



Lessons in academic freedom as lived experience

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ABSTRACT

What is academic freedom, what guarantees it, and what would you do if your university violated yours? Few of us academics entertain these questions or ponder possible answers. This leaves us individually and collectively vulnerable to encroachments on our right to free and open inquiry. I use a case study from 1989–1994 to illustrate how violations of academic freedom develop, the typical pretexts used to justify them, and what is required to halt and reverse them. My aim is to help scholars recognize when academic freedom is at risk and how better to safeguard it in daily academic life. To this end, I describe the general social mechanisms that operate both inside and outside academe to selectively burden and suppress unpopular research. The case study provides concrete examples to illustrate six specific lessons. Like free speech in general, academic freedom (1) has maintenance costs, (2) is not self-enforcing, (3) is invoked today to stifle unwelcome speech, (4) is often violated by academic institutions, (5) is not often defended by academics themselves, and (6) yet, requires no heroic efforts for collective enjoyment if scholars consistently contribute small acts of support to prevent incursions.

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1. Introduction

Most of us in academe take academic freedom for granted—until our own is violated. Not so Thomas J. Bouchard, Jr., our festschrift honoree. He has acted affirmatively to protect freedom of speech and conscience since his graduate-school days, long before his own research came under ideological fire. For him, freedom of speech and inquiry are not just principles to espouse, but ones to live. I am among the scholars who have benefited directly from his concern that scientific work not be suppressed on ideological grounds. I draw on that experience to describe lessons I have learned while observing and contending with such suppression.

I learned these lessons only gradually, as immediate experience kept contradicting my tacit presumptions about what academic freedom is and how we possess it. As a novice scholar, I had thought of academic freedom as a talisman automatically bestowed with one's doctoral degree. Like most academics, I took for granted that the principle provided effective protection because I did not see academics being fired for their views. I began to learn differently as my research led me deeper into the literature on intelligence differences. Rigorous research in that field seemed to provoke public opprobrium and efforts to impede the research or its publication. I could also feel the chill worsen where I worked, an educational research center at the Johns Hopkins University, the closer I myself ventured to socially sensitive questions.

My most concentrated opportunity to observe interference in academic freedom was in 1989–1994, soon after I moved to the University of Delaware (UD), taking a position in the Department of Educational Studies. It was during those years that I and a department colleague, Jan H. Blits, became the target of a racially-charged public controversy.

I cull from those events to illustrate six lessons about academic freedom. I focus on the events of 1989–1994 because they are well documented in the public record (e.g., Holden, 1992; Hunt, 1999; Kors & Silverglate, 1998; O'Neil, 2008; Wainer & Robinson, 2009). For ease of exposition, I have organized the majority of these tangled, intertwined, and sometimes Byzantine events into five sets according to the formal complaints (“cases”) we filed within the University alleging specific violations of academic freedom by specific individuals. I use them to illustrate the mechanics of how academic freedom is commonly eroded. I concentrate on freedom in research because that is where my experience lies and, for many scholars, it is more important than the three other prongs of academic freedom—freedom in teaching, intramural speech, and extramural speech.

2. Preview of the six lessons and five sets of violations

Academic freedom is the right of scholars to inquire and speak freely, according to the standards of their profession, without interference or fear of retribution. Their ability to enjoy this right is, however, contingent on local norms and social practices that are vulnerable to political interference and competing interests.

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Americans have a constitutional right to speak their mind in the public sphere, and their ability to enjoy that right is similarly vulnerable to improper constraint. It is the scholar's job, however, to think and speak freely nonetheless.

The six lessons reflect different aspects of this tension between scholarly rights and duties, on the one hand, and, on the other, the costs and constraints in fulfilling them. Academic freedom, like free speech, (1) has maintenance costs, (2) is not self-enforcing, (3) is often invoked today to stifle unwelcome speech, (4) is often violated by academic institutions, (5) is not often defended by academics themselves, and (6) yet, requires no heroic efforts for collective enjoyment if scholars consistently contribute small acts of support to prevent incursions.

Our experiences during 1989–1994 are informative for present purposes because the violations were varied, prolonged, and novel, and also occurred despite our working under perhaps the most favorable legal and contractual standards in the world. Blits and I work in a public university in the United States and thus benefit from First Amendment constitutional protections not found in private institutions or other countries. UD faculty are additionally protected by a union contract negotiated by the Delaware Chapter of the American Association of University Professors (AAUP). Our contract guarantees “full freedom” in research and publication.

All violations during the six years had their proximal cause in the controversy that erupted in October 1989 when the University President received a highly publicized letter from campus constituencies hostile to my research. The letter detailed the supposed evils of the foundation from which I, and only I at UD, received research support: the Pioneer Fund. The letter asked the University President to ban receipt of Pioneer funding because, it asserted, the Fund's mission was contrary to the University's commitment to cultural diversity.

Case 1 (Funding Ban): In November 1989, the University President requested that the UD Faculty Senate's Research Committee investigate the Pioneer Fund, and in April 1990 he accepted its recommendation that the University ban further grants from it.

Case 2 (Gottfredson Promotion): Simultaneously, our department's promotion and tenure (P&T) committee recommended against my promotion to full professor because it disapproved two in-press articles (Blits & Gottfredson, 1990a,b) that were critical of a national report purporting to find scientific justification for race-norming (the practice of scoring employment tests on a racial curve), and my department chair did likewise in early 1990.

Case 3 (Blits Promotion): During 1989–1990, improper actions taken by the department P&T Committee, department chair, and college dean in relation to my promotion application promised to undermine the fairness of the promotion process for Blits, the senior author of the two race-norming articles.

Case 4 (Gottfredson Course De-Listing): In Spring 1990, also on ideological grounds, the Sociology Department removed my section of our department's Sociology of Education course, and no one else's, from its list of courses for which Sociology majors got credit toward that major.

Case 5 (Chair's Harassment): The chair retaliated against Blits and me for filing the foregoing complaints. Retaliation included changing Blits's long-standing teaching assignment, reclassifying our race-norming publications as non-research, and lowering my merit ratings.

The first case eventually went to binding arbitration through the local AAUP's Grievance procedure. We filed the other four complaints with the UD Faculty Senate's Faculty Welfare and Privileges (FW&P) Committee. The national arbitrator ruled in our favor in

August 1991, forcing the University to rescind its funding ban. The FW&P Committee's five-faculty hearing panel decided Cases 2–4 in our favor earlier that year, but the UD administration rejected its conclusions and recommendations for redress. The Committee suspended operations before hearing Case 5 because of administration interference. I will also make brief mention of a 1992 out-of-court settlement and additional agreements we negotiated in 1994 owing to escalating harassment by our college dean. Table 1 lists the major documents in the five cases, totaling 750 pages, and how to obtain them.

3. Lesson 1. Academic freedom, like constitutionally-protected free speech, has maintenance costs

Tom Bouchard's own efforts illustrate how safeguarding free speech can be costly. In 1964–1965 he was in graduate school at the University of California at Berkeley, a publicly-funded institution. During that academic year the Berkeley administration sought to limit its political liability with the California State Legislature for Berkeley students' activism off-campus. President Clark Kerr had recently incurred its displeasure for refusing to discipline students arrested in civil rights and anti-war demonstrations off-campus, and he now wished to avoid being held politically accountable for their on-campus planning of possibly illegal off-campus activities. Beginning in September 1964, Berkeley stopped allowing its students to recruit or advocate for civil rights or other political action on school grounds, even in the plaza built specifically for such activity (Turner, 1964b). Thus was born the Free Speech Movement.

After several months of unsuccessful negotiations with the Berkeley administration, a thousand students staged a peaceful sit-in on December 3, camping out for the night on all floors of Sproul Hall, the main administration building. Over 600 police officers spent 13 h dragging limp students, Tom Bouchard included, down stairs and into jail-bound paddy wagons (Turner, 1964a). The protest and ensuing publicity eventually led the university to rescind its restrictions, but not before considerable personal cost to the protesting students, including Bouchard, who incurred special costs for his principled refusal to plead the equivalent of no contest (Goines, 1993, p. 530).

It would have been equally unconstitutional had Berkeley attempted to impose onerous restrictions on only certain political views. Under the First Amendment, any restrictions on speech must be content-neutral. Free speech is not a privilege that government actors may bestow or withhold depending on personal predilection or political pressure. Rather, it is a constitutional protection they must observe.

Academic freedom is not coterminous with constitutionally-protected free speech. Indeed, their relation is “dauntingly complex” (O'Neil et al., 2009, p. 72). Academic freedom, as promulgated by the AAUP, has never relied upon constitutional or statutory law but it overlaps First Amendment law in crucial respects. The First Amendment protects all individuals from governmental constraint on speech and association in the public sphere. Legally, publicly-funded colleges and universities are government actors, so they too are barred from punishing their members for speech and associations outside the workplace. Under academic freedom policies, such activities fall under the heading of extramural speech.

In contrast to the First Amendment, academic freedom protects a smaller set of actors—academics—but protects them more fully by assuring their professional autonomy. Depending on era, place, and circumstance, the protected party has been conceived to be the profession at large, individual colleges as scholarly institutions, or individual scholars and students within those institutions (Finkin & Post, 2009). Unlike the First Amendment, academic freedom pro-

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