways: forward, because it insists on the right of academics to translate their research and teaching into social criticism, but sideways, because it still allows the institution to define the overall shape and limits of research and teaching. The Canadian version of the 1940 Declaration of Principles is more exigent. The Canadian Association of University Teachers (CAUT) was founded in 1951 and has been the foremost defender of academic freedom since. Its first battle – contesting the firing of history professor Harry Crowe in 1958 by United College (now the University of Winnipeg) for private comments contained in a letter to a colleague that criticized the administration (CAUT, 1959) – sensitized CAUT to the need to add a fourth tier to academic freedom: the right of intramural criticism of administrative priorities and practices. In the CAUT’s view, then as now, collegial governance is as essential to academic freedom as explicit guarantees of freedom of research and practice (CAUT, 1959). CAUT’s version of the AAUP pillars thus adds that academic freedom entails the freedom to teach, research, and disseminate results “free from prescribed doctrine” and to “express one’s opinion about the institution, its administration, and the system in which one works” (CAUT, 2019, para. 2). Moreover, it adds that academics need not “be neutral” in their analysis of the state of their discipline or the state of their world (para. 3). Advocacy in support of alternative institutional or public policies has become an integral element of academic freedom.

The addition of extramural and intramural criticism to the list of practices protected by academic freedom is the major difference between the CAUT definition and that of Universities Canada, the body representing university administrations. The Universities Canada (2011) conception does not recognize the right to criticise the way universities are governed or explicitly defend the right of academics to intervene in matters of public policy and global affairs. It also lays much greater stress on the responsibilities of academics to exercise their freedoms responsibly:

Evidence and truth are the guiding principles for universities and the community of scholars that make up their faculty and students. Thus, academic freedom must be based on reasoned discourse, rigorous extensive research and scholarship, and peer review. Academic freedom is constrained by the professional standards of the relevant discipline and the responsibility of the institution to organize its academic mission... The constraint of institutional requirements recognizes simply that the academic mission... has to be organized according to institutional needs. This includes the institution's responsibility to select and appoint faculty... [and] to establish and control curriculum, to make organizational arrangements for the conduct of academic work. (Universities Canada, 2011, paras. 7-9)

I will return to the connection between academic freedom and generally recognized standards of evidence, proof, and argument below. While I agree that academic freedom must be exercised responsibly and in accordance with disciplinary-based best practices of research and argument, the way in which Universities Canada (2011) qualifies academic freedom is contrary to the principle of collegial governance and invests too much power in the administration to censor and discipline academics that violate what the administration decides are the most pressing "institutional needs." Moreover, if the administration is allowed to determine curriculum in accordance with its definition of those needs, it will be empowered to silence academics by defunding programs that do not fit with its model of the institution. As we will see below, when unchecked administrative power combines with the principle that the primary value of the university is economic, academic freedom is jeopardised, especially for scholars in disciplines that tend to generate research that is critical of existing social structures of power and wealth.

Read narrowly, the Universities Canada (2011) definition would mean that physicists are only protected by academic freedom when they talk about physics and philosophers about philosophy, understood in the most narrow and bookish way. University institutions are organized along disciplinary lines, but the implications of even seemingly high-level theoretical research can have tremendous social impacts that upset established powers. Some of the biggest battles in the history of American academic freedom have been fought over the social justice implications of science, especially evolutionary theory, while today the demands of critical race theorists, for example, that classical liberal values of liberty and equality be re-thought in light of the realities of racial oppression, are a constant target of right-wing critics of the academy (Scott, 2022, pp. 3-6). Research in one area has implications across the spectrum of human life. By the Universities Canada (2011) definition, law professors who research genocide could be disciplined for taking a stand pro or contra in the media regarding the case involving Israel in front of the International Court of Justice. But genocide is not an abstract classroom topic but the most serious crime of all. The point of studying it is not to grasp its contours in the abstract but to understand what it is and why it happens, presumably to prevent it. But if one could not comment outside of classrooms and academic journals, one's

research will hardly be able to intervene in the real political world where the crime occurs.

An analogous argument holds with regard to institutional governance, in particular as regards curriculum, hiring, and tenure. The wording of the Universities Canada (2011) document implies that these are administrative prerogatives, when in fact they are institutional prerogatives in which faculty must have a decisive say in accordance with the principle of collegial governance. While Boards of Governors have responsibility for finances, in the bi-cameral structure of governance faculty Senates have ultimate control over curricula. The CAUT (2024) statement on collegial governance asserts that the “senior academic body” that sets the overall intellectual agenda of the university

should include but should not be limited to articulating the academic mission of the institution, determining its programs of study and related curricular matters, determining academic standards, oversight of long-range academic planning and its implementation, and oversight of the academic operations of the institution. In addition, the Senate should have unlimited power of recommendation to the Board on any matter within the Board’s purview that the Senate considers to be of import to the institution. (para. 3)

If academics are to exercise preponderant power to determine departmental priorities, hiring, and shape the overall development of the university as an institution devoted to teaching and research across the spectrum of human problems, they need the intramural freedom to argue in both department and higher-level administrative meetings. If their academic freedom to criticise curriculum and hiring decisions is curtailed by administrative imposition of corporate governance models, then their freedom to teach and research will also be threatened. One way to silence critical voices and heterodox approaches is to refuse to grant approval for courses and hire only mainstream voices. There is therefore no way in practice to strictly separate intramural concerns from political questions surrounding institutional governance and global problems. Practice is the living reality of thought. Academics cannot, as Kant (1784/1963) urged, “argue as much as you will, and about what you will, but obey!,” because thinking is the opposite of craven obedience (p. 10). If academics are duty-bound to follow the evidence and the argument wherever they lead, then one must obey the evidence and argument, even and especially if it is in opposition to the demands of administrators, business executives, and governments.

But if academic freedom includes the right to criticise administrations and governments, then does it not collapse back into the constitutional right to free speech? I do not think that it does, because the freedoms protected by academic freedom are freedoms to argue as *academics* about the direction of their institutions and the problems of the world that they study. That does not mean that academics must stay within disciplinary confines narrowly construed, but it does mean that when they intervene in problems of intramural governance

and extramural social problems they must be willing to defend the positions that they take with argument and avoid the sorts of *ad hominem* and invective that might be permissible in non-academic political discourse. As Scott (2022) argues, “academic freedom is the freedom granted to a specialized activity ... that produces knowledge for the public good” (p. 15). The public good is not reducible to narrow disciplinary specializations. Therefore, if academic freedom produces knowledge for the public good, those who produce it must be free to direct the conclusions of their work as academics against political, economic, and administrative power, provided that the goal is demonstrably in the interest of truth, improved governance, or better social policy. Academic freedom is not freedom to opine, ignore counter-evidence, indulge in insulting disparagement of persons, demonise alternative perspectives, or – especially – deny opponents the right to make their case. Of course, not every position that academics are free to articulate must be defended at length on every occasion – one can sometimes simply assert one’s beliefs. However, that belief must be *supportable* in principle with evidence and argument should it be challenged by an opponent. As Robinson (2024) argues, while academics need not be “gentle, nice, ‘civil’ or diplomatic in the public expression,” their academic freedom does not “confer immunity from breaking libel or hate speech laws” or “permit harassment or discrimination” and it always comes with the responsibility to support one’s case with evidence and reasons (p. 19).

The right to free speech is also limited by libel and hate speech laws, but it does not involve a correlative duty to argue soundly. Free speech is a cornerstone constitutional freedom held by all members of societies that recognise it, but there are no standards of evidence that its exercise must obey. Thus, one may walk the streets of Waterloo ringing a bell and denouncing climate change as a hoax cooked up by global elites to cement their power over people, but an academic employed by a department of atmospheric chemistry cannot criticise climate change models without countering the growing scientific consensus in favour of the statistical connection between rising greenhouse gas levels and climate change. Critical voices in atmospheric chemistry must have the freedom to expose problems in those models, but they must marshal evidence in favour of their critique and, as Axelrod (2021, p. 54) reminds, also satisfy the demands of peer review in order to be taken seriously.² Scott (2022) is once again instructive: academic freedom, she notes, “is not an unrestrained right of free speech” but is limited by “particular responsibilities that pertain to knowledge production” (p. 5). Private citizens acting on their right to free speech have no obligations to meet the same burdens of proof as academics arguing in their capacity as members of university institutions.

² However, one must also be wary of peer review as a gate keeping exercise. To give only one example, a number of scientists and physicians who raised legitimate concerns about the safety of Covid-19 vaccines reported various degrees of institutional blocking of their arguments. Academic freedom is designed precisely to ward off the destructive effects of group think on the pursuit of knowledge (see Elisha et al., 2022).

The *university* is an institution devoted to reasoned inquiry as the means to the discovery and defence of truths relevant to the different dimensions of the human experience and understanding of the universe. If we knew everything, then universities would no longer be required. The totality of truths could simply be stored in a database and people could access them on demand. While the overall coherence of world-pictures and practices support the conclusion that knowledge advances and some arguments are settled beyond a reasonable doubt, vast areas of human social life, both in fields of value broadly construed and in the natural sciences, remain zones of vital epistemic contestation. Successful social justice struggles for equality by racially oppressed groups have undermined any credibility that “scientific” racism might once have enjoyed, and there is no evidence to suggest that the law of the conservation of energy is untrue. But the overall cogency of the scientific explanation of the quantifiable dimensions of the universe do not settle questions of the meaning and value of human life, decide which forms of institutional organization of that life are best, or explain what makes one poem superior to another. In both the natural and social sciences as well as at the level of social institutions some questions have been resolved as definitively as one can hope. Light can behave as a wave or a particle, women are as intellectually capable in all fields as men, and chattel slavery is definitively inhuman. Those insights were in fact achieved *against* the various forms of institutional and intellectual closure that academic freedom seeks always to break open. Just because, as Marx said, human beings must prove the truth, researchers in all fields, scientific and hermeneutic, must be committed to a practice of open inquiry and free exchange of information and argument (Marx & Engels, 1976, p. 6).

Freedom of conscience protects the individual’s right to believe what they want to believe and freedom of speech to say it, but academic freedom protects the right of academics to argue in favour of the position that they think the evidence best supports and criticise alternative arguments. Academics must remember that this right is not their private possession, but an institutional right held by all members of campus communities. I prefer “institutional” right to Scott’s (2024, p. 161) “collective” right because although academic freedom is held by the collective of academics, it is held by them as individual researchers and teachers *by virtue of their membership in the university institution*. University rules – in Canada, the rules defined by collective agreements between faculty associations and administrations – confer academic freedom. There were collectives of professors before there was academic freedom. Therefore, academic freedom derives from the nature of the university institution, not one’s belonging to a collective of professors.

Academic freedom is thus the right of academic members of university institutions to decide the best practices that their teaching will follow and defend those practices against institutional pressure to conform to some prescribed pedagogical model, to dispute and argue amongst themselves as experts in their field, to criticise administrative decisions in so far as they are members of the university community with an interest in how it is governed,

and to challenge power holders and fellow citizens as engaged academic members of the state. As Scott (2024) emphasised, academic freedom is always conjoined with the responsibility to respond to alternative positions. Therefore, it does not confer the legitimate power to exclude or remove or silence opposing positions, assuming that credible arguments can be marshalled for those positions. Overtly racist positions, for example, cannot be credibly defended and can be legitimately excluded (but there can also be legitimate argument over what is and is not an overtly racist position). As the CAUT (2024) principles state, academics need not be neutral, but acceptable partisan positions will be found along the political spectrum. Academic freedom serves the purposes of social and scientific *criticism*, but criticisms can be articulated from the right as well as the left. Academic freedom is political and relevant to problems of social justice, in the sense that it is opposed to silencing of thought by social or administrative power, but it itself, as an institutional right, is not partisan, but a protection for the full range of partisan positions on those questions where legitimate debate is still required.

There are three key threats to academic freedom today. The first is the corporatization of the university, its subordination to the extrinsic values of the capitalist market, and corresponding moves away from collegial governance that attempt to exclude faculty (and students) from institutional decision-making power. The unifying thread is what Slaughter and Rhoades (2004) have called “academic capitalism” (pp. 14-16). Academic capitalism is a complex phenomenon resulting from state and corporate pressure to subordinate academic teaching and research to the needs of corporate capital. It represents a threat to academic freedom because: a) patents and other forms of knowledge protection impede the free dissemination of research, b) corporate money can gain an outsized role on hiring and tenure decisions, c) interest-based research that has intellectual but no commercial value is marginalized or eliminated entirely (when departments are closed because they do not generate commercial revenue), and d) they expedite moves towards top-down, undemocratic, uncollegial corporate management styles (what Deem et al. [2007] have called the “new managerialism” in higher education). There are numerous serious cases of academic freedom being compromised by academic capitalist imperatives, but perhaps the most serious, in Canada at least, was the years long harassment of Dr. Nancy Olivieri by The Hospital for Sick Children and the University of Toronto. The story is too complex to be related here, but the core problem was that the University of Toronto failed to support Dr. Olivieri when her professional integrity and position at Sick Kids was threatened by Canadian pharmaceutical company Apotex. The company – a major donor to the University of Toronto’s medical school – objected to Dr. Olivieri’s findings regarding the safety of a drug that they wanted to bring to

market. Although Dr. Olivieri ultimately prevailed, her ordeal is a case study in why corporate money and academic freedom are essentially opposed.³

The second key threat, at present more prevalent in the United States than in Canada, is the overt use of state power to force institutions to tow an ideological line. We have seen governments in some Republican-led US states use their legislative control over state universities to dismantle equity initiatives and mandate that academics teach "balanced" curricula (Axelrod, 2021, pp. 55-57; Usher, 2024). The most notorious case thus far was Florida Governor Ron DeSantis's removal of the Board at New College in an effort to undermine its liberal traditions. De Santis' move was the opening gambit in a struggle that right wing governments regard as an ideological war against academics and methodologies that are explicitly critical of existing social structures. (Anderson, 2024). The second Trump administration has broadened that war on American universities by threatening to withhold funding from institutions that refuse to align campus policy and curriculum with the administration's pro-Israel line. Right wing activist Chris Rufo (2024) lays bare the strategy: "The New Right needs to move from the politics of pamphlets to the governance of the institutions. We must recruit, recapture, and replace existing leadership. We must produce knowledge and culture at a sufficient scale and standard to shift the balance of ideological power." Rufo (2024) has the merit at least of being explicit about the elevation of ideological conformity over academic freedom.

The third main threat to academic freedom comes from political mobilisations within the university, often student led and sometimes supported by faculty, to have professors removed from their positions or to shut down talks by speakers deemed to run afoul of the activist's position on social justice (see Axelrod, 2021, pp. 57-59).⁴ Institutionally mandated Diversity, Equity, and Inclusion initiatives have been interpreted in ways that have led to the firing of professors deemed to have run afoul of institutional policies, while others have been hounded out of their jobs because colleagues, administrators, and faculty unions have failed to protect them from student mobbing. As George Eliot Clarke, Professor of English at the University of Toronto and former Poet Laureate of Toronto has argued in response to this environment, "censorship is censorship, and I do not think that anyone's allegedly 'progressive' intent accords them the right to decide who can speak and who must not" (Clarke, 2023, p. 18). Amongst the most serious cases are the firing of Art History professor Erika Lopez Prater by Hameline University in Minnesota after a Muslim student objected to her use of a painted portrait of

³ Dr. Olivieri has recently recounted the entire history of her struggle. See "Two Decades of 'System-Cooked Science'" (Olivieri, 2023). CAUT intervened on Dr. Olivieri's behalf. The report is essential reading for anyone concerned with the threat that corporatization poses to academic freedom. Further examples of this threat can be found in Turk (2000, 2008) and Woodhouse (2009).

⁴ As many as 200 American professors have been fired for speech related "offences" since 2011, according to Alex Morey of the Foundation for Individual Rights and Expressions (Meyn, 2024).

the prophet Muhammed in class (Filipovic, 2023).⁵ In Canada, political science professor Frances Widdowson was fired by Mount Royal University in Calgary. Widdowson was a long-standing critic of Indigenization policies at the school, but she also questioned arguments made in the Truth and Reconciliation Report that the residential school system was genocidal (CAUT, 2022; Short, 2022).⁶ In the UK, philosophy professor Kathleen Stock was bullied from her job by students opposed to her critique of the implications of transgender ideology for women and lesbians (Adams, 2021). These incidents are not only problematic because they serve as grist for the right-wing mill that it is not they, but the left, who are the biggest threat to academic freedom, but they are rooted in an egregious failure to understand the nature of academic freedom as a right that protects the university as a space for *argument*.

A number of academic freedom clauses in Canadian university collective agreements begin with CAUT's (2019) phrase that academic freedom allows professors to teach without deference to "prescribed doctrine" (para. 2). Freedom to teach and research without regard to prescribed doctrine does not imply, as some self-styled campus radicals believe, the right to prescribe doctrine to others. It does not matter who is doing the prescribing: academic freedom is not the right to impose what one regards as the truth, either in science or social justice. Some recent scholarship explicitly links social justice with academic freedom in higher education. For example, some authors argue that academic freedom should be understood in relation to the university's social justice commitments rather than as a politically neutral principle, suggesting that challenges to entrenched academic orthodoxies made in the name of equity and inclusion can actually strengthen core academic values (Popowich, 2020). At the same time, academic freedom is also seen as a crucial safeguard for social justice education itself: for instance, attempts to "purge" or ban teaching on racism, sexism, or other inequity-related topics have been condemned as direct assaults on the university's mission of free inquiry (Straughan, 2024). The crucial consideration when considering the relationship between course design, research agendas, academic freedom, and concrete political movements for social justice is whether there is an organic fit between the course or research program and the content of the movements. Administrative or government bans on antiracist or other politicized research are obviously contrary to academic freedom, but so too are imposed mandates to incorporate extraneous political material into research or teaching under administrative pressure.

⁵ The Hamline case also highlights the particular vulnerabilities of contract academic staff when it comes to academic freedom. The lesser the degree of job security the greater the danger of one's academic freedom being violated.

⁶ An arbitrator recently upheld Mount Royal's decision to fire Widdowson. Although the arbitrator ruled that firing was not merited by the facts of the case, they nevertheless concluded that the employment relationship had been damaged beyond repair, not by Widdowson's position on the substantive issues, but because of the depth of personal animosity generated between her and some of her colleagues (see Jones, 2024).

Robinson (2024) argues in a recent editorial in *The Bulletin* that effective teaching and research demands that professors keep up to date with the state of the art in their fields. Today, sound course design and delivery as well as research relevant to the historical moment demands that professors include the considered perspectives of historically marginalised voices. Collegial discussions about how to expand the range of perspective and voices is an essential part of keeping academic work vital and relevant. This work of self-directed critical reflection and renewal is just what the right wing wants to prevent. However, Robinson (2024) goes on to warn that “more prescriptive requirements that ask candidates to submit statements demonstrating how their work aligns with the institution’s specific EDI strategy... can violate academic freedom” (p. 7). The university does not have the legitimate power to tell academics how to vote; for the same reason it does not have the legitimate power to determine how academics interpret the implications of social movements for their own course design and research agenda. Robinson (2023) adds: “the key point is that an institution’s particular perspective on EDI must not restrict alternative viewpoints, nor should it infringe upon the right of academic staff to express their opinion and criticism of the administration and its policies” (p. 7). Academic freedom is preserved and the quality of course design and research are improved when academics, collectively, in departments and faculties, and individually, as teachers and researchers, reflect and deliberate about how exclusionary traditions can be opened up and overcome. But when any political perspective becomes “prescribed doctrine” it becomes a threat to the university as a space for debate, disagreement, and argument that terminates only when one side has won out through rationally convincing the other side. As Habermas (1990) explains, argumentation is distinct from coercion because it depends “on rationally motivated approval of the substance of an utterance. Agreement cannot be imposed or brought about by manipulating one’s partner... for something that patently owes its existence to external pressure cannot even be considered an agreement” (p. 134). If any given set of values is worth supporting, there must be convincing reasons in its favour. If the arguments are so weak that they must be imposed by administrative fiat in response to purely political pressure, then there is a problem with the arguments.

The university is not a transmission belt for any set of substantive, partisan political values or traditions; the value and tradition that it upholds is one of critical inquiry, respectful disagreement, and argument. The university is iconoclastic by its nature; a space for open inquiry and argument, not the forced dissemination of some group’s beliefs to the exclusion of opposing positions. Since people disagree about substantive issues, one person or group’s perspective will contradict, sometimes at the deepest level of emotional attachment, other people’s perspectives. That some are offended by the articulate dissemination of opposed positions cannot ever be grounds for silencing that position on university campuses. One can understand why some Jewish students and faculty members feel personally threatened by anti-Gaza

war encampments, but unless there is overt and demonstrated harassment and violence, their feelings were not legitimate grounds for removing the camps. So long as they remained peaceful, they should have been interpreted as what David S. Birdsall and Leo Groake called “visual arguments” and protected as a legitimate expression of the broader principle of academic freedom that I set out in the introduction (Birdsell & Groarke, 1996). By the same token, the offence that the Muslim student took to the use of the painting of the prophet Muhammed in an art history class should not have been grounds for not renewing the professor’s contract. University teaching is not and cannot be beholden to some student’s or professor’s private beliefs and convictions. Teaching and learning demands that all firmly held beliefs be subject to criticisms for which there is theoretical or empirical warrant. People unwilling to allow themselves to be questioned are unwilling to take the risks involved in learning or publicly disseminating their ideas. *Freedom* to argue implies the *responsibility* to answer objections. To claim the institutional precondition for making one’s own case and then demanding that the institution deny opponents the right to criticise them is to commit what Habermas (1990) calls a performative contradiction (pp. 88-89). Universities will destroy themselves if they repeatedly allow academic policy to be formulated in response to groups taking unwarranted offence at ideas that differ from their own.

That brings us to the final problem: what are the legitimate limits of academic freedom of professors in the narrow sense? In order to answer that question, we must remind ourselves of the nature of academic freedom as an institutional right. The right to free speech is held by citizens as individuals and entails no obligations beyond not violating laws against free speech and libel. As Arbitrator Jones (2024) noted in the Widdowson case,

A university is not a seminary where people are expected to – or must – have the same beliefs. Members of a university do not have the right not to be offended by the view of others. That said, absolute academic freedom does not exist: there are legal limits on the content or manner of expressing certain things – such as the Criminal Code provisions about hate legislation, the civil law of defamation, human rights and occupational safety legislation, as well as the terms of collective agreements. (p. 244)

As Jones (2024) notes, academic freedom in the narrow sense is conferred by collective agreements on members of the university community in their roles as professors. They must respect laws against hate speech and libel and abide by the limits imposed by collective agreement language on harassment free workplaces.

However, members of a university community are also bound, as Jones (2024) implies, by the additional academic obligation *to argue*. Neither administration, nor church, nor government, nor social movement has the legitimate power to impose prior constraints on curriculum, course content, teaching methodologies, research programs, or the public interventions of professors or students. At the same time, professors and students must take

upon themselves the burdens of providing evidence and reasons in support of the positions in which they believe, because their positions can be evaluated by critics only if they are grounded in claims that interlocutors can test for themselves. Jones' (2024) arguments are echoed in an earlier decision by The Honourable Lynn Smith, QC in her 2015 inquiry into alleged violations of academic freedom at the University of British Columbia:

Academic freedom is not an end in itself, but a means to the end of enabling the purposes of higher education to be fulfilled. Faculty members do not, within the protections of academic freedom, have the right to do or say anything they please, whenever or wherever they want, particularly when their motives for doing so serve to undermine, rather than advance, the pursuit and dissemination of knowledge and understanding. (Smith, 2015, p. 16)

The conclusions of a scientific experiment are not regarded as valid unless independent teams can replicate the experiment. An analogous conclusion holds with regard to all disciplines: just as no one can be bound to support a conclusion for which no objective evidence can be provided, no one has the right to advance a conclusion and not have one's evidence questioned. In social life, one is free to think what one will, but the first constitutive condition of the university as an institution of open inquiry is that its members argue. Arguers must supply some reason, some fact, that others can weigh or examine for themselves before a conclusion can be provisionally accepted as true. Therefore, the first limit on academic freedom is defined by the obligation to supply reasoned argument and empirical evidence for one's position, whatever one's discipline.

The demands of the job for which one was hired to perform function as an additional limit on academic freedom. This limit is especially important in the case of teaching. While academics must be free to define their course content and teaching methodology, they must also teach the courses they have been assigned to teach roughly in accordance with the calendar descriptions which form the background of student expectations. The calendar descriptions are not externally imposed, illegitimate constraints on the freedom of instructors; they are functions of the degree-granting goal of the university and the prior deliberations of department members concerning curricula. The value and credibility of a degree depends upon it covering in a systematic way the fundamental problems of the discipline. To ensure that its goals are met, academics must develop their courses and their methods in light of the requirements that departments have decided must be met in order to ensure that graduates are competent in the field. If professors consistently ignore these collectively determined requirements, they expose themselves to legitimate discipline. In the Rancourt case at the University of Ottawa, a physics professor was fired because he refused to teach the content of his courses and evaluate his students on the basis of an objective standard (CAUT, 2017). Arbitrators upheld the decision against his objections on grounds of academic freedom because Rancourt wanted to use the classroom to disseminate his anarchist

politics. The problem was not the politics but the conversion of the classroom into a chapel for the preaching of his personal political values. If one wants to preach, one is free to find a pulpit, either in a spiritual institution of some sort or on the street corner. Teaching is not a vehicle for the dissemination of one's own beliefs on a captive audience; it opens up student thinking to the problematic nature of the human experience of the world for the sake of enabling students to investigate problems and argue to their own conclusions. If professors find existing program requirements or evaluative criteria wanting, they are free to criticise them and advocate for changes. However, they remain bound by them until such time as they convince their departments, faculties, and the institution as a whole to change them.

The final constraint on academic freedom is the equal rights of colleagues to work out their own position on matters of pressing social concern. All organized attempts to silence voices and perspectives that differ from the perspectives of other groups, especially on controversial social and political issues, are illegitimate. The *university* is not a political agent and cannot take sides in social struggles. *Academics and students* are political agents, and their academic freedom protects their right to advocate for different sides in social struggles. But by definition struggles have different sides, and, from the standpoint of academic freedom, each side has the right to argue and mobilise for its position. Demanding that the institution as such take a definite position is tantamount to enabling the institution to speak for its members on matters of public concern over which there is disagreement (otherwise, there would not be a struggle). Academics need not be neutral, but they cannot exercise their advocacy *in their role as academics* in ways that silence opposed campus groups. The university is a space for intellectual *contestation*. The administration is not a politburo invested with the authority to deliver a party line to the comrades. Universities are not revolutionary parties, and their members are not bound by democratic centralist discipline. It is not force that decides the contest between equal rights in universities, but to refer to Habermas (1990) once again, the unforced force of the better argument. The discovery of truths in any field of endeavour is historical, an open weave of which every member of the university is free to stitch the next row in their own way, but they must be bound, ultimately, by the humility that comes with the recognition of the partiality and fallibility of human knowledge.

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