

## **Academic freedom in international higher education: right or responsibility?**

### **Introduction**

Academic freedom has long been seen as a concept taken for granted as essential to a university as educational institution, and yet one that is notoriously difficult to pin down, especially in terms of the law. Britain's 1988 Education Reform Act, for example, established the legal right of academics "to question and test received wisdom and to put forward new ideas and controversial or unpopular opinions without placing themselves in jeopardy of losing their jobs or the privileges they may have" (legislation.gov.uk). This articulation continues a tradition of academic freedom that has largely referred, since medieval times, to the freedom of the professor to research and devise curricula without coercive pressure from outside of the institution, and often – though not always, as in the British case – to the freedom of the student to learn (Altbach, 2007; Tierney, 2004). Wider definitions have included rights to choose what is taught irrespective of departmental requirements, rights to contribute to public discussion, and the right to criticise the university administration (Barendt, 2010). The majority of these definitions can be neatly categorised under one of Isaiah Berlin's two concepts of liberty: a freedom *to* (research, teach), or freedom *from* (coercion). Either way, within the discourse of substantive liberties, or rights, the entitlement of individuals to concrete freedoms prevails over any reciprocal ethical obligation on their part.

This paper accepts that the protection of a right under Berlin's conceptualisation may be necessary as a form of legitimacy for certain practices within the university that uphold its

critical function in society, but questions whether the protection of academic freedom as a right sufficiently encompasses its educational remit in an age of international higher education. It explores the idea that academic freedom is never fully articulated as a right, without an accompanying notion of responsibility also. This is because the principles (moral and legal) underpinning academic freedom as a right can never directly coincide with, or fully do justice to, the conditions in which it is exercised. The paper therefore begins with a genealogical mapping of the historical development of academic freedom, to reveal its contested nature, nation-building interests, and ethical implications, and to demonstrate that the accepted status of academic freedom as a right today could not have come about without it already having been acted upon previously as a responsibility (to truth, disinterestedness, knowledge, society). The argument then turns to the question of whether academic freedom may need to also uphold an idea of responsibility if it is to do justice to something beyond the interests of the self or state (i.e. to knowledge, society, other people). Finally, I will show that academic freedom as a right and academic freedom as a responsibility are not two sides to the same coin, but are representative of competing ethical discourses that cannot be reconciled on the same terms.

### **Is academic freedom safeguarding against its own?**

In countries with established traditions of conceptualising academic freedom as a right that pertains to individuals working in academia – usually the right to teach, research and publish free from external influence and coercion – the concept is commonly one that preserves and sustains reputation, credibility and employability within and between institutions (Haskell, 1997; Menand, 1998). In many countries, however, particularly those often described as ‘developing’, issues of censorship, religious orthodoxy, civil conflict and political oppression can all prove obstacles to a higher education institution’s ability to sustain an environment of

intellectual and professional stability that is understood to be a precondition of establishing academic freedom as a right. Indeed, it can be hard to see their quality of teaching and research as not being compromised by those very conditions.

Higher education institutions in poorer countries, or those in zones of conflict and oppression, are thus often doubly deprived of that particular freedom considered fundamental to the idea of the university, in that they are seen as lacking first of all in the academic freedom bestowed on them by the authorities (the law, the government), and therefore also don't have the ensuing legitimacy from their peers attached to their work that comes with that recognition. When Menand (1998) suggests that freedoms are essentially a question of creating "spaces in which parties engaged in specific pursuits enjoy protection from parties who would otherwise naturally seek to interfere in those pursuits" (p.3),<sup>1</sup> he presents a moral discourse that is not only suspicious of external influence from the state or private companies, but perhaps also of other institutions that either can't or don't enjoy that same protection – and thereby risk delegitimising the sacred practices<sup>2</sup> of disinterested research and critical questioning that academic freedom protects.

Is it possible, then, that academic freedom as a principle or standard, might actually discriminate against its own, especially in a highly competitive international higher education environment? I think it is important to consider this possibility by departing not from the assumption that academic freedom can be guaranteed as a right as long as we can ontologically determine to whom it applies and under what conditions, but rather by considering the ways in which it has developed as a concept irrespective of any guarantee (as

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<sup>1</sup> It is interesting to note here that Menand places academic freedom "at the heart of the political economic battles over the future of the university" (p.4), rather than at the heart of its moral purpose.

<sup>2</sup> John Dewey, in *The Public and its Problems*, refers to the "religious aureole" that surrounds institutions whose sanctity seems to somehow transcend critical discussion.

it must necessarily do in countries in which academics do not enjoy any legislative protection), i.e. as both a risk and a responsibility towards intellectual freedom, rather than a form of protection.

### **Hybrid origins of academic freedom**

Tracing the origins of the concept of academic freedom is by no means as simple as looking at its formal integration into university policy and protection. Cobban's *Medieval Universities* (1975), for example, cites a number of ways in which academic freedom existed, alongside university autonomy, almost as an informal precondition from the birth of the European university. These included special privileges to determine the curriculum, and the *ius ubique docendi*, a recognised right of the holder of a degree from a *studium generale* to teach at any other university without further examination. These informal conditions served to protect the idea of free intellectual association from the ecclesiastical and secular authorities that granted them legitimacy – despite having to be awarded by the papacy. What these antecedent influences on academic freedom demonstrate, however, is that there were individuals within medieval universities who envisioned their purpose as more than self-preservation, but that in order to fulfil that purpose<sup>3</sup>, passports had to be provided. Impetus, however, can only have preceded implementation. It is the ethical foundations for this impetus that I will explore as responsibility later.

The idea of a freedom pertaining particularly to the academy or academia finds roots in a Reformation/Enlightenment split between France and England on the one hand, and Prussia on the other. The first universities in Prussia to attempt the departure from the

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<sup>3</sup> Cobban alludes ambitiously to the possibility of the *ius ubique docendi* to create “a Europe-wide commonwealth which transcended race and provincialism in the collective pursuit and dissemination of learning” (1975, p.28)

residual scholasticism of their counterparts, and the Protestant coercion that came with Lutheran reform, were those of Halle (1694) and Göttingen (1743). Göttingen, for example, forbade the denunciation of teachers on the grounds of heresy. The University's founder, Gerlach Adolf von Münchhausen, also insisted on a lay appointing committee for professors. Given the risk of defying the stranglehold of Lutheran and Calvinist orthodoxy over university education at the time, von Münchhausen was acting upon a sense of duty that exceeded the appeasement of ecclesiastical authority. A responsibility towards overcoming religious division that was intruding on free thought also, resulted in a right that meant that "Göttingen's freedom to think, write and publish was unsurpassed in Germany" (McLelland, 1980, p.39), and set a precedent for the concepts of *Lernfreiheit* (freedom to teach) and *Lehrfreiheit* (freedom to study or to learn) later developed by Wilhelm von Humboldt. Pertaining to academic and student alike, these became the principles of freedom in the unity of research and instruction characteristic of German university education from the eighteenth century.

### **The United States: AAUP and tenure**

In 1915, the American Association of University Professors made its first *Declaration on Academic Freedom and Tenure*, which attempted to secure greater legal protection for academics in the face of possible dismissal and censorship, by tying its rights for protection not to the institution, but to the constitution instead. This significantly more public and political development in academic freedom was a self-conscious fusion of three different foundations to US notions of academic freedom: a philosophy of intellectual freedom, as originating in ancient Greece; the idea of autonomy for communities of scholars, arising from the European universities; and the "freedoms guaranteed by the Bill of Rights of the federal constitution as elaborated by the courts" (Fuchs, 1963, p.431).

The first *Declaration on Academic Freedom and Tenure* was intended to protect academics as much in their socially-oriented role as public intellectuals as in their socially-removed status as educators (Altbach, 2007). The influence of John Dewey is of significant interest in this respect, as he was both a member of the committee that set up the AAUP and an advocate of the idea that educators had to understand their freedom as a public commitment. As Dewey put it in *The Public & Its Problems*: "...the belief that thought and its communication are now free...is absurd...Removal of limitations is but a negative condition; positive freedom is not a state but an act" (1927, p.168). Dewey's articulation here goes partway towards arguing against the libertarian view that the provision or establishment of negative liberties constitutes freedom for whom they are provided (he describes this as an "infantile state of social knowledge" in which a person cannot become emancipated simply by being left alone). He is one of the first to observe that demands for liberties or freedom from obstruction can often disguise complacency of thought on the part of those that seek them.<sup>4</sup>

However, whilst he is critical of those that want always to point the finger of blame at outside forces that prevent their free activity, Dewey stops short of arguing that acts of intellectual freedom must necessarily be acting upon a notion of responsibility. On Dewey's view, the removal of limitations to a freedom in research and teaching holds no reciprocal obligation to act upon the freedom made available by that removal, because otherwise coercive influence might once again intrude upon academic disinterestedness.. In this regard, Dewey relies less on a notion of responsibility, than he does on moral integrity, articulated as "honesty, impartiality and generous breadth of intent in search and communication" (1927,

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<sup>4</sup> For a more recent critique of this condition, consult Jon Elster (2015) 'Obscurantism and Academic Freedom', in Bilgrami and Cole (eds.) *Who's Afraid of Academic Freedom*, Chichester: Columbia University Press

p.175). As such, any moral dimension of academic freedom falls back onto the character of the academic, rather than being imperative in the concept itself. Dewey's argument for academic integrity is important for the American notion of the public intellectual: if research is in the public interest, then the freedom of the academic therefore has to extend to the public sphere, where his or her freedom of expression remains a protected right (different to the more generalised freedom of expression governed by the First Amendment). Haskell (1991) has proposed that this right is due to a fundamental need for trust in authority (albeit not blind trust), because "we are better off for our willingness to defer to experts" (p.56). The defence of the American formulation of academic freedom, then, might be that it is the limited right of the few to be trusted, for the greater public good.

Despite his best efforts, Dewey's contributions to the 1915 AAUP *Declaration on Academic Freedom and Tenure* may have unwittingly contributed to precisely the complacency and lack of action that his later text, *The Public and its Problems*, diagnoses, not least because of the explicit connection between academic freedom and tenure track. The idea behind the declaration may have been to secure a greater transparency of the connection of universities to the wider public, and the value of trusting in tenured academics as public intellectuals. But the question arises of whether the expansion of academic freedom into state legislation constitutes a greater degree of freedom, or whether it just expands the possibilities for abstention from social obligation, given that it is bound up with procedure, promotion and status? The introduction of a juridico-political clause in the theoretical nature of academic freedom, inscribed in the notion of tenure as a guarantee "which governs the fundamental employment relationship between the institution and the dominant segment of the academic work force" (Chait and Ford, 1982, p.58), sees the simultaneous inscription of the right into the wider economy: a substantive freedom as a precious commodity that links academic activity to earnings in the workplace.

In other words, the hitching of academic freedom onto career progression puts into motion a potentially damaging cycle as regards the practice of academic freedom as social commitment. Junior academics, for example, might be more likely to be compliant in their research orientation and activities at the early stages of their career so as to secure the foundations of tenure track later on (without this calling into question their academic integrity). What's more, the attempted alignment of legal, economic and moral considerations all occur within a framework designed to contribute towards nation-building; academic freedom as tenure may contribute to greater stability, public understanding and sense of duty within the nation state, but does not necessarily extend beyond its own borders.

### **The paradox of a national tradition of academic freedom**

Should academics be bowing to the pressures of producing work that facilitates tenure (i.e. that which provides concrete evidence of its social impact), then the standardisation of performance measures threaten to transform academic freedom into exactly what Dewey feared: a "state" rather than an "act". Academic freedom becomes a form of protecting already established entities (freedom of speech, one's job, the self), rather than the necessary risk of exploring new terrain. In this case, academic freedom as a right becomes particularly problematic, as it too conforms to this ontological foundationalism: a right hinges on established moral or juridical traditions. So whilst most articulations of academic freedom defend it on the grounds that it ensures the potential for progress and thinking anew both among staff and students, the conceptual deference to moral and legal foundations for its legitimacy means that academic freedom reproduces an internalised paradox: I am free to adhere to a particular or established notion of freedom.

This is not to undermine the need to offer guarantees that the work of academics and students will be afforded some protection in order to give space to experiment (with ideas, knowledge, voice, self). Rather, the notion that any freedom is, as Menand says, artificial, is a reminder not to be complacent about the fact that, as a right alone, academic freedom can just as easily secure an individual's or institution's capacity to remain the same (albeit through performative practices of critical thinking, or saying what others are afraid to), and even to permit poor scholarship. An awareness of this situation need not demand of academic freedom an inscription into its articulation that it be equally *accountable* as it is *entitled*. Indeed, the discourse of accountability is counter-productive here, as it suggests an economy of expectation whereby certain behaviours can be guaranteed in return for certain professional protections. Where accountability can only be assumed after an event, I want to suggest that there is an ethic of responsibility peculiar to the university that exists both prior to, and after, the event of its enactment – both compelling action, and recognising that one's obligations are not over once an action is complete. This is the case because the conditions in which it occurs are never again the same.

### **The risk of academic freedom**

Academic freedom is, for the most part, nowadays treated as a substantive right that pertains to individuals within higher education institutions, whose legitimacy frequently rests on identification of outside forces that threaten its practice. This conception sits comfortably within a broader rights-based moral tradition that places a greater emphasis on individual freedom(s) than a concern for the freedom of others. The rights discourse itself, irrespective of its political affiliations, is a universalist approach to legislating morality that inevitably falls back on individual entitlement. Hillel Steiner, for example, articulated his left-libertarian thoughts of 'compossible rights' in terms of "a range of actions that its possessor may

perform” (Steiner, 1977, p.267). The language of possession is significant here. Rights that are supposedly for all would only need to be put in place if some people were in possession of them and others were not. As a consequence, we are all individually capable of assessing where we stand in relation to this rights economy. This doesn’t, of course, prevent people from championing the rights of the dispossessed, but the positive identification of lack that this altruism requires still serves to reinforce an economy of entitlement, rather than an ethical (relational) counter to the moral economy that cannot be reduced to its substantive parts.

Those who have made the case for rights, whether with regard to academic freedom or more broadly, have also tried to ensure that a notion of responsibility is also inscribed therein. Steiner, for example, argues that any right implies a concomitant duty on the part of other people not to interfere or prevent the actions of the possessor of rights. The AAUP 1915 Declaration states that “there are no rights without corresponding duties”, and that the freedoms which the academic should expect to enjoy “entail certain correlative obligations”. In both instances, responsibility is seen to be equivalent to the right. But if academic freedom is to be acted upon in ways that are often problematic because they anticipate future beneficial outcomes that cannot be contemplated with current frames of legal or moral reasoning, then its ethical imperative must be seen as alternative, rather than equivalent, to its entitlement.

Emmanuel Levinas locates the origin of a rights tradition based on equivalent entitlement in Kant’s notion of practical reason, in that the ‘normative energy’ of rights extends from the idea that, as long as they can be shown to be free from logical or rational

contradiction, then they can be understood as universal. Levinas exposes the inherent paradox of rights based on practical reasoning by means of a question:

“...could it be that the decision of a free will conforms to a maxim of action which can be universalized without being contradicted and that, thus revealing the reason that inheres in a free will, this makes itself *respected* by all other wills, which are free because of their rationality?”

(Levinas, 1998, p.134)

What Levinas highlights here is the mutually reinforcing foundations of reason and free will: if freedom is premised upon reason, only those considered reasonable can be considered free. By default, those considered reasonable are also best positioned to define what it means to be both reasonable and free. Freedom as a (moral) right, then, necessitates the mutual agreement on everyone's part that the language of rights is one that is representative of their voice (as an individual, community, culture, nation). This notion is contested by Levinas, who argues that the assertion of a right always entails an act of violence, because it is the assertion of one will, masquerading as representative of a universal will, over another. In other words, rights derived from practical reason, may just as easily be employed to enact injustice, or not to act at all, as to counter it.<sup>5</sup> This means that a substantive freedom can never be seen as a right that is fully established, or not itself contestable in some way, if it is not to be used to commit violence or defer responsibility. Rights, because they are based on a process of reason that takes into account what is already known about where they have been lacking in the past, are necessarily backwards-looking, ensuring that the mistakes of the past will not be repeated.

The other half of the story to academic freedom, though, is the story that is not yet told about

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<sup>5</sup> (Kant himself used his own appointment as Professor at Königsberg to employ other faculty who supported his approach to philosophy (Kuehn, 2001).

the future of knowledge and the people that (will) engage with it in the university. The other, unknown, face to academic freedom is that of an ethical responsibility – a responsibility for the best education in an unknowable future.

The risks that some people take in the name of academic freedom to advance certain causes cannot be reduced to simply observing a right; in many cases, academics and students have flouted their rights as institutionally defined to act in the interests of others – whether the academic community, wider society, or on a global scale. These risks often pre-date their subsequent protection in terms of rights, and therefore refute the claim that an ethics of academic freedom can be reduced to its enshrinement as a normative entitlement. Tierney and Lechuga (2005) have pursued this notion by suggesting that the non-dispute of academic freedom within an institution is not itself a sign that all is well in terms of expressive liberties. Indeed, they suggest that cultures of silence more commonly indicate a repression of academic freedom rather than evidence of its existence, because a “culture of silence can be created that is pervasive to such an extent that individuals do not even consider speaking out” (p.11). The authors make the point that, just because there were no official cases of lesbian and gay academics being denied the right to investigate ‘queer’ issues in 1950s America, that doesn’t mean that rights weren’t being institutionally infringed upon through enforced silence. To say that academic freedom was not denied black members of university faculty in apartheid South Africa would be an equally specious argument, given their lack of representation within the academy (Sehoole, 2005). Rule (2006) has also described the “historically white” institutions of pre-1980s South Africa as “monologic” precisely because they did not “recognise the otherness of the students and [imposed] unfamiliar and administrative and academic discourses upon them” (p.84). These examples seriously call into question the illusionary Western idea that “universities are social institutions that are

communicatively open,” in which “any one of its members can contest any claim by any other one of its members” (Barnett, 2003, p.223).

Cultures of enforced silence are often only exposed retrospectively, and are addressed by integrating corrective measures – such as rights – into existing regulations and legislation. But examples such as that of South Africa, or the USA under McCarthy, show that compensatory measures do not recognise the degree to which the voice of an Other cannot simply be assimilated into a more accommodating version of a universal rule, because there is an asymmetry of worldviews in such a situation that the rule cannot wholly account for. Even appropriate academic conduct cannot necessarily be relied upon here, as the suppression of voice and identity is hard to justify, even when one’s integrity in relation to one’s own discipline remains intact. To explain why this is the case, and why an asymmetry of worldviews necessitates an understanding of academic freedom as a responsibility as much as a right, I will draw upon the example used by Bill Readings in an essay on Lyotard and the concept of the *différend*.

### **Readings, Lyotard, and academic freedom’s *différend***

During the McCarthy period in the United States, early AAUP member Albert Einstein advised a number of colleagues *against* invoking the Fifth Amendment (the right to a fair trial before a grand jury) when called to appear before the hearings of the 1950s. He did so because he believed that the appeal to a fair trial might actually play into the hands of the McCarthyists, by sidestepping the problems posed by the First Amendment, i.e. the issues of freedom of speech. A ‘fair’ trial could easily be afforded to the accused by playing out the processes that were to all intents and purposes legal, but were, in Einstein’s view, designed to extort particular versions of the truth so as to incriminate others. What it does not do is invite witnesses to give their own opinions, perspectives, or voice on the validity of a politics that

might condemn them outright (thereby suggesting that it was the McCarthy committee that was in fact in violation of the First Amendment).

In the case of Einstein's advocacy against his colleagues' invocation of the Fifth Amendment, the academic recognises a right, but not the judicial terms within which it is currently framed. Whereas the academics whose political affiliations were under scrutiny were looking at appealing to the Fifth Amendment as an appeal to the mutual logic of practical reason that bridges and transcends the law and academia, Einstein's view was that the invocation of a right to a fair trial would grant too much legitimacy to the grounds for accusation. What's more, in recognising that one can be tried for a heresy that one does not consider to be such, there is a danger that the individual not only indicts herself, but also affirms the logic used to do so. Einstein argued against the appeal to the Fifth Amendment because it would allow the McCarthy committee to dodge the problem posed by the First Amendment, advocating a Ghandi-inspired position of 'non-cooperation' to show that academics would not dignify the accusations against them with the recognition of legitimacy that a free trial would ensure. He was able to do so by showing that the McCarthy process could only achieve its desired outcomes if it honoured one aspect of the constitution, but not if it came into conflict with another.

This situation of conflict, to which, as Einstein observed, silence was the only proper response, is described by Jean-François Lyotard, as a *differend*, or the point "at which the framework of political representation...performs a victimisation" (2002, p.170). But this is not just victimisation at the level of fear as attached to identity. Lyotard is keen to show that this victimisation is insuperable because the Other cannot be contained or subsumed within the same sphere of reasoning as that of the accuser. Lyotard cites the example used by historian Robert Faurisson of eyewitnesses being asked whether gas chambers were used for

the mass extermination of Jews during World War II. The line of questioning means that “the only acceptable proof that it was used to kill is that one died from it” (2002, p.3), else the witnesses are automatically discredited by virtue of their being still alive. The result is that the voice of the witness is silenced, either by the trauma of the event for which they have now words anyway, or by the process which seeks to discredit their experience through logic – if a person claims to be a victim of the gas chamber, the claim is invalidated by virtue of that person still being alive. Faurisson’s point might be that victims can only seek justice if they can prove themselves to be victims, but their proof has to be provided in accordance with what is commonly recognised as reasonable, or reasoned, evidence. However, as both Einstein and Lyotard have shown, even the willingness to try and provide that evidence may undermine one’s own case.

To make a similar point about the “negative phrase” of silence, Bill Readings draws on the fictional example of Werner Herzog’s film *Where the Green Ants Dream*, in which an Aboriginal group wants to prevent an Australian mining company from conducting blasting tests lest they disturb the dreaming of the green ants on the land. The Aborigines are unable to fight their case in court, not only because of the spiritual framing of their discourse, but because they are unable to elect a single voice to speak on their behalf (the idea is anathema to people that make decisions as a group, rather than deferring to a representative), and because they do not conceive of time, space, property and geography in anything like the same way as those who would seek to pay them off.

In both these examples, the idea is to show that the *différend* is neither something that can be overcome, but nor should it be ignored. It is not about recognising another’s right to think differently, which would constitute an attempt to bring the other into a shared (totalised) understanding of reason, identity and rights. Nor does it mean annexing the other as an inaccessible and non-cooperative identity. In these instances, justice is reduced to “the

exclusive rule of representation” (Readings, p.173), of which rights are the best exemplar. In the case of Herzog’s film, this means that each individual that forms part of the Aboriginal community at issue has their identity entirely reduced to that of their ethnicity. This idea of the *différend*, then, is particularly significant in the discourses of colonialism and development, because both have involved the assertion of a particular idea of the good (and/or human) over others in the name of a higher good.

What the *différend* highlights is the inability of rights as an enshrined form of justice pertaining to the individual to coincide with, and thus account for, heterogeneity, multiplicity, difference and otherness in an age of globalisation. This inadequacy does not lie only with those who fail to recognise the rights of others because their own rights are more important. It also extends, as Readings describes as being at play in Herzog’s film in the form of a judge sympathetic to the Aboriginal cause, to those who seek to be fair by deferring to an abstract notion of humanity. Readings goes so far as to say that, in the film, the Aborigines are effectively “killed with kindness, by the assumption that they are the same kind of people as the white Australians” and that they are “silenced by the very fact of being let speak” (p.180). The latter description cogently summarises my own critique of the idea of academic freedom as a right, or capability. To believe that granting anyone a positive, substantive freedom guards against the possibility of that freedom being the very thing that makes them unfree, is a dangerous one. It makes of academic freedom a purely rhetorical concept, and one which is therefore assimilable to ideological and performative forces, rather than constituting a resistance towards such assimilation. Academic freedom, if it is to justify itself as something that members of higher education institutions need in order to conduct their activities, has to show that a freedom from constraint is not simply a freedom to be frivolous

Rather than be despondent, however, both Lyotard and Readings suggest that there is an affirmative dimension to be found in the *différend*, which is that of a responsibility to attest to it, to bear witness to it. This responsibility can be seen in the example of Einstein. Einstein's argument was that it was the process of questioning itself that violated the amendment, and therefore any appeal under its interrogation was already compromised. By voicing his objection, Einstein bore witness to an incommensurability between the law and academic freedom as he saw it. Lyotard was keen to point out that a silent objection did not constitute an abstaining from responsibility: "That the opposite of speaking is possible does not entail the necessity of keeping quiet. To be able not to speak is not the same as not to be able to speak" (p.10). In advocating *not* speaking, Einstein can be seen as having stepped outside of the limitations of academic freedom as a right (which could not protect him), to act upon it solely as a responsibility.

Academic freedom as a responsible act need not be limited to these larger gestures: in day-to-day practice, the act of teaching or doing research can similarly be seen as being conducted in a spirit of experiment or risk that goes beyond a compliance with formal regulation or a deliberate antagonism, to act in the best interests of others, the future of others, and other futures. What this means is that academic freedom is not simply a political issue, or an ethical one, but both, and more. It defines the way that all members of the university act, rather than distinguishing some as having more academic freedom than others.

## **Conclusion**

My argument in this paper has been to state that considering academic freedom simply as a right does not tell the full story of what the concept entails, and indeed might limit the very idea of freedom that it implies. The negative approach to freedom suffices if one agrees with Ménand (1996) that freedoms "are socially engineered spaces in which parties engaged in

specified pursuits enjoy protection from parties who would otherwise naturally seek to interfere in those pursuits” (p.3). Expressed in substantive terms, freedoms are as much a source of suspicion as those sources they seek protection from.

To try and concretise academic freedom as a right, then, based solely upon these generalisations, is to institute at every stage yet more possibilities for *unfreedom*, hierarchisation, and even an enduring colonialism. As long as academic freedom remains an identifiable and quantifiable notion, it passes into a system of self-interest and self-protection (Barnett, 1988), and an economy of those that have it as opposed to those that don't (through no fault of their own). This sets the stage for a global higher education which recycles inequality whilst championing access, mobility and excellence for all.

Academic freedom as a right only tells half the story of academic freedom because it is retrospective, and is based upon what is already known about the history of the university, and past injustices upon which it can act. The other half cannot be told because it looks ahead to the university's role in an unknown future. There are two ways to engage with the unknowable half, of academic freedom: either by allowing the right to dictate the outcomes of that future, or to acknowledge that every right is in itself a recognition of the failings of previous rights to create the best future outcomes. If the latter position is accepted, then an ethical position towards the future is required that does not assume the best outcomes in advance, and instead remains open to its possibilities, especially to the idea that those possibilities might arrive from elsewhere, i.e. from a place which retrospective knowledge has not equipped us to expect, comprehend, or rationalise.

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