



European
University
Institute

MAX WEBER
PROGRAMME
FOR
POSTDOCTORAL
STUDIES

MAX WEBER
LECTURE
SERIES

MWP – 2014/06
Max Weber Programme

Academic Freedom and the Boycott of Israeli
Universities

Stanley Fish

European University Institute
Max Weber Programme

Academic Freedom and the Boycott of Israeli Universities

Stanley Fish

Max Weber Lecture No. 2014/06

This text may be downloaded for personal research purposes only. Any additional reproduction for other purposes, whether in hard copy or electronically, requires the consent of the author(s), editor(s). If cited or quoted, reference should be made to the full name of the author(s), editor(s), the title, the working paper or other series, the year, and the publisher.

ISSN 1830-7736

© Stanley Fish, 2014

Printed in Italy
European University Institute
Badia Fiesolana
I – 50014 San Domenico di Fiesole (FI)
Italy
www.eui.eu
cadmus.eui.eu

Abstract

The paper begins by observing that very different notions of academic freedom emerge depending on whether the word "academic" is understood strongly. If it is, the freedom academics can claim is limited to the core duties they perform in accordance with a contractual or quasi-contractual understanding of the academic task. In most cases this will mean teaching and/or research activities. So limited, academic freedom is a professional privilege that follows from the unique nature of the academic job—the advancement of truth by means of disinterested techniques of investigation and inquiry. Academics do not enjoy that privilege if they are engaged in other activities even if they take place in a university setting. A more expansive notion of academic freedom will follow from an emphasis on the word "freedom." If academic freedom is thought to be either a subset of the doctrine of freedom of speech or of the general imperative to advance the cause of freedom, academics will conceive themselves as free to use their positions in an effort to further the causes—usually political—they are committed to. It is this expansive notion of academic freedom that leads, for example, to the academic boycott of Israeli universities. Those who favor the boycott resist the accusation that it violates academic freedom and argue instead that a proper understanding of academic freedom requires the boycott. I contend that one moves from a severely professional definition of academic freedom to a more global definition in five stages, which I call the five schools of academic freedom. A description and assessment of those schools is at the heart of the lecture.

Keywords

Academic freedom, the Academy, boycott of Israeli universities.

The lecture was delivered on 21 May 2014

Stanley Fish

Davidson-Kahn Distinguished University Professor and Professor of Law at Florida International University, and Floersheimer Distinguished Visiting Professor of Law at Benjamin N. Cardozo School of Law

"To take a practical political stand is one thing, and to analyze political structures and party positions is another. When speaking in a public meeting about democracy, one does not hide one's personal standpoint. . . . The words one uses in such a meeting are not means of scientific analysis, but means of canvassing votes and winning over others. . . . It would be an outrage, however, to use words in this fashion in a lecture or in the lecture-room. If, for instance, "democracy" is under discussion, one considers its various forms, analyzes them in the way they function, determines which results for the conditions of life the one form has as compared with the other. . . . But the true teacher will beware of imposing from the platform any political position upon the student, whether it is expressed or suggested."

Max Weber, "Science as a Vocation" (1918)

1

The book-length study from which this talk is excerpted begins by noting that the literature of academic freedom is a literature of persistent and basic questions. Is academic freedom a subset of the First Amendment and therefore something that affords legal protection to those who qualify as academics? Or is academic freedom a subset of freedom in the larger philosophical sense and therefore a political rather than a legal project? Or (a third possibility) is academic freedom a less exalted concept, neither a legal right nor a philosophical imperative, but the name of a guild desire, the desire to be free from external monitoring and discipline in the workplace. (This, of course, is the desire of all professions.) If that is all there is to it—a claim of special privilege—what, if anything justifies affirming the claim? Do academics who work in public universities enjoy a status superior to that of other public employees? Are academics, unlike other employees, free to criticize their superiors without fear of retaliation? Does academic freedom attach to the university or to the individual professor? Do students have academic freedom rights? Do classroom teachers have an academic freedom right to depart from strictly academic concerns?

As I explored these questions, each of which has a literature of its own, I noticed that the answers to them varied depending on whether academic freedom was conceived narrowly—as a freedom conditioned by the particular obligations of the academic task—or conceived expansively as a general obligation to support the cause of freedom wherever it is under threat. Is academic freedom intelligible only within the confines of a singular profession—is it a professional norm?—or is it a norm that guides, or should guide, the actions of all right-thinking men and women, whether they are standing in front of a classroom or standing in front of the barricades. These alternate conceptions, and the gradations between them, can be captured by a simple formula: as one moves from a restrictive to an expansive notion of academic freedom—as one moves from right to left—the force of "academic" as a limiting adjective is less and less felt, and the scope of the word freedom more and more enlarged. Hence the subtitle of the book: "From Professionalism to Revolution."

In my analysis one moves from professionalism to revolution in five stages, and I call these stages the five schools of academic freedom. Here they are:

1. The "it's just a job" school. This school is deflationary; it regards higher education not as a vocation or holy calling, but as a provider of services. Colleges and universities offer disciplinary knowledge and skills to students who wish to receive them. Faculty members are trained to impart that knowledge, demonstrate those skills, and engage in research that adds to the body of what is known. They are professionals, not moralists or therapists or change agents, and when they are engaged in professional activities, narrowly defined, they should be accorded the latitude—call it freedom if you like—necessary to their proper performance. When they depart from their professional responsibilities they merit blame, not freedom.

2. The "for the common good" school. This school has its origin in the "1915 Declaration of Principles on Academic Freedom and Academic Tenure" of the American Association of University Professors

(AAUP) and it shares some arguments with the "it's just a job school," especially the argument that the freedom accorded academics is conditioned on their hewing to academic responsibilities and not using their position in the university as a "shelter ... for uncritical and intemperate partisanship." However, the "for the common good school" departs from the severe professionalism of the "it's just a job" school when it links the performance of responsible scholarship to the flourishing of democracy. The reasoning is that democracy requires credentialed experts in order to check "the tyranny of public opinion" and thus "train" the less expert citizenry. By using an external measure—the health of democracy—to justify the academy, this school opens the way to the de-emphasizing of "academic" in favor of the more abstract value of freedom.

3. The "for uncommon beings" or "academic exceptionalism" school. If academics are charged not merely with the task of adding to our knowledge but with the task of providing a counterweight to common popular opinion, they must themselves be uncommon, not only intellectually but morally. They must be, in the words of the "1915 Declaration," "men of high gift and character." Such men (and now women) not only correct the errors of popular opinion, they escape popular judgment and are not to be held accountable to the same laws and restrictions that constrain ordinary citizens.

4. The "academic freedom as critique" school. If academics have the special capacity to see through conventional public wisdom and expose its contradictions, exercising that capacity—the capacity of critique—is their real job. While the "it's just a job" school and the "for the common good" school insist that the freedom academics enjoy is limited by the norms of the profession, those who identify academic freedom with critique insist that professional norms should be interrogated and regarded as objects of critical scrutiny rather than as the unexamined parameters within which scrutiny is performed. Schools 1, 2, and 3 elevate and celebrate professionalism, albeit in different ways, this fourth school is deeply suspicious of professionalism and of all established structures of authority.

5. The "academic freedom as training for revolution" school. This school takes the obligation of critique seriously and turns the suspicion of established structures into a program for overturning them. If school 4 urges us not to accept professional norms without inquiring into their source, members of school 5 know in advance where that inquiry will lead—to the discovery that professional norms have their source in the corrupt motives of agents who are embedded in the corrupt institutions that serve and reflect the corrupt values of a corrupt neoliberal society. With the emergence of this school, the shift from "academic" as a limiting adjective to freedom as an overriding and global concern is complete; frankly political actions take the place of actions performed within professional constraints. "Academic freedom" is still a phrase that can be invoked, but its meaning is radically changed, as it is when Grant Farred declares that "academic freedom has to be conceived of as a form of political solidarity."¹ If that is what academic freedom really is, adhering to a narrowly professional view of one's responsibilities in the classroom amounts to a betrayal of both one's political being and one's pedagogical being. One can be true to the academy only by breaking free of its ideologically based constraints.

The poster boy for this fifth school is Denis Rancourt, a professor of physics at the University of Ottawa who was dismissed from his position for practicing what he calls "academic squatting." You perform academic squatting when you occupy the space of an assigned course in a traditional discipline and turn it into a course on political activism; not, Rancourt is quick to say, a course *about* political activism—that would be perfectly ordinary—but a course that trains students to *be* political activists. You appropriate the university's resources in an effort to bring the university down, and you do this with a sense of moral righteousness. "Academic squatting," Rancourt explains, "is needed because universities are dictatorships ... run by self-appointed executives who serve capital interests."

¹ Grant Farred, "The Art of Politics Is to Divide," *Works and Days* 26127 (2008/2009): 355.

Rancourt continues to raise the banner of academic freedom but in a way that reverses its traditional professional meaning. He defines academic freedom as "the ideal under which professors and students are autonomous and design their own development and interactions."² You might ask, what are professors and students autonomous *from*, and the answer is given when Rancourt contrasts his definition of academic freedom with another, which he rejects: "The institutions, however, define academic freedom to mean that the universities are not accountable to elected governments." In Rancourt's view, the trouble with this second definition is that under it professors and students are accountable to the universities rather than being free to "design their own development and interactions." What professors and students should be autonomous from is the monitoring by the university of whatever they choose to do. In short, *academic freedom means freedom from the academy*.

When I wrote briefly about Rancourt in the *New York Times*, some readers chided me for focusing on so extreme an example and presenting it as if his was a position held by more than a few cranks. But while Rancourt's pronouncements are theatrical and perhaps exaggerated for effect, the view underlying them is not so uncommon and was in fact ratified in 2008 by an arbitrator commissioned by the University of Ottawa and the Association of Professors of the University of Ottawa. Although he had critical things to say about the behavior of both parties, on the main point arbitrator Michel Picher came squarely down on the side of Rancourt: "It is difficult for this arbitrator to conclude that it was inappropriate or beyond the bounds of academic freedom for Professor Rancourt to have framed the description of the course in the terms he chose." This is as much to say what Rancourt had been saying: academic freedom has no bounds at all.

The merit of the Rancourt case is that it puts on display the steps by which taking a certain view of academic freedom leads to the expansion and consequent emptying out of the concept: if you begin by assuming that academic freedom attaches to the individual professor rather than to the institution (a position Robert Post and Matthew Finkin term "antinomian" in their book *For The Common Good*), the exercise of your freedom might well involve flouting the institution's protocols in the name of a higher obligation; and once you begin to do that, you are more than halfway to deciding that what academics are free and obligated to do is critique and oppose arrangements that impede the advancement of social progress. It will then seem obvious to you that universities, tied as they are to the interests of the state and corporate capitalism, do just that kind of bad work. Therefore, in order to stand up for true freedom, you must burst the bounds of merely academic freedom and turn your energies against the structures that house you in the hope that, in time, they will be reformed and align themselves with the project of social justice. Academic freedom, in this logic, is appropriately exercised only when it transcends the academy and is no longer academic in any narrow sense.

2

Something very much like this sequence is enacted by those who have in recent years advocated a boycott of Israeli universities. They argue that because Israeli universities are funded by a rogue state and because the policies of that state have the effect of abrogating the academic freedom of Palestinian professors and students (by denying them materials, access, funding, and mobility), it is an expression and not a violation of academic freedom to refrain from engaging in intellectual commerce with Israeli universities or with Israeli scholars unless they actively repudiate the policies of their government. Pointing out that "Israeli universities are ... heavily involved in tailored teaching for the military and security services," boycott supporters conclude that the "academic freedom of Israel has generated illegal, racist, and oppressive behavior ... , complicity in [the] government's expansionist and oppressive policies; and in response to the suffering imposed on the Occupied Territories and the

² Denis Rancourt, "Dismissing critical pedagogy: Denis Rancourt vs. University of Ottawa," interview by Jesse Freeston, January 12, 2009, <http://rabble.ca/news/dismissing-critical-pedagogy-denis-rancourt-vs-university-ottawa>.

violation of Palestinian academic freedom—deafening silence."³ How, asks University of California—Los Angeles Professor Sondra Hale, "can we discuss academic freedom in the absence of basic human rights?" How will the invocation of academic freedom be received by Palestinian academics who live under conditions that make the phrase "meaningless":

The destruction of infrastructure, civil society, and cultural and intellectual life cannot be separated from the question of academic freedom. The ability of teachers, researchers and students to deliver and access teaching cannot be separated from the question of academic freedom. The right to be free from arbitrary detentions and delays, and from the threat of an occupying force backed by the threat of violence cannot be separated from the question of academic freedom.⁴

The basic argument is that while academic freedom, conceived of narrowly as the freedom to engage in "scientific and scholarly discourse," is undoubtedly an "attractive" principle, it cannot be allowed to function as an alibi for the violation of principles of equal, and perhaps superior, importance. The point is made forcefully by Maximilian Forte, associate professor of anthropology at Concordia University, in his essay "Canadian Academic Boycott of Israel: Why We Need to take Action."⁵ Forte begins by wondering "how institutions that boast of enhancing and developing the individual's capacities for citizenship, for appreciation of diversity, and sensitivity to humanity, can so quickly turn a cold face to genocide." The path to the conclusion he wishes to reach is opened up the moment universities are made instrumental to extra-academic purposes. If individual growth, the formation of citizens, and the broad needs of humanity are identified as the university's core concerns, the freedom to teach, say, Byzantine art and to publish scholarly monographs about it will seem pretty small potatoes; and a focus on such esoteric matters in a time of geopolitical urgency will be seen as a dereliction of duty.

In response to a University of Ottawa professor's stated concern that a boycott would violate academic freedom, Forte deplors what he calls "a selfish and narrow way of thinking." Academic freedom, he declares, does not "trump everything else on earth." While in some respects academic freedom is "vital," it is not "so paramount that it rises above the interests of human beings subject to genocidal practices." Indeed, if given a choice, he "would rather live in a world with justice, and no concern with academic freedom, rather than the reverse." He says he cannot accept "the notion that out of concern for academic freedom, all other freedoms must be drowned." Political freedom must come before academic freedom, and any version of academic freedom that would draw a bright line separating academic work from political work must be rejected.

Forte correctly identifies the narrowness of an academic freedom understood as the freedom to engage in professional projects that stop at the water's edge of politics and address large-scale social concerns indirectly if at all. (What will a new account of *Paradise Lost* or of the doctrine of consideration in contract law do to alleviate human misery?) If the test universities must pass measures their contributions to world peace or universal justice, a university that sticks to its academic knitting will fail it, and Forte will be right to say "We should be serving humanity, be concerned for humanity, and [a university] ought to show more sensitivity and respect for humanity if it is to be taken seriously and to be protected as an institution worth preserving in very uncertain times."

In this argument, academic institutions deserve protection only if they detach themselves from merely professional academic imperatives and join the political struggle everyone should be engaged in. Like Rancourt, Forte is willing to invoke academic freedom so long as it is extended to everyone and not clung to as a guild privilege: "If academic freedom is what really mattered in this discussion, it would be made to matter for all, and not just held as the inviolable, paramount, and absolute right of a privileged few." This cannot mean that everyone should be an academic, festooned with degrees and assigned an office in a university building. It must mean, rather, that everyone should enjoy the

³ British Committee for the Universities of Palestine (BRICUP), *Why Boycott Israeli Universities?* (London: BRICUP, 2007), 18-19, www.bricup.org.uk/documents/WhyBoycottIsraeliUniversities.pdf.

⁴ BRICUP, *Why Boycott Israeli Universities?*, 14.

⁵ Maximilian Forte, "Canadian Academic Boycott of Israel: Why We Need to take Action," *Zero Anthropology*, February 4, 2009, <http://openanthropology.wordpress.com/2009/02/04>.

privileges and respect now accorded only to academics; everyone should be regarded as an equal partner in the struggle for social justice; everyone's contribution should be taken seriously; and everyone should be guaranteed the freedom to speak out without fear of retaliation. Needless to say, this utopian vision would spell the end of academic freedom as a doctrine responsive to the distinctive conditions—there would not be any—of academic labor.

Still, it is not difficult to understand the appeal of this vision. The contention that in the end human freedom trumps academic freedom, if only because absent the security of human rights academic rights can neither flourish nor be protected, seems intuitively right. It is a matter of what comes first, isn't it? If an oppressive regime makes daily life miserable for an entire population, including its students and teachers, and if you determine that fellow academics flourishing under that regime are either passive or complicit, is it not your duty—both as a professor and as a human being—to apply what leverage you have in an effort to provoke your delinquent colleagues to rouse themselves and do the right thing? If you fail to do so, do you not join them in their complicity? Isn't it simply wrong to hunker down in the academic trenches, writing your essays and teaching your sanitized classes, while millions are denied the freedom you take for granted?

On the other side, there is only one thing to say and it amounts largely to a reaffirmation of the independence and priority of professional academic values. In 2002, Mona Baker, a professor of translation studies at the University of Manchester in England, removed two Israelis from the editorial boards of the journals *Translator* and *Translation Studies Abstracts*. She told a reporter that she was not boycotting Israelis, just "Israeli institutions," and in an e-mail to Gideon Toury, one of those she had "unappointed," she declared that she continued to regard him a friend, and said that her decision was "political, not personal." (All too true.) Toury replied, "I would appreciate it if the announcement made it clear that 'he' (that is I), was appointed as a scholar and unappointed as an Israeli. That is, when you invited me it was by virtue of my scholarly credentials with no concern for my nationality or religious affiliations, and now you disinvite me for political reasons, reasons that are not relevant to the doing of academic business."

Baker and Toury are not really in disagreement: each is aware that the wall separating academic judgments and political judgments—between academic reasons for appointing a board member and political reasons for appointing a board member—has been breached. It is just that while Toury continues to insist on the independent integrity of the academic community—a community that knows no geography but the meta-geography of professional recognition and cooperation—Baker would claim that the community's integrity could not possibly be independent of the material conditions without which contemplative leisure would be impossible. In her view, one must act politically so that those conditions and the leisure they bring with them can be restored.

Judith Butler makes the same point: "If the exercise of academic freedom ... is actively thwarted, that freedom is lost, which is why checkpoints are and should be an issue for anyone who defends a notion of academic freedom."⁶ Butler's statement allows us to see clearly why the word "freedom" in the phrase "academic freedom" is the source of so much confusion. Freedom is obviously a political concept, and it is easy to make the mistake of thinking that something called academic freedom is a political value in competition with other political values to which it must, on occasion, yield.

But the fact that academic freedom cannot flourish in a political space that denies the conditions necessary for its exercise does not mean that academic freedom is a political value. It is an abstract value—the value of the unfettered search for truth—and it is defined independently of the political circumstances that might attend or frustrate its implementation. Those circumstances, whether encouraging or discouraging of the value, are not essential to it as distinct from being essential to its realization. Butler says that "it makes no sense to value the doctrine in the abstract if we cannot call for its implementation." But it makes the same sense as valuing universal health care apart from the question of whether the political/economic situation of a particular nation is such that the care can actually be delivered. If it were determined that the actions of nation X had the effect of undermining

⁶ Judith Butler, "Israel/Palestine and the Paradoxes of Academic Freedom," *Radical Philosophy* 135 (2006): 8-17.

the health care of Nation Y's citizens, would we then think it right to refuse to sell medical supplies to Nation X in the hope that the damage to its citizens would provoke a reconsideration of policy? The value—whether it be academic freedom or universal health care—is one thing, the context of its instantiation another; and when one context has been rendered inhospitable to the value (perhaps by an occupation), the conclusion cannot be to abandon it by surrendering it to politics. Boycotters who say "because the Israelis deny academic freedom to the Palestinians, we're going to deny it to them" are also denying it to themselves. They reason that given the present circumstances we cannot continue to respect the distinctiveness of academic work—a distinctiveness defined by its difference from political work—and we are morally obligated to use the leverage provided by our academic positions to perform political acts. They congratulate themselves for doing a good deed while happily paying the price for their virtue of abandoning the academic integrity they continue to claim.

Needless to say, Butler would resist this critical account of the boycotters' logic. "We could say," she says dismissively, "that these are terrible circumstances and ought to be addressed by other means, but that, strictly speaking, these are not matters of academic freedom." "Strictly speaking" in Butler's vocabulary means speaking within a pinched, narrow position in which the discourse of academic freedom proceeds merrily and airily along while entire populations are unable to exercise the freedom being celebrated. (A version of Nero fiddling while Rome burns.) That is the position held to by those (like me) for whom academic freedom is a professional concept that is not enlarged but hollowed out when it becomes the freedom (and the duty) to act in extra-academic ways. Butler is quite precise in her characterization of both what is asked and perhaps lost by such strict speaking: "If to enter the debate on academic freedom is precisely to bracket out both the material devastations characteristic of the Occupation ... , then what form of political constriction is performed through constricting the discourse of academic freedom to a narrow liberal conception?" The assertion of her dependent clause ("If to enter") is correct, although the bracketing out need not be self-consciously performed. That is, you do not have to say to yourself: I am now going to put aside the devastations of the Occupation (or of Sudan or of Syria or of a hundred other places) and just focus on medieval metrics or the Hundred Years War. Once you step into the world where topics like these are the basis of a lifetime of scholarly work, the putting aside (at least for the period of professional labor) has already occurred, not as an act of the will—you do not pledge to close your eyes to the suffering of peoples—but as the consequence of your having committed yourself (again for certain specified times, not all the time) to a necessarily limited project, the project of engaging in the practices that typically take place in universities.

Of course, this is a choice—no one forced you to become an academic—and one could argue that the choice is a political one. You could decide, as many have, that life is too short to spend a significant amount of it worrying over something perhaps only 500 other people in the world care about. You could decide to leave the academy and devote all your energies to, say, the redressing of injustice and the alleviation of misery. But if you decide to stay, you should actually do it and not sail under false colors by appropriating the machinery and prestige of the academy for political purposes as Rancourt frankly urges and Butler urges in effect.

The answer to Butler's question—"What form of political constriction is performed through restricting the discourse of academic freedom to a narrow liberal conception?"—is "no form at all." Restricting the discourse of academic freedom to a "narrow conception" is simply to recognize that academic work, like every other kind of work, is narrowly conceived. No kind of work does everything, and a task whose limits are expanded far beyond what appropriately belongs to it (and I know that "appropriateness" is precisely what is in dispute) is no longer what it is. Choosing to perform a limited task and determining to respect its limits is not a political statement; it is a professional statement. The politics, as I have already said, comes in when you decide to perform this task rather than another. Fidelity to your decision, not a constriction of your politics, is what is being practiced.

Nor will it do to say (as Butler sometimes seems to) that demarcating a space where analysis and description but not politics (in the partisan sense) is done is itself a political act for which one must take responsibility. This argument, which continues to be popular in certain quarters, gets its apparent force by enlarging the category of politics until it includes everything: urging specific

policies is political and ruling out the urging of specific policies is political. But expanding the meaning of politics in this fashion is just like enlarging the meaning of academic freedom until it encompasses anything an academic might think right to do: the concept loses its usefulness as a way of making distinctions (which is of course the strategy of those who equate academic freedom with critique and revolution). When Butler calls for a "more robust conception of academic freedom," one that does not bracket out geopolitical considerations, she is calling for the end of the academy as a place where a distinctive activity is performed and plumping instead for a place indistinguishable at bottom from the ballot box, the parliamentary debate, and the street rally.

Now an argument that there should not be an academy and that society's resources and the energies of citizens would be better expended elsewhere is an argument I am always ready to entertain. I have never been a hard-core defender of the educational experience or of disinterested inquiry as a value that must be protected at all costs. All I would say is that if we are going to have an academy we should really have it in all its glorious narrowness and not transform it into an appendage of politics, even when—no, especially when—the politics is one that we affirm and believe in with all our hearts

3

As a way of bringing our discussion to a close, let us revisit the taxonomy of the schools of academic freedom and ask what each of them would say about the boycott of Israeli universities and scholars. (Much of the answer has already been given.)

1. The "it's just a job" school would see the boycott as a perfect example of what happens when the narrowly professional conception of academic work is enlarged and that its exercise can be directly linked to real-world problems and their possible solutions. Even the apparently innocuous tying of academic freedom to democracy leads to an alteration in the direction of justification, for rather than asking how a proposed project contributes to the furthering of knowledge, one asks how the project furthers the goals of democracy. Sooner or later, that question will be seen as legitimizing any action taken by academics in the name of social justice, and boycotting Israeli universities will be regarded as the fulfillment of academic freedom rather than as its violation (precisely the argument of the boycotters).

2. The boycott presents a difficult problem for the "it's for the common good" school, which is in many ways a "swing" school. As I observed earlier, the shift from the professional good to the common good opens the door to the transformation of academic freedom into an agenda of political activism, and that is a door members of the "it's for the common good" school are reluctant to walk through. So they are pulled in two directions, affirming professional norms while leaning toward the norms and imperatives of a progressive politics. Thus the split message of the AAUP's 2006 statement on academic boycotts.

The statement begins by reaffirming its 2005 resolution: "We reject proposals that curtail the freedom of teachers and researchers to engage in work with academic colleagues, and we reaffirm the paramount importance of the freest possible international movement of scholars and ideas." But then the statement goes on to acknowledge candidly that the AAUP's practices have not always been faithful to its own severe standard. In 1970 the organization engaged in a debate about whether a university should "take a position on disputed public issues" like the Vietnam War. One side said no, reasoning that a university should not "become an instrument of indoctrination." The other side argued that there should be an exemption for "extraordinary situations." The question of dealing with German universities under the Nazis was raised "Can one plausibly maintain that academic freedom is inviolate when the civil freedoms of the larger society have been abrogated?"

Fifteen years later the same issues surfaced in the context of the movement to divest from companies doing business with South Africa. In a 1985 resolution, the AAUP called on colleges and universities to "oppose apartheid" by declining "to hold securities in banks which provide loans to the

government of South Africa." This, it was said, "did not constitute an academic boycott," because it kept open "lines of communication among scholars." The claim was that by thus splitting hairs, "the AAUP carefully distinguished between economic and academic boycotts largely on matters of principle" (although one could argue that the so-called principle failed the test of "indirect effect": an economic boycott is likely to have an adverse impact on teachers and researchers).

It is in the context of this ambiguous history that the organization confronted the calls for a boycott of Israeli universities. This time, it appeared to come down squarely against boycotts: "In view of the Association's long-standing commitment to the free exchange of ideas, we oppose academic boycotts." But then the report concluded with a curious sentence the two halves of which are much closer together than its syntax suggests: "We understand that threats to or infringement of academic freedom may occasionally seem so dire as to require compromising basic precepts of academic freedom, but we resist the argument that extraordinary circumstances should be the basis for limiting our fundamental commitment to the free exchange of ideas and their free expression." Huh? The argument "we" resist after the "but" is the argument whose force we acknowledge in the part of the sentence before the "but." We concede X, but we resist X.

The fence-sitting this sentence performs is characteristic of the 2006 statement as a whole, especially its list of alternative "sanctions and protest" that might be considered by the university community as a response to Israeli aggression—"resolutions by higher education organizations condemning violations of academic freedom whether they occur directly by state or administrative suppression of opposing points of view or indirectly by creating material conditions such as blockades, checkpoints, and insufficient funding of Palestinian universities, that make the realization of academic freedom impossible." The adverb "indirectly" lets in everything the firm stand against boycotts supposedly bars. If universities can legitimately issue condemnations and sponsor protests whenever the actions of a state indirectly affect academic freedom adversely, the line separating academic and political actions has been irremediably blurred.

The same blurring of the line occurs in a widely read essay by Martha Nussbaum, an AAUP-style liberal. Nussbaum writes "Against Academic Boycotts,"⁷ but she too believes that there are "a number of options open to those who want to express strong condemnation." She lists a number of them, beginning with "censure": "a professional association might censure an academic institution that violates the rights of scholars." (That of course is the job of AAUP Committee A). That seems straightforward enough, as does the option of "organized public condemnation." Nussbaum illustrates this tactic by declaring that "if Martin Heidegger had been invited to the University of Chicago, I would have been one of the ones conducting a public protest of his appearance and trying to inform other people about his record of collaboration with the Nazi regime." A public protest is one conducted in public by individuals who come together for a cause; it is precisely not a protest conducted by the university, which should hold itself aloof from the constitutionally protected activities of its employees no matter what side of the political aisle they are on. So far so good. I probably would not have been one of those protesting Heidegger's appearance, but the decision of a professor to do so is not a departure from the norms of academic freedom; it is in fact protected speech under the First Amendment.

But the slide down the fabled slippery slope has already begun when Nussbaum announces, as another "option" (short of boycotting) open to a university, the "failure to reward." The institution, she says, "might decide that [an] individual does not deserve special honors," such as an honorary degree. Her example is Margaret Thatcher who, she says, was understandably denied an honorary degree from Oxford because by "conferring an honorary degree, a university makes a strong statement about its own values." No, it does not. By conferring an honorary degree, a university recognizes the significance—in the sense of magnitude—of the recipient's labors; it does not endorse them. A university that awarded a degree to either Antonin Scalia or Ruth Bader Ginsburg would not be indicating approval of the honoree's decisions; it would be recognizing that in their professional capacities these justices have played a significant role in shaping the nation's legal culture. Failure to make this distinction informed the opposition at Southern Methodist University to housing the George W. Bush

⁷ Martha Nussbaum, "Against Academic Boycotts," *Dissent* 54 (2007): 30-36.

library; the protestors confused the question "Is the tenure of a two-term U.S. president a worthy subject of academic study?" with the question "Do we politically and morally approve of the president's policies?" When Nussbaum declares that Thatcher's "assault on basic scientific research" in addition to her "ruin of the national medical system" were "values that the Oxford faculty believed that it could not endorse," she falls into the same confusion. Oxford faculty members would not be endorsing Thatcher's policies by acquiescing in the awarding of a degree to her; they would be testifying to her immense and undoubted stature as a national and world figure. At this point one might object that the same could be said about Al Capone or Adolf Hitler; but Capone and Hitler were criminals and (in different ways and scales) mass murderers. One can still hold on to the category of "significant figure" as a basis for selection while excluding from it the performance of significant criminality.

Nussbaum gives the game away when she declares that under the "failure to reward" rubric "one might in some cases of competition for merit grants, refuse to reward Israel, without endorsing a boycott." Surely that is a distinction without a difference; excluding Israeli academic institutions from a competition for funds is just a boycott by another name. Nussbaum's alternative options, like those listed in the AAUP's 2006 statement, illustrate how easy it is for the members of the "it's for the common good" school to transgress the boundary that separates academic from political advocacy.

3. There is no straight line from the school of academic exceptionalism ("academic freedom is for uncommon beings") to any position on the boycott of Israeli institutions and scholars. Exceptionalism is typically asserted in the context of employment disputes; the claim is that academics should be exempt from regulations and limitations to which other workers are bound. One could affirm that claim and have any view, or no view, of the boycott.

4. The relationship between the "critique" school of academic freedom and the approval of the boycott is much closer and is indeed inherent in the notion of critique itself. Critique, at least as it is urged by members of this school, is inseparable from the quest for social justice. Henry Giroux's name for this quest, as it is conducted in the university, is "critical pedagogy": "Critical pedagogy is about providing the conditions for students to be agents in a world that needs to be interrogated as part of a broader project of connecting the search for knowledge, truth, and justice to the ongoing tasks of democratizing both the university and the larger society."⁸ It is important for this school that the "interrogation" not be merely academic as it is in some safely theorized versions of postmodernism. The relevant distinction is made by Sophia A. McClennen: "The key nuance between postmodern political critique and postmodern apolitical critique is that in the former questions are posed in the service of struggle and vision, and in the latter, the questions are an end in themselves."⁹ Questions about justice and injustice should not be posed merely to elucidate the shape of political conditions; rather the aim should be the altering of those conditions, and that, of course, is what the boycott is intended to do. Academic freedom, in this view, cannot be invoked as an argument against the boycott because, properly conceived, academic freedom demands the boycott: "There can be ... no demand that Israeli academics not be denied academic freedom when such freedom is routinely, deliberately, and as a matter of state policy, denied to their Palestinian colleagues."¹⁰ Once again academic freedom is "saved" by refusing to limit its scope and obligations to the academy. Grant Farred, in the statement I quoted at the beginning of this chapter, identifies the imperative that follows from the installation of active, not merely intellectual, critique at the center of academic freedom: "Academic freedom has to be conceived as a form of political solidarity."

⁸ Henry Giroux, "Academic Unfreedom in America," in *Academic Freedom in the Post-9/11 Era*, ed. E. J. Carvalho and D. B. Downing (New York: Palgrave Macmillan, 2010), 31.

⁹ Sophia A. McClennen "The Crisis of Intellectual Engagement," in *Academic Freedom in the Post-9/11 Era*, ed. E. J. Carvalho and D. B. Downing (New York: Palgrave Macmillan, 2010), 209.

¹⁰ Farred, "The Art of Politics Is to Divide," 354

5. Once that conception is in place, the school of "academic freedom as revolution" has been fully realized. In fact, it would be no exaggeration to say that the boycott of Israeli institutions is the realization of this school; for it involves a deliberate and unapologetic turning of the energies of the academy against the academic project, at least insofar as that project confines itself to asking and answering narrowly professional questions. The boycott, as Farred's pronouncement makes clear, represents the overwhelming of traditional academic concerns by blatantly political concerns. The boycott is academic squatting writ large: not just a single course but the entire project is hijacked for political ends.

4

By reaching that conclusion I invite the argument that is always made (I have made it myself) against any claim that a realm is or could be purged of politics, the argument that no area of experience, not even a supposedly politics-free zone, escapes politics. Here is R. Radhakrishnan's version:

Is the world out there and is academia an interior space? Isn't the world somehow always already in, and isn't academia always in a relationship of heteronomous exteriority to the world of which it is a representation/mediation? Aren't outsides and insides always reciprocally relational and mutually constitutive such that there can be no absolute and non-negotiable forms of exteriority and interiority?¹¹

I cheerfully stipulate to the assertions implicit in Radhakrishnan's questions. If the academy is an interior space, it is so only by permission of the outside it defines itself against; and, moreover, that outside-the-world with all its politica/economic/cultural forces and biases—rather than being excluded from the interior space from which it only rhetorically withdraws, configures it and everywhere marks it. The outside owns the inside and, therefore, the claim of the academy to *be* an inside—to be sharply distinguishable from what it pushes away, to be an independent, pure thing—cannot be maintained. There is no "intrinsic" form of the academy, only the form that emerges when some historically limited, contestable definitions and demarcations are put in place by an act of the will. There is, therefore, no reason in nature for the category of academic work not to include the direct taking up of charged political questions with a view to pronouncing on them and prompting students to action. The academy I defend in these pages—narrowly professional and resistant to calls for "relevance"—cannot be defended down to the ground; it rests on foundations no firmer than its self-assertion.

Butler, then, is right when, in a critique of Kant, she insists that philosophy's "claim to transcendental status"—its claim to rise above politics—can only be maintained "by virtue of its implication in politics."¹² She asks, "Is it a transcendental ground that conditions philosophy's difference ... , or is it precisely the way that line of demarcation is drawn that produces the transcendental effect upon which the disciplinary self-definition of philosophy depends?" The question could be rephrased. "Is it a transcendental ground that conditions the academy's difference, or is it precisely the way that line of demarcation is drawn that produces the effect of difference upon which the academy's self-definition depends?" Both Butler and I would affirm the second alternative in our respective questions. It is "the particular political power of delimitation"—the bald declaration that there politics is and here it is not—and nothing more foundational that produces the differences that then offer themselves as essential.

We disagree, however, in our assessment of whether this production of an artificial difference is a good or bad thing. For Butler it has the unfortunate effect of creating an area "in which critique ought not to go." The academy gains its internal coherence at the price of being unable either to interrogate its boundaries or to move beyond them to a direct engagement with the world. "If, according to the Kantian scheme, philosophy has held itself exempt from state commands and policies,

¹¹ R. Radhakrishnan, "Is Freedom Academic?," *Works and Days* 26127 (2008/2009): 505.

¹² Judith Butler, "Critique, Dissent, Disciplinarity," *Critical Inquiry* 35 (2009): 782.

then philosophy has been instrumental in limiting the scope of critique." To which I would reply, "Yes, and it does that in order to be what it is." What Butler complains about—the limitation of critique in the academy to the realm of thought—I see as the necessary founding gesture of the academic realm. If, in Kant's words, it is essential that there be a learned community that "having no commands to give is free to evaluate everything," the only way to establish that community is to declare it into existence and then to enforce the distinctions that sustain its entirely arbitrary vision.

It is because the vision is arbitrary—not motivated by an authority higher than itself—that its maintenance is entirely an internal responsibility. If members of the academy wish to continue doing what they have been trained to do, it is up to them to monitor the conditions—the list of professional dos and don'ts—that ensure the health of their practice. That practice is not underwritten by any theory of truth or justice and it will not survive an interrogation that demands an independent corroboration of its cogency. It is underwritten only by its own protocols, and if they are flouted or actively rejected, the activity they make possible will disappear. The narrowly professional definition of academic freedom is not merely a rival account of the academy. It is the academy.

