

Epistemically Unjust Environments as a Threat to Academic Freedom

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Within higher education law and policy, academic freedom comprises both a longstanding and long-negotiated set of principles intended to protect and enable institutions, faculty, and students in various ways. The academic freedom of faculty tends to capture the most attention, as conflicts often arise when institutional academic freedom or institutional autonomy and the academic freedom of individual faculty members are in tension. These complexities raise important questions: What conception(s) of freedom do or should undergird our principles and practices of academic freedom? How should tensions between the academic freedom of various agents (institutions, faculty, students) be negotiated? In her thoughtful paper, Liz Jackson focuses on the academic freedom of faculty and challenges the binary notion that academic freedom is something an individual faculty member either has or does not have.¹ Instead, she proposes an understanding that sheds light on the precarity and complexity of faculty academic freedom. I agree with her proposal, which aligns with the nuance of law and policy in this area and with other writing on academic freedom in the United States context. I will aim, with my response, to highlight another dimension of nuance for consideration. In particular, I will suggest that attending to the epistemic environments that characterize many higher education institutions and disciplines within the U.S. raises questions about equitable access to the protections purportedly offered to all faculty through academic freedom law and policy.

I understand Jackson to endorse a view that academic freedom is either a positive liberty or a privilege, not merely a negative liberty. In exploring what is required to actualize the exercise of academic freedom for faculty, I see two avenues. First, we can start by considering these questions: What is the *freedom* of academic freedom? What conception(s) of freedom should guide our thinking, policymaking, and practices regarding academic freedom? With

these conceptions of freedom in hand, we can then analyze whether current law and policy in a particular higher education context represent those forms of freedom well. Jackson primarily takes this avenue, introducing three approaches to conceptualizing freedom—drawn from liberal theory, relational perspectives, and the capabilities approach. She argues that incorporating these approaches to understanding *freedom* into our conceptualization of *academic freedom* leads to a more nuanced understanding of the kinds of freedom that are valuable within academic contexts and highlights the ways in which having academic freedom is not a binary state.

A second avenue to exploring the nuances of academic freedom is to start with current law and policy in a particular higher education context and to ask whether the form of academic freedom endorsed within that context rests on philosophical presuppositions. One can then ask whether these presuppositions are warranted and whether the current system actually protects equitable access to this form of academic freedom across individuals and groups and for single individuals across contexts. This avenue asks these questions: What form of freedom is endorsed through existing law and policy? If that form of freedom is indeed of value, is there equitable access to that freedom within our existing academic systems? I see both approaches as valuable and necessary in the effort to think in nuanced ways about academic freedom. Here, I will embark briefly on the second avenue, focusing on the U.S. context.

Academic freedom within U.S. higher education refers to both professional and legal norms. Professional norms have emerged through statements from the American Association of University Professors (AAUP) as well as institutional customs and practices, and legal norms have emerged from the First Amendment and other related constitutional protections and from state common law governing institutional contracts.² Within the U.S., academic freedom may apply to three types of entities: institutions, faculty, and students. When tensions arise between these entities, case law has not established a hierarchy but instead requires a balancing of these interests, though some cases have put institutional interests over faculty interests based on the details of the case.

In the foundational “1940 Statement of Principles of Academic Free-

dom and 'Tenure,' the AAUP defines faculty academic freedom in three areas: (1) freedom of research and publication of results, (2) freedom in discussing the subject matter of faculty members' courses within the classroom, and (3) freedom to speak and write as a citizens, while recognizing that faculty members' special positions as members of a learned profession and as officers of the educational institution also create obligations in the public sphere. Across these contexts, courts have tended to offer more protection for faculty research freedoms than teaching freedoms.³ Applicable to public colleges and universities, the *Garvetti v. Ceballos* case in 2006 introduced a new distinction between whether an individual is speaking as a private citizen, in which case their First Amendment rights apply, or as a public employee, in which case the state or public institution may restrict their speech.⁴ This case has introduced new uncertainties regarding academic freedom of faculty at public institutions, leading to renewed arguments for not relying on the courts to protect faculty academic freedom even at public institutions but instead for advocating for stronger institutional policies, as private institutions have already had to do.⁵

Without diving further into legal and policy details here, I will take as a grounding point that faculty academic freedom in the U.S. rests on epistemic assumptions about the expertise of faculty and their proper role in knowledge-making practices in our society. Rather than being primarily grounded on a principle of freedom of speech, academic freedom broadly rests on a principle that the learned professions (and their institutions and members) should be able to engage in inquiry according to their disciplinary expertise in ways that are free from undue influence from public opinion.⁶ In the case of faculty, it is intended to protect their intellectual freedom within their research and teaching, recognizing their unique epistemic position as experts in their learned professions. What I want to propose is that advancing these dimensions of faculty academic freedom that are internal to faculty professional roles requires attention to the *epistemic environments* that characterize those learned professions and the academic institutions that sustain them.

In a forthcoming article that I co-authored with Caitlin Brust, we consider epistemic environments within higher education and implications for

resistance to epistemic injustice in classroom communities.⁷ We propose that:

an *epistemic environment* [is] co-constituted by a complex set of norms, values, beliefs, practices, resources, and individual and collective epistemic agents within (though not perfectly bounded by) an institution. . . . Epistemic environments may be more or less epistemically just depending on the arrangement of these elements and the types of relationships between agents and collectives that they foster.⁸

Drawing on Kristie Dotson's account of epistemological landscapes, we highlight three additional features of epistemic environments in higher education: (1) that knowers within these environments are socially situated, (2) that epistemic resources that facilitate knowing in the environment are collective and shared, and (3) that the epistemic environments are resilient and thus stable over time.⁹ Applying these features to faculty academic freedom, then, I want to highlight that (1) each individual faculty member occupies a unique social position that informs their partial view of the world and their work within their discipline, (2) each is epistemically interdependent on other knowers and on access to epistemic resources in order to participate in knowledge-making practices through their research and teaching, and (3) this interdependence plays out within stable institutional and disciplinary epistemic environments that have long been and continue to be resistant to radical change or reconstitution.

Considering these features of epistemic environments that structure faculty participation in knowledge-making practices points to the need to examine the conditions of these environments within a particular social context. In the case of Historically and Predominantly White Institutions (HPWIs) and within historically White disciplinary communities, the epistemic environments that prevail are informed by legacies of White supremacy and other intersecting oppressive systems that have informed who gains access to the faculty ranks and the topics and methods of inquiry that are most valued. Thirty years ago, Derrick Bell pointed to the ways that academic freedom functions to undermine efforts to increase racial diversity among faculty in law.¹⁰ Today, White faculty continue to dominate U.S. higher education institutions—for example, with White men

holding 36 percent of all faculty positions, whereas Black women comprise only 3 percent of U.S. faculty.¹¹ Faculty representation is just one dimension that impacts the epistemic environments at U.S. higher education institutions and in the disciplines. Academic freedom, understood as grounded on the epistemic value of those institutions and disciplines in pursuing knowledge and understanding, may then protect some faculty more than others, depending on their social positions and how their work is situated in relationship to the historical norms of their disciplines. This nuance in individual faculty members' access to academic freedom is one that has been garnering more attention, including by the AAUP.

My suggestion is that the epistemic principle that undergirds academic freedom in the U.S. points to the need for greater attention to the epistemic environments within our colleges and universities and our disciplines. If these environments are characterized by epistemic injustices, then there is reason to worry that faculty members' access to the protections of academic freedom will vary in unjust ways based on their social positions and the relationship of their research to the disciplinary status quo. One potential upshot could be that, in order to protect academic freedom in a robust and equitable way, those currently within positions of power within our institutions and disciplines should engage in resistance to epistemic injustices within their spheres of influence. I propose this as another avenue, alongside those that Jackson helpfully offers, for exploring the nuances of access to academic freedom. Fully protecting academic freedom, in the robust way that Jackson endorses, requires attention to epistemic environments.

REFERENCES

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4 *Garcetti v. Ceballos*, 547 U.S. 410 (2006).

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9 Kristie Dotson, “Conceptualizing Epistemic Oppression,” *Social Epistemology* 28, no. 2 (2014): 115–38.

10 Derrick A. Bell, “Diversity and Academic Freedom,” *Journal of Legal Education* 43, no. 3 (1993): 371–79.

11 Brust and Taylor, “Resisting Epistemic Injustice.”