Fifty Shades of Academic Freedom: Beyond a Binary View

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Academic freedom is often regarded as an absolute value in higher education. Traditionally it undergirds the practice of tenure, so research can be done in an environment free from unnecessary pressures or interruptions due, for example, to expectations for fast results. It can also be said to liberate academic activities from undue political influence. Within a liberal view, one should be free to think and speak without undue external (social) pressure. Scientific and intellectual progress suffers from this perspective when scholars are unduly constrained in their work or from freely sharing their findings. Clearly, some scholars face challenges to exercising their rights to speak and lecture about controversial topics. This is evident, for example, in the United States amidst the backlash against critical race theory and related movements, a backlash that aims to limit discussion of racism and police violence.[1] Yet while such infringements on academic freedom are alarming, they are normally seen as exceptions to the rule in a system where academic freedom is apparently otherwise protected. This is the case in the United States and in China. In both societies, people defend their own system as free.[2] Academic freedom is invoked in both contexts (and arguably everywhere else around the world) in relevant legal and policy guidelines. High-profile problem cases that emerge are used to indicate that normally scholars have academic freedom, obscuring a more critical examination of what actualizing academic freedom more broadly requires.

In this essay, I want to expose gray areas surrounding academic freedom that are hidden within typical binary framings of it as something people either have or lack. I argue that academic freedom involves not only the protection of the right to free speech (and expression) but it also involves one's broader experiences, relations, and capabilities. Thus, while from a legal view whether academic freedom has been infringed upon is often straightforward, many academic freedom issues are better illuminated from a more expansive

perspective. In the next three sections, I consider academic freedom in (1) liberal philosophy and political theory, (2) relational perspectives, and (3) the capabilities approach. I thereby identify various senses of academic freedom and the lack thereof and reveal how and why academic freedom is more precarious and complex across societies than is often assumed.

LIBERAL VIEWS

Among political philosophers, Immanuel Kant gives some of the most systematic defenses of freedom, particularly the freedom to think and speak for oneself. Kant argues that acting in accord with moral law is how one becomes free.[3] And because people do not always follow moral law, their social action is not determined. Kant grapples with a kind of circularity here. He notes, "it must be freely admitted that there is a sort of circle here from which it seems impossible to escape. In the order of efficient causes we assume ourselves free, in order that in the order of ends we may conceive ourselves as subjects to moral laws."[4] He also argues that to recognize and follow reason, one must be free from external influences and constraints. Thus, the categorical imperative (act only on that maxim whereby one can at the same time will that it should become universal law) requires obedience to the maxim, "act so that you treat humanity, whether in thine own person or in that of any other, in every case as an end withal, never as a means."[5]

"What is Enlightenment?" expands on these ideas. Kant states that people are not enlightened because they are ruled by emotions, like laziness and fear, as well as by cultural influences. He says fear is a natural response to having freedom, as "whoever throws off the shackles of tutelage . . . would still be uncertain about jumping over even the narrowest of trenches . . . unaccustomed to free movement."[6] In this case, Kant promotes a gradual granting of freedom, as revolution can "never produce a true reform in . . . thinking." Such freedom for Kant also implies a civic duty. He notes that an enlightened scholar "is completely free as well as obliged to impart to the public all his carefully considered, well-intentioned thoughts."[7]

Such a view undergirds traditional defenses of academic freedom,

which tend to see any intrusion upon academic speech, except perhaps in cases of harm, as unethical. Historically, this can also be seen as one argument in a long line of Western defenses that go beyond Kantian or liberal philosophy. Socrates argued it was his God-given duty to know truth and help others know it through education, despite the fact that his views clashed with those of powerful politicians in Athens at the time.[8] Thus, even before the Enlightenment era, some argued for a view of academic freedom wherein individual scholars should be free from external intrusions, interruptions, and influences in conducting research, teaching, and other scholarly duties according to the best of their abilities.

Kant, Socrates, and others were aware of internal pressures stopping people from being their best enlightened selves—fears, insecurities, wanting to be liked (or at least not put to death!), and related experiences. Yet according to their views, these feelings and influences do not deprive a person of freedom. This orientation is embedded in professional practices and policies of universities and other institutions focusing on the right of scholars to work without external intrusions on their freedom.[9] Isaiah Berlin distinguishes this as "negative liberty" as opposed to "positive liberty."[10] Positive liberty also includes freedom "to realize one's deepest ambitions, to participate in one's own governance, and so become who one truly is."[11] It requires more social supports than policies oriented toward negative liberty.

However, in practice, negative academic freedom is never absolute. If a scholar says something that could be read as inspiring harm or violence, what to do about it is contested.[12] The case, in any society, hinges on how harmful the speech is held to be by varied actors in relation to other institutional and legal considerations. Furthermore, decisions about what can and cannot be accepted as academic free speech often go beyond assessments of the *content* of the speech.[13] The *context* (in other words, where and to whom) and *quality* (style, genre, and tone) of speech and who is speaking (and in what position—for example, as an expert at a seminar or at a political rally) are also implicated in decision making about what (or rather, whose and which) speech is free.[14] Different views of what constitutes harmful speech in terms of substance as well

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as context and quality underpin debates about critical race theory and other issues in the United States (among other societies) today.[15]

In the United States, academics have been sacked or forced into retirement for engaging in apparently crude or harmful speech or for criticizing practices of their institutions, with their speech in the latter cases regarded by courts as complaints about duties.[16] In one example, the Virginia Military Institute shifted the focus of its English department from literature to rhetoric.[17] When seven professors filed formal grievances about the top-down move, they were told their complaints would constitute cause for dismissal. In this case, all seven resigned or took early retirement rather than pursuing their issue in court. As Steve Salaita discusses, people learn from watching these events what they can and cannot safely express (and how).[18] Such challenges, amidst the growing backlash against critical race theory among other emerging taboos (for instance, the anti-trans movement and both anti-Israel *and* anti-Palestine campaigns), reflect that academic freedom is not guaranteed for all but is often conditional and dependent upon one's professional status and the wider political context, among other considerations.

Relatedly, Johann Neem writes that the most serious academic freedom issues facing the United States are the decline of tenure and shared governance and whether and how academics have a say in relation to how their universities are organized and the scholarship they support.[19] As tenure guarantees are decreasing across a range of societies, the ability of academics to speak out freely becomes less feasible, even for those with comfortable positions in universities increasingly staffed by temporary faculty. Such considerations make the nature of academic relations worth exploring.

RELATIONAL VIEWS

Relational views illuminate how freedom is experienced by diverse individuals and groups within interpersonal and institutional relationships. Existential, recognitive, and sociological views help fill in a relational account. In an existential view, freedom is related to being and becoming who one is against

the backdrop of contextual and interpersonal factors and social expectations. Here universal moral rules, such as Kant's imperatives, are regarded as externally imposed rather than as paths toward freedom. Jean-Paul Sartre observed how people sense morality within social relations and seek to understand and make right choices about it.[20] Yet it is not uncommon to face anguish about big moral questions, as universalistic solutions do not always unfold in the way that some (like Kant) seem to suggest. In addition, existentialists observe how people experience entrapment in the world, as they are perceived by other people differently than they perceive themselves.[21] They thus become alienated through engagement with others from their understanding of reality and themselves.[22]

An existentialist view is portrayed in Albert Camus' *The Stranger*.[23] The protagonist Mersault fails to follow the norms and expectations of those around him or to appear attuned to his circumstances. Yet he is attuned "metaphysically" to himself, which can lead to a greater sense of fulfilment.[24] Here, seeking a deeper engagement with oneself is the only way forward. Being authentic and cultivating courage in the face of anxieties, fears, and insecurities, rather than seeking external guides or consensus, is the best path to freedom. Christian, Buddhist, and Daoist texts also recommend rejection of status quo understandings in favor of a more personalized quest for enlightenment.[25] In all these traditions, a tension is revealed between living for the world versus living for oneself, as people want to be a positive part of the world around them while at the same time existing within and pursuing their own singular paths.

In his work on recognition, Charles Taylor highlights interpersonal implications of self-other tensions.[26] Following Frantz Fanon, Taylor emphasizes how we as humans are positively impacted by seeing ourselves positively recognized by others, rather than in an alien way that is foreign to self-perception.[27] Those who are cast as other or foreign within a community context experience their sense of reality and themselves reflected back to them by others and by institutions in a distorted, disturbing way. Here, people are not simply free to correct a broader sense of social reality when they are the minority, apparently other and wrong, deviant, or deficient. To be authentically received

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is rare for someone cast as other. Yet it remains vital to their meaningful engagement with the world around them.

In this view, none are guaranteed freedom from the power and potential negative repercussions of going against prevailing norms, while these issues negatively impact some more than others. For Kant (and Socrates), one should rise above dogmatic acceptance or toleration of external rules and standards not able to withstand the scrutiny of reason. However, in reality, many academics cannot succeed while rejecting prevailing norms. So, from this view, academic freedom is more of an abstract ideal of individual independence and autonomy that is only accessible to a privileged few. Put more generally, in the contemporary academic context, not all views are recognized equally, and many experience, due to the politics of recognition, demeaning views of themselves and their perspectives that hinder them as scholars.

Observations related to the sociology of knowledge production and higher education back this perspective. Thomas Kuhn observes that much of (what he calls) "normal" scientific research involves making prevailing paradigms more useful by extending the match between scholarly observations and established models. In this case, scientists "force nature into the preformed and relatively inflexible box" and are strongly encouraged to either discard or ignore counterevidence, which is framed as an anomaly deviating from the norm.[28] Kuhn thus sees normal science as "ridden by dogma," as those who call attention to the new or anomalous are generally ignored or dismissed until they no longer can be. They are technically free to conduct and present their research, but they may encounter practical barriers in doing so, as colleagues may reject their work that does not align with the preexisting scheme of things.

Academic research has tended to take place in relatively homogeneous environments, dominated (in Western societies) by white men. While diversity today is given lip service in higher education as providing for new perspectives and greater creativity, at the interpersonal level academics whose identities and experiences vary from the norms around them or who hold unpopular scholarly or political views (meritorious or not) experience forms of silencing

through academic processes that are commonly held by those in positions of power and prestige to be basically fair and reasonable. Such processes are norms-based, as establishing academic authority through getting a doctorate and publishing and sharing research in sanctioned venues depends in part on being regularly, continually recognized as meritorious by communities of distinguished peers. Many do not question these systems and assume they are fair and transparent, but for many coming from minority positions, these processes appear cultlike, partisan, and opaque.

Lori Martin and colleagues elaborate how "contributions of African American and women scholars have been buried" in research due to bullying and dismissal over the course of decades.[29] Historically, the colleagues of Black scholars examining racial bias, such as W. E. B. De Bois and E. Franklin Frazier, dismissed their methods, observations, and findings on so-called objective grounds. More subtle forms of bias continue to hinder the careers of minorities in higher education, such as in processes of peer review.[30] Bullying also plays a role, as political, religious, sexual, ethnic, and racial minorities and women (among others) experience excessive demands in their workplaces to conform, fit in, serve, and otherwise enable majority colleagues to continue to feel relaxed and cozy in their presence (in research and everyday workplace interactions).[31] The line between a tolerable bit of bullying and relatively minor microaggressions versus a serious infringement upon one's academic freedom is difficult to decipher here. As Martin and colleagues note,

> Although nonblack scholars are relatively free to select the topics they research and teach with limited interventions from others, the same is not necessarily the case for black professors, especially black professors who study race, who must calculate the benefits and risks of research in virtually every decision they make in the academy. The scholars themselves are viewed as inferior because of their race, and their scholarship is also viewed as inferior because of its focus on race…

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> [T]he fundamental reality of bullying is as a form of relation, of proximity, of closeness, of contact. But, more than this, it is a form of locked relation; bullying requires a binding, a tether, a connection that, when broken, denies the bully its power and offers the possibility of reprieve for the bullied. Escape seems to be the answer.[32]

Women of color face intersecting challenges here, related to gender, race, and "tone."[33] In the case of Nikole Hannah-Jones, the University of North Carolina never explicitly gave any reason for pulling her tenure case twice amidst political controversy over the 1619 Project before finally offering her tenure, while she also endured public scrutiny from scholars such as Walter Hussman, who questioned her treatment of historical facts and her objectivity.[34] None of what is discussed in this section meets the stringent legal criteria of institutions or individuals violating others' negative freedom. No one here is overtly oppressing the academic speech of others in any sense that can be technically proven in terms recognized by the powers-that-be. However, due to the politics of recognition, some voices count more than others.[35] These accounts reveal much that is left out of the picture when academic freedom is treated as a binary.

THE CAPABILITIES VIEW

A third approach to freedom is articulated in the capabilities view. This is a more pragmatic perspective. It aims at greater equality across societies in experiences of freedom and addresses what needs to happen practically to enable that equality. It basically aligns with Berlin's sense of positive liberty, often regarded by liberals as excessive in its demands on the public. Martha Nussbaum emphasizes (following Amartya Sen) that the focus on rights (for example, to thought or speech) is ineffective in actualizing freedom as a capability.[36] She argues instead for providing the capabilities that freedom requires, noting that humans need bodily health and integrity, "sense, imagination and thought," emotional reflection, practical reason, social affiliation, "social bases of self-respect and non-humiliation," play, control over their environment,

and more, as prerequisites to exercising freedom.[37] For Nussbaum and Sen, the concern is not with a deep or absolute sense of freedom. Theirs has been a more practical project to increase relative freedom within and across communities in grounded steps.

The capabilities perspective exposes challenges to actualizing academic freedom noted in earlier sections, such as the undue burdens and pressure put upon some by others and the need to develop free and independent thought at a personal level. It offers a critical reply to (political) liberalism, which frames all as equally free if they have roughly sufficient opportunities and are not being officially discriminated against. It can thus help to address more practically how people are not equally free to express their views in academia or elsewhere, how some people's freedom to engage meaningfully in academic activities is hindered in unfair ways, and how there is not a global standard of scholarly experiences or identities within communities or institutions to which all have equivalent access.

This view encourages us to consider what capabilities one needs to actualize academic freedom, going beyond negative liberty. As discussed in the last section, one needs to be treated with respect, understanding or reasonable recognition, and fairness by peers. Yet what is the norm and regarded as fair and just by the majority in higher education is not necessarily clear and transparent to minorities. This means that providing more equal access to academic engagement and influence requires reaching out to those who are regarded as different, creating structures to support minorities given the identification of varied interlocking, informal, "invisible" barriers.[38] Major hurdles also exist, due to educational inequalities in undergraduate and primary and secondary education, to enabling all who have the potential and desire with capacities to engage in academic discourse, earn terminal degrees, and become academics. Greater institutional supports are thus required to enable a broader sense of academic freedom.

As alluded to previously, Black and African studies are undervalued in higher education. Gender and women's studies, ethnic studies, philosophy,

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sociology, and other fields increasingly framed as low impact are continually being defunded, with departments shut down and new positions halted, in contrast with fields in business, engineering, medicine, and the hard sciences.[39] At the micro level, there are the prized versus undervalued subfields within departments. Some subfields and topical areas are more likely to receive funding than others; professors from unpopular subfields are replaced upon retirement or non-continuation by scholars from other subfields, effectively shutting down some areas of study over time. As Salaita points out, studies of Israel are "the subject of endowed professorships across the globe" while few jobs anywhere focus on Palestine, Pakistan, or Nigeria (as examples).[40] These and many other more minor decisions impacting diverse academics' capabilities, such as which faculty members can have their conference trips funded and why and how, are made based on various economic and political factors.[41]

Research capabilities are increasingly tied to grant funding, thereby attaching freedom to engage in scholarly activity to the ability to attract funders. Yet funders have their own missions, whether public or private, which constrain academics when grants are vital resources. As Crowley notes,

> [Across] countries, the argument concerning the ability of authors to publish could be linked to the level of financial support that they receive. In China, unlike the UK . . . funds for researchers will come from . . . government. . . . In many respects, it may lead to a decision between writing about what interests you (and maybe not get any money) or force you to target your research towards the topics that are of interest to the education ministry. . . . When this situation is expressed in this blunt fashion, it doesn't appear to be wholly different from many other academic systems in the west![42]

In relation to this issue, many philosophers of education are expected or encouraged by their universities or line managers to not be "too philosophical" in their research or are required to endlessly defend their choice of relatively low-cost (that is, not grant-dependent) philosophical methodology. They are often pressured or required to apply for grants whose funders favor empirical,

non-philosophical scholarship—and then to work on these kinds of projects rather than engage in their specialty. These factors impact academics' potential even after receiving doctorates and gaining steady employment. These trends reflect unequal capabilities provided for today across societies given the increasing entrenchment of neoliberal rationales in higher education.[43] Meanwhile, the process of even getting a decent job is also complex. Again, a binary view of absent or present academic freedom obscures these shades of gray.

CONCLUSION

This essay has intended to complicate popular approaches to academic freedom as a binary presence or absence. When academic freedom is conceived instead as a dynamic, shifting, individual experience marked by relations and relative capabilities, not just the absence of institutional barriers or formal, straightforward punishments, a more complex picture of academic freedom and free speech in higher education is produced. As this essay reveals, experiences of academic freedom significantly vary across communities and institutions in relation to identities, relations, and capabilities. Within this expanded view, there are many issues to confront and address to empower and enable diverse academics who may face varied systemic and micro-level "invisible" hindrances. Thinking more critically about a spectrum comprising fifty shades or more of academic freedom can thus encourage a more holistic approach to justice in relation to the inclusion of diverse academics and students as initiate scholars, as scholarly freedom can be better understood as a personal, social, and political matter and not simply one of legal and institutional policies and procedures.

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