

What crisis of academic freedom? Australian universities after French

Rob Watts

RMIT University

They [the young] are asking for the truth. If we respond correctly, can't we perhaps interest them in freedom? (Arendt & Jaspers, 1993, p. 451).

In 1988 hundreds of universities world-wide signed onto the *Magna Charta Universitatum* (1988). The Charter declared in stirring tones that 'to meet the needs of the world around it, [a university's] research and teaching must be morally and intellectually independent of all political authority and economic power'. In the same year this declaration of academic freedom was issued, the Hawke-Keating Labor Government published a White Paper called 'Higher Education: A Policy Statement'. This paper launched the 'Dawkins reforms', a program of neoliberal policy changes that among many effects would render Australia's public universities, including the nine Australian universities that had signed the Charter, more accountable to the Australian government than ever before (Bessant, 1995; Thornton, 2014; Connell, 2019). The line of neoliberal policies unfolding since the late 1980s has been accompanied by persistent expressions of concern about the negative impact of these policies on academic freedom, affecting everything – the identity of universities (Considine, 2006; Gare, 2006), academic identity (Parker & Jary, 1995), academic teaching (Thornton, 2014; Hil, 2015), and academic research (Sardesai *et al.*, 2017). Finally, and three decades on, a small but noisy clique of neoliberal and conservative commentators has been busily fabricating a furore around the notion that Australian universities are now caught up in a 'crisis of academic free speech'.

If we accept, as readers of crime fiction understand, that there is no such thing as a coincidence, we have a puzzle. How are we to make sense of the coincidence of a global discourse of academic freedom and the rise of what some call the 'neoliberal university' triggering persistent and serious concerns about the relationship between neoliberalism and 'academic freedom'? Given that relationship, how should we respond to the proposition that we face a crisis of 'free speech' in our universities?

The idea that our universities are now caught in a crisis of freedom of speech, has been tirelessly repeated by spokespeople from the Institute of Public Affairs (IPA), the Centre for Independent Studies, journalists associated with Murdoch's News Ltd., such as Andrew Bolt and Janet Albrechtsen, and by the weirdly 'conservative' journal *Quadrant* (Bolt, 2016; Albrechtsen, 2020). Oddly enough most of those propagating this idea have been non-academics. That said, a small number of 'conservative' academics such as Kevin Donnelly, Mervyn Bendle, and Sinclair Davidson unsuccessfully tried in 2008 to persuade the Senate inquiry into allegations of academic bias that there was a hegemonic project in universities to promote a Marxist, postmodernist, and feminist worldview (Senate Standing Committee on Education, Employment and Workplace Relations, 2008). By 2018, this idea had morphed into the defence of free speech. The IPA had released no fewer

than three audits of 'free speech', relying on a mixture of anecdote and a spurious quantitative audit of 'free speech' in Australian universities (Lesh, 2016; 2017; 2018). Displaying a talent for graphic misrepresentation that should have earned him a job in the Trump White House, Lesh claimed that he had given thirty-five of Australia's 42 universities (83 per cent) a 'Red rating' for their policies or actions that were hostile to 'freedom of speech'. This claim relied on Haidt's (2017) unwarranted assertion that universities cannot be simultaneously 'social justice institutions' and be committed to practising free intellectual inquiry. Lesh and Haidt relied on the all or nothing fallacy that there are only two choices which, in this instance, relies on the non-credible assumption that when university X, for example, declares it supports actions to mitigate global warming, no member of the university may thereafter either criticise this policy or the scientific basis of the policy. A preliminary observation is warranted here: like so many of his fellow defenders of free speech, Lesh conflates 'free speech' with 'academic freedom'.

On one reading, this confection was just another minor skirmish in the so-called 'culture wars'. Yet the fabricated furore elicited a sympathetic hearing from the Morrison Government. In November 2018, the Australian Government commissioned Robert French, a former Chief Justice of the High Court, an active scholar and Chancellor of the University of Western Australia, to report on the state of academic freedom in Australian universities. In particular, French was also asked to assess the effectiveness of university policies and practices to address 'the requirements of the Higher Education Standards Framework to promote and protect freedom of expression and intellectual inquiry on Australian campuses'.

In this essay I address several questions. How did French (2019) understand 'academic freedom'? Does the impact of neoliberal policies on Australia's universities raise questions about academic freedom? How then should we understand academic freedom?

French on 'academic freedom'

The French report was released in April 2019. Unsurprisingly, French found there was no 'freedom of speech crisis' on Australian campuses (French, 2019). Equally predictably, like most of his former High Court colleagues who uphold Australia's legal positivist tradition, French did not recommend introducing legislation guaranteeing a right to 'academic freedom' or 'freedom of speech'. This reflected his understanding-cum-doxa acquired during his years on the

High Court, that there is no absolute 'right to free speech' either in Australia or in its universities. That said, he also reminded everybody that Australia's *Higher Education Support Act* (at S.19-115) (Commonwealth, 2003) requires all universities to have a policy upholding 'free intellectual inquiry' making 'free intellectual inquiry in relation to learning, teaching and research' a condition of being registered as a university (French 2018; French 2019). Instead, French recommended that 'academic freedom' be protected by the voluntary adoption of a Model Code to be embedded in higher education providers' institutional regulations or policies – a draft version of which he duly provided. Since then, many universities have adopted this framework.

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Unlike some of the protagonists, French refused to conflate 'academic freedom' and 'freedom of speech'. French well understood the conceptual issues at stake in these categories. French carefully distinguished between 'freedom of speech', 'academic

freedom' and 'free intellectual inquiry'. He acknowledged initially that he had been asked to carry out an independent review of 'freedom of speech' in Australian higher education providers. In the second paragraph of his report, French acknowledged that 'contention about *freedom of speech* and *academic freedom* – what they mean and what are their limits – has varied in content and intensity from time to time' (French, 2019, p.13). French also observed that the *Higher Education Framework (Threshold Standards) 2015* (HE, 2015) also referred to something called 'free intellectual inquiry'.

French offered a thoroughly scholarly discussion in which he distanced himself from the advocacy by right-wing think-tanks, commentators, and MPs like Senator James Patterson, all busily trying to weaponise a certain conception of free speech (French 2019, p. 30-2). This may explain why his Model Code did not engage with 'freedom of speech'. This does not mean French ignored freedom of speech. French observed that every member of the staff and every student at the university has the same freedom of speech in connection with activities conducted on university land or otherwise, in connection with the university, as any other person in Australia subject only to the constraints imposed by:

- The reasonable and proportionate regulation of conduct necessary to the discharge of the university's teaching and research activities.
- The right and freedom of all to express themselves and to hear and receive information and opinions.
- The reasonable and proportionate regulation of conduct to enable the university to fulfil its duty to foster the wellbeing of students and staff (French 2019, p. 297-98)

French observed that 'free intellectual inquiry' was a term of uncertain meaning but seemed to cover 'some elements of "academic freedom"'. While allowing that 'academic freedom' 'had a complex history and apparently no settled definition', French treated 'freedom of speech' as an aspect of 'academic freedom' (French, 2019).

Apart from allowing that 'freedom of speech' is a necessary, i.e., essential, element of 'academic freedom' (French, 2019), French simply declined to enlarge on his understanding of 'freedom of speech' in his Model Draft. Most of his attention was given to 'academic freedom'. Without clarifying the specific practices and evaluative criteria conceived e.g., in terms of the possibly different goods the practice of 'academic freedom' (and 'free speech') might give rise to, his Model Code simply offers an omnibus conception of academic freedom.

French (2019) understands 'academic freedom' as the freedom of academic staff to teach, discuss, and research and to disseminate and publish the results of their research *without restriction* by established scholarly consensus or institutional policy, in ways constrained only by scholarly standards:

- The freedom of academic staff and students to engage in intellectual inquiry, to express their opinions and beliefs, and to contribute to public debate, in relation to their subjects of study and research.
- The freedom of academic staff and students to express their opinions in relation to the university in which they work or are enrolled free from institutional censorship or sanction.
- The freedom of academic staff and students to make public comment on any issue in their personal capacities, not speaking either on behalf of the university or as an officer of the university.
- The freedom of academic staff to participate in professional or representative academic bodies.
- The freedom of students to participate in student societies and associations.
- The autonomy of the university which resides in its governors, executive and academic staff in relation to the choice of academic courses and offerings, the ways in which they are taught and the choices of research activities and the ways in which they are conducted (French, 2019 p.226).

How then might we think about academic freedom in a time when many argue our universities have been subjected to a neoliberal makeover?

The neoliberal university?

There is now consensus that 'something happened' to universities in countries like Australia to say nothing of universities in Europe, Africa and South America over the past few decades (Altbach *et al.*, 2009; Evans & Nixon, 2015; Curaj *et al.*, 2018). There is less agreement about how this should be described, explained or evaluated. Some have pointed to the

'globalisation of universities' (Orr, 2006; Marginson & van de Wende, 2006; Dagen & Fink-Hafner, 2019). Others highlight the 'internationalisation' of universities (Knight, 2006; Brooks & Waters, 2014). The most recent trend has been to represent universities as somehow being subjected to neoliberal policy-making, while some even talk about universities becoming neoliberal institutions. There is now a sizeable literature on the 'neoliberal effect' in Australian higher education – some of it benign (Marginson & Considine 2000), much of it more critical (Bessant 2002; Thornton 2014; Weller & O'Neill 2014; Hil 2012, 2015; Watts, 2016; Sims, 2019; and Connell, 2019).

It can be agreed safely that Australia's universities were subjected to a full-scale neoliberal policy assault after 1988-89. Until then, Australian governments had fully funded universities while leaving them largely to manage their own affairs (Forsyth, 2014). The 'Dawkins revolution' initiated a policy process that inflicted purposeful and often deep cuts in government-funding to universities in parallel with the expectation that universities would increase their student intakes and fund that increase by reintroducing tuition fees backed up by a student loan scheme. There were also government-led exhortations that universities needed to produce more employment-ready graduates. This neoliberal project was essentially a 'performative discourse'. By reducing public funding, the expectation was that this would trigger a wave of 'market reforms' in higher education (Bessant 2002).

However, there are many basic conceptual and empirical problems when trying to work out what has happened. (For the long version of this discussion, see Watts, 2016). The short version goes like this. Many observers including academics and policy-makers are now convinced that neoliberal policies have created a 'higher education market' that has 'commodified' higher education (Dill *et al.*, 2004; Chau, 2010). Even critics like Ronald Barnett (2000) argue that 'marketisation' promoted a trend towards the commodification of teaching and research (Noble, 1998; Foskett, 2011; Ball, 2012). Others even talk up the idea of the 'McDonaldised university' (Nadolny & Ryan, 2015). Others sensibly hedged their bets and preferred to talk about 'quasi-higher education markets' (Le Grand & Bartlett, 1993; Marginson, 2007)

Yet, as writers like Roger Brown (2011; 2015) and Nick Foskett (2011) insist, even though policy-makers, university managers, and many academics talk about a 'higher education market', or the 'commodification of knowledge' this does not mean there is a real higher education market. For example, Kirp (2003, p. 2) says that 'the notion that higher education is a "market" needs to be unpacked, because the system doesn't look like the market portrayed in any Economics 101 textbook'. So too does the claim that, in 'neoliberal universities', knowledge and/or education have been commodified. This involves an elementary category mistake.

As Stiglitz (1999) has argued, even under the conditions of a fully functioning capitalist economy, knowledge remains as close to being a pure public good as possible, and definitely not a commodity.

Then there is the argument that many universities have been corporatised. This has introduced novel elements such as a 'culture of audit', a preoccupation with marketing, and attracting ever increasing numbers of fee-paying students, especially international students (Apple 2007; Giroux, 2002, 2009). In Australia, Margaret Thornton makes the case that the forms and functions of the modern university have altered as 'the model of the for-profit corporation began to take over from the not-for-profit corporation as the primary meaning of the incorporated university' (Thornton 2012, p. 7). See also Thornton (2014); Weller and O'Neill (2014); Hil (2012, 2015); Sims (2019); and Connell (2019). One obvious concern was raised early by Kayrooz *et al.* (2001) and dramatised by the sacking of Ted Steele by the University of Wollongong when he made public comments about 'soft marking', involving the awarding of undeservedly high grades to students (Martin, 2002).

Though there is not the space to make the case here, a judicious view is that Australia's universities have been subjected to a neoliberal policy make-over, driven by real budget cuts imposed by governments especially since 1999, along with a real shift to mass enrolments that has remade these universities. However, this has not resulted in anything deserving of being called a neoliberal university operating in a higher education market. Rather we need to acknowledge the many often contradictory effects.

One result has been the massification of many traditionally small universities, funded by student debt: aggregate domestic student debt was heading towards \$69 billion by 2020. As the advent of COVID-19 has shown, the increasing reliance on international fee-paying students after 1997 has left many universities hostage to fortune, while unleashing significant levels of corruption in source countries like India and concerns about the quality of the education being offered in Australia. The pursuit of budget surpluses and the diversion of teaching-based revenue to research outputs so as to boost the research output thereby enabling Vice-Chancellors to indulge in bragging about their university's position in some global league ladder of 'Great Universities', has eroded 'academic tenure' and encouraged the increasing use of cheap, casualised academic teaching labour. For all the talk of freeing universities to compete in a market, universities have been subjected via a 'culture of audit' to a significant level of government scrutiny: in 2019 two universities (Charles Sturt and the University of Tasmania) were given only provisional registration status by the Tertiary Education Quality and Standards Agency after failing to satisfy the national regulator on a number of issues. The corporatisation of public universities, involving the

adoption of the ethos, behaviours and language of business and competitive markets has also produced plenty of glossy, albeit meaningless, corporate strategies and big advertising budgets contributing to what Alvesson calls a 'culture of grandiosity' (Alvesson, 2014; Courtois & O'Keefe, 2015). As a result, our universities now are caught between

...two narratives; one that prizes academic freedom, independence of thought and expression, heterodoxy and exploration to create new knowledge frontiers, [and] on the other hand, an increasingly intrusive series of regulatory regimes that seek to manage, steer and control the sector in ways that serve the interests of the state and the economy by applying specific ideational motifs about efficiency, value, performance, and thus the economic worth of the university to the economy (Jervis, 2014, p. 156)

Without denying the impact of neoliberal policies, or the effect of the corporatisation ethos, and if we follow the line of inquiry initiated by William Clark (2006), our universities today are best represented as palimpsests of three ideal-typical institutional forms: scholarly institutions, bureaucracies, and corporations. Each of these forms has its own distinctive practices and logics and each will be found within the one organisational frame, to a greater or lesser extent depending on the university being examined.

This makes it important to acknowledge that academics can orient to one or other of these logics of practice. Angelika Papadopoulous argues that any conflicts or 'tensions in strategy and practice can be understood as conflicts between bureaucratic, corporate and scholarly logics' (Papadopoulous 2017, p. 515). Equally, as Henry Giroux (2012) notes, academic workers can elect to become bureaucratic clerks administering or managing various systems. Some may become corporate boosters tirelessly engaging in self-promotion, pursuing career advancement in universities where research is now measured in terms of research dollars earned.

Of particular interest here is this question: what are the options for those who elect to take the scholarly path and what does the idea of academic freedom look like in our time for those who do this? It is to this question that I now turn.

Academic freedom: a revisionist account

Sharon Andrews (2007) notes usefully that a conception of 'academic freedom' continues to be an important part of the modern Australian academic's self-portrait. It seems that many academics still aspire to be understood as people committed to 'nurturing critical thought' and 'advancing knowledge' and believe that a conception of 'academic freedom' is still central to any defensible idea of the university. This conception of 'academic freedom' still refers to aspects of the 'public university' such as the claim that it serves a role as 'critic and conscience of society' or as a site of 'public scholarship'. What

is less clear is whether these conceptions are aspirational, descriptive, or something else altogether.

Sometimes this idea is wrapped up in elaborate, and usually nostalgic defences of the 'traditional university' understood as small, elite, self-governing institutions, a form which, by and large, no longer exists (e.g., Coady, 2000; Gaita, 2012). More worryingly, as Andrews notes, there is the much larger question of whether those who profess a commitment to academic freedom have the courage to do it.

So firstly, what is meant by academic freedom? Secondly, how do modern academics give effect to any, or all of these practices said to be constitutive of academic freedom?

One immediate answer to the first question and based on a selective survey of the large literature on academic freedom, is that it refers to any or all of three quite different ideas (Moodie, 1996). The first idea is that individual academics ought to be free to take their own decisions and be free to pursue and present their ideas as teachers and researchers without interference, externally imposed penalties or restraint. The second idea is that universities should be free to operate autonomously and without undue external interference from governments, or special interests, in determining what should be taught or researched. The third idea is that academic freedom involves academics as a group or groups having the capacity to engage in decision-making about such matters as:

... the syllabus of a course, individual staff appointments, the admission or graduation of individual students, standards of academic performance, and the detailed allocation of resources between competing uses within a department or faculty--should be taken by or on the virtually mandatory advice of academics (Moodie, 1996, p. 131).

From their origins and well into the late twentieth century, Australia's universities enjoyed a significant measure of corporate autonomy. It was accepted that universities should enjoy autonomy as institutions, governing their own affairs internally and making their own decisions on academic matters. As for what that meant it implied a link between teaching and research, a link I take still to be of the utmost importance.

In 1810, Wilhelm Humboldt, the great German reformer and creator of the first modern research university (now called the Humboldt University of Berlin) emphasised 'the union of teaching and research in the work of the individual scholar or scientist' (Anderson, 2010, p. 2). Humboldt argued that universities did their work best, and were most useful to society and the state, when they were freed from excessive external surveillance or control (Nybom, 2003). Let me briefly focus on Humboldt's famous memorandum in which he proposed that universities in which research and teaching were carried out should take place *in Einsamkeit und Freiheit* ('in loneliness and freedom').

While the concept of 'freedom' (*freiheit*) is acknowledged, the idea that academic work should take place 'in loneliness' (*Einsamkeit*) is possibly puzzling. That puzzle has been addressed by Elton (2008) who suggest that *Einsamkeit* refers to the apparently purposeless activity of universities (at least as far as the state is concerned). This is activity that leads indirectly, but constructively, to the well-being of the state and the formation of citizens committed to the 'common good'. As Humboldt (1970, p. 3) put it 'the inner organisation of these institutions must bring about and maintain an uninterrupted, always revitalising, but unforced and intentionless collaboration'. Humboldt's prescription suggests that the best way for universities to serve the community and the university is to be left free from any interference from the state while engaging in public scholarship.

As for the modern idea of academic freedom, contemporary scholars like Fuller (2010) argue that it is only by preserving the autonomy of universities, that any university's capacity to translate research into teaching will continue to promote the good that is knowledge itself. As Fuller sees it, the university is a universalising agent explicitly dedicated to 'manufacturing' knowledge *as* 'a public good' rather than promoting the more ambiguous idea of 'knowledge' *for* 'the public good'.

Fuller spells out what he means when he says it is only by making research and teaching an *integrated activity*, that this public good can flourish. The production of that knowledge itself is produced according to the principle of public reasoning to a universal audience. Likewise, the teaching practices found in the university need also to be conducted on the 'as-if' principle that all knowledge claims are directed to a universal audience that can check or criticise those claims. Equally, by linking teaching and research, the currency of unresolved issues, continued controversies and new discoveries and inventions are not allowed to spread *randomly* like a virus i.e., both widely and haphazardly. Rather, the currency of controversies and new discoveries and inventions are incorporated into a regularly reproduced body of collective knowledge as represented by the university's curriculum.

It was long seen as a virtue that, like the professions, universities stood outside the system of market relations, and cultivated both the higher values and 'objective knowledge' of a permanent kind. This sort of autonomy has been discursively represented in the language of classic Anglo-American liberalism, which saw in a 'civil society' constituted out of self-governing institutions, the best protection of liberty (Anderson, 2010, p. 2).

Closely related to this story about institutional autonomy is the idea that academics as teachers, scholars and researchers should be free to pursue the truth, and to teach and publish what they researched as they saw fit, constrained only by the requirements of truth. The very conception of 'objective knowledge', based on rigorous intellectual criteria and subject

to 'peer review', promised to protect universities from political interference. In most democracies, academic freedom came to include the right of academics to be active citizens, and to pronounce on political questions, making universities the home of public intellectuals, and a creative and independent cultural force. As Gappa *et al.*, (2007, p. 226-7) note, this has meant that academic freedom has been understood to include the freedom of teachers to discuss their subject in classrooms, freedom to conduct research and publish its results and freedom to speak and write as citizens. This also includes the idea that academics have the autonomy to plan their courses, select the materials they will use, and decide the best methods to use to teach the materials to their students. Similarly, they can decide the best methods to examine their topics and exercise discretion in searching out funding sources for their research.

In each instance, substantial autonomy is required in defining and structuring the core elements of their work. As Andrews (2007) points out, 'public scholarship' and 'academic freedom' are frequently linked because of the commendable impulse to regard the work of teachers and students 'not as the isolated, self-indulgent actions of a campus segregated from society, but as the contributions of scholar-citizens with membership in a larger community'. In this light, writers like Cohen and Yapa (2005) claim 'public scholarship' involves, or ought to involve, scholarly and creative work which produces 'public goods' like accessible and valuable research and transformative teaching. Barnett (1997) goes much further again when he claims that academic freedom is essentially a 'critical' activity:

By subjecting the curriculum content of higher education to criticism, we subject much of society's cognitive structure (and thereby much of modern society itself) to criticism. This ... is a condition of the maintenance of an open society in the modern age.

University academics' discussion about 'academic freedom' as part of a distinctive 'imaginary'. Cornelius Castoriadis (1998) used this category to point to what John Thompson called 'the creative and symbolic dimension of the social world, the dimension through which human beings create their ways of living together and their ways of representing their collective life' (Thompson, 1984, p. 6). The category of the 'imaginary' also decisively reinstates a proper regard for the irrational and the undecidable into any theoretical frame while leaving open the question of whether this imaginary

is to be treated as a description, a normative prescription or some sort of 'as-if' justification.

This imaginary has a genealogy going back at least to Kant (1784). Kant made a distinction between 'public' and 'private' to defend the normative practice of scholars engaging in untrammelled 'public deliberation'. In our time there are still many prepared to defend this position. The idea has been tirelessly adumbrated in the USA from Arendt (1967; 2006) to Cohen and Yapa (2005) and Mitchell (2008).

What too many academics do is conceive of 'academic freedom' as 'freedom from' excessive intervention by governments or outside interests, while actively, sometimes even enthusiastically, complying with the sometimes bizarre requirements of policy-makers and managers.

Habermas (1991; 1992; 1996) treats universities as a crucial part of the modern 'public sphere'. Menand (1996, p. 4) likewise emphasises that: ... academic freedom is not simply a kind of bonus enjoyed by workers within the system, a philosophical luxury universities could function just as effectively, and much more efficiently, without. It is the key

legitimizing concept of the entire enterprise.

Recently Docherty (2011, p. 4) inverted Newman's defence of the university when proposing the 'university of the idea':

The university is above all governed by action of discovery ... such discovery and inventiveness – the adventure that is a university – is shaped by an ongoing openness to possibility. The word that we usually give to such openness to possibility is just *freedom* ... it is through the *search* for what we call true (in science), for that which we call good (in social sciences) and for that which we call beautiful (in aesthetics, arts and humanities) that we practise this fundamental activity of extending freedom in a just democracy.

So, what is actually happening?

Though there are many ways we might now 'skin the cat', if we were to ask how well the actual practices of Australian academics conform with this imaginary, I suggest we will find an academic culture that has little connection with that idea. Rather, there is a gap between the imaginary and practice, a gap well characterised by Andrews (2007) in terms of a failure to develop a practice of 'public scholarship'.

What too many academics do is conceive of 'academic freedom' as 'freedom from' excessive intervention by governments or outside interests, while actively, sometimes even enthusiastically, complying with the sometimes bizarre requirements of policy-makers and managers. The evidence for this is to be found e.g., in the widespread use of 'instruments' such as the Course Experience Survey ostensibly used to assess the quality of teaching and learning in a unit of study or the Course Evaluation Questionnaire (later the University

Experience Survey) which works like the National Student Survey in the UK, to evaluate a whole program of study such as a degree (Yorke, 2009). These 'instruments' work like many customer satisfaction surveys to establish whether students are satisfied with a module of study.

The passage in 2011 of the *Tertiary Education Quality and Standards Agency Act 2011* brought into existence Australia's first sector wide higher education quality assurance regulator, the Tertiary Education Quality and Standards Agency. This set in place what Roger King called the 'higher education regulatory state' and the elaboration of numerous measures of research quality and research performance (King, 2007). The introduction of digital academic management systems like Blackboard or Canvas to 'deliver' education, has further normalised new modes of surveillance and regulation courtesy of data analytics. Any cognitive dissonance elicited by pointing out how these signal a dramatic subversion of academic professionalism and autonomy is resolved by elaborating a culture of anguished, albeit ineffectual whingeing. For too many academics, academic freedom is understood in terms of what Isaiah Berlin called the 'negative conception' of liberty, as distinct from a conception of 'positive liberty'. Let me creatively adapt this famous distinction.

Positive and negative academic freedom

Berlin defined negative liberty as the absence of constraints on a person imposed by other people. Positive liberty he defined both as *freedom to*, that is, the ability (not just the opportunity) to pursue and achieve willed goals but also as autonomy or self-rule, as opposed to dependence on others. Berlin says negative freedom consists in 'not being interfered with by others', whereas the positive sense 'derives from the wish on the part of the individual to be his own master'. Berlin understood both concepts of liberty as advancing valid claims about what is necessary and good for human beings (e.g., Berlin, 1958, pp. 136–44). Both negative and positive liberty were, for him, genuine values, which might in some cases clash, but in other cases could be combined and might even be mutually interdependent.

As Andrews (2007) noted, claims by defenders of the traditional, i.e., elitist model of the university, such as Coady (2000) and Gaita (2012) that once we had 'real' universities and now we don't, constructs an 'as-if' binary. Once upon a time our universities were small, filled with free scholars engaging in pure and unfettered scholarship, and teaching small numbers of students who were enrolled as students because they loved knowledge. Now we have instrumentalised, vocationally-oriented training institutes teaching intellectual philistines who just want a job. The result is an idea of 'academic freedom' characterised by elitism and social irrelevance threatened by its nemesis, a

mass instrumental institution working in servitude to the market.

Defining the options in this restrictive way depends on a narrow conception of the university, the roles that it can and should play, and the public to whom it might properly relate. A thinned out conception of academic freedom constructs real academic work as an activity that occurs in 'splendid isolation' (i.e. Humboldt's *Einsamkeit*) and is removed from any engagement with a public outside the university. Academic teaching or research is treated as if these were private matters, best conducted 'outside of the public gaze and at a distance from public affairs':

[Any] conversation is private in that it is restricted to the initiated. On this account, freedom is constructed in negative terms i.e., freedom *from* interference in the form of demands to be useful or an assertion of authority by someone outside the institution. This model provides an intensely privatised kind of scholarship obligated only to preserve a regard for some 'great tradition' of intellectual effort (Andrews 2007, p. 61).

In constructing this binary what has gone missing is another option, namely 'public scholarship' which discharges an obligation framed in terms of the positive freedom enjoyed by academics who contribute to the public good.

Public scholarship which links teaching and research is precisely what Humboldt had in mind. It is what Jurgen Habermas understands to happen when intellectuals use:

... arguments sharpened by rhetoric, [to] intervene on behalf of rights that have been violated and truths that have been suppressed, reforms that are overdue and progress that has been delayed [to] ... address themselves to a public sphere that is capable of *response, alert and informed* (1991, p. 73).

Bohman (2005) too speaks to the democratic character of this conception of public scholarship:

In a democracy all must be able to exercise their reason 'without let or hindrance' and not simply appeal as subjects to authorised agents who respond in light of their own criteria and grant entitlements in exchange for cooperation within existing practices. In some cases, it is necessary not only to criticise such norms but also to change the practices themselves. (Also, Docherty, 2011)

And it is this conception of public scholarship that Alasdair MacIntyre spoke to when he identified universities as places:

... where conceptions of, and standards of rational justification are elaborated, put to work in the detailed practices of enquiry, and themselves rationally evaluated, so that only from a university can the wider society learn how to conduct its own debates, theoretical or practical in a rationally defensible way (MacIntyre 1990, p. 222).

It is not enough to imagine academic freedom as the thoughtful, critical articulation of ideas, the demonstration

of proof based on rigorous examination of evidence, the distinction between true and false, between careful and sloppy work, the exercise of reasoned judgment and so forth, all activities carried out in a private way. We need to imagine and practise a more expansive kind of academic freedom conceived less in terms of being free from interference (i.e., freedom from) and much more in a terms of being 'free to' pursue various public goods by engaging in those practices constitutive of rational and critical inquiry which involve in Hannah Arendt and Michel Foucault's terms, speaking 'truth to power'.

We need to remember that Arendt was horrified when in the 'dark times' of the 1930s she saw a generation of German academics embrace the Nazi regime. As she put it, 'the problem, the personal problem, was not what our enemies did but what our friends did' (Arendt, 2006, p. 11). As for Foucault he had been accused of being silent and unwilling to defend the ideas and the deeds of the new socialist government in power criticised for being a 'silent intellectual' (Tamboukou 2012, p. 855). At stake for both Arendt and Foucault was truth telling. This is a practice informed not by a conventional conception of truth as correspondence, but one framed in Heideggerian terms as *alētheia* [Aletheia] as 'unhiddenness' or 'unforgetting'. This was something to be achieved for Foucault by the practice of *parrhesia*, and by Arendt in the act of thinking, itself a dangerous act.

For Foucault (2011) *parrhesia* was 'the courage of truth' manifested when speaking the truth in extremely risky situations and defying any kinds of risk, including death. For Foucault it is in the act of *parrhesia* that a person assumes her right to speak, making this practice a quintessential precondition of positive freedom. As Tamboukou (2012, p. 853) notes there are four essential themes constitutive of *parrhesia*. First there is speaking the truth; then there is the courage to speak the truth in situations where there is a risk or danger for the truth-teller. Secondly, *parrhesia* is a form of criticism, either towards another or towards oneself that comes from below, from the less powerful. Finally, *parrhesia* as the telling of truth, is a duty freely embraced.

When Arendt saw in 1933 what the kind of disinterested value-free (*wertfrei*) style of academic scholarship common among German intellectuals led to, she was dismayed:

This wave of cooperation made you feel surrounded by an empty space, isolated. I lived in an intellectual milieu... and I came to the conclusion that cooperation was, so to speak, the rule among intellectuals ... I left Germany guided by the resolution that 'Never again!' I will never have anything to do with 'the history of ideas' again. I didn't, indeed, want to have anything to do with this sort of society again (Bruehl-Young 1982, p. 108)

Arendt slowly came to conceive of a different kind of active thinking. For Arendt, 'thinking what we do' was the

hardest thing we can ever do. For Arendt, thinking became an engaged activity motivated by an ethos of care and by *amor mundi* (love of the world). As her conversation with Karl Jaspers noted, there is an obligation that older academics have to their mostly younger students for that obligation that comes with the conception of freedom as a public act to promote the pursuit of truth (Arendt & Jaspers 1993, p. 451). Like Heidegger, Arendt understood thinking as a mode of connection in which 'thinking is thanking' (*denken ist danken*): both instantiate a freely chosen activity of care and engagement in pursuit of truth.

Without for a moment equating the 'dark times' Arendt experienced in the 1930s with the 'dark times' we now face, Stephen Ball (1995) reminds us how many contemporary academics have dealt with our version of the 'dark times'. Ball highlighted the tendency of many academics to take refuge in various forms of 'academic quietism' and 'intellectual isolationism' (Ball 1995, p. 256) which he suggests are best understood as symptoms of the problem. Tamboukou agrees when she notes how 'academic "resistance" has been translated into withdrawal from public academic spaces into archives, libraries and private studies: this is a strategy of hiding from the world and from each other' (Tamboukou 2012, p. 860). This is best understood as the exercise of negative freedom. As Tamboukou argues, active thinking is a highly engaged form of thinking that prepares one to act in the real world (Tamboukou 2012, p. 857). Like Arendt, Tamboukou agrees that while thinking is too often conceived of as a form of retreat from the world and into silent introspection, active thinking involves a commitment to think responsibly: to move away from the comfortable bystander perspective and understand that it is only through engagement that we can rightly judge. Reframed as a positive freedom, our freedom as academics needs to combine *parrhesia* and thinking what we do and doing this in our academic practice understood as occurring in a public space.

This is why theorists such as Gutmann argue that, uniquely, academics can play a crucial role in linking education and democracy. This presupposes that they engage in their teaching as an ethical and political practice, and that it is tied to a mode of authority in which the '... democratic state recognises the value of political education in predisposing [students] to accept those ways of life that are consistent with sharing the rights and responsibilities of citizenship in a democratic society' (Gutmann, 1998, p. 42; also 1983).

On the face of it, the affordances of the new digital technologies should surely enhance the public qualities of this practice. Yet, as Bernard Stiegler (2015) has argued, the digital technologies have transformed the very conditions assumed to be indispensable to autonomous university education and research, thereby rendering suspect such traditional normative practices as reading, writing, reasoning and thinking critically

(Stiegler 2015, p. 203-220). This points minimally to the need to discuss Stiegler's argument.

Conclusion

The kind of academic freedom at stake here is not to be confused either with normal scholarly critique or with overt dissent. A small number of academics have been active in reflecting upon, analysing and writing about matters such as academic performativity, audit cultures and the McDonaldisation of the university. Nor is it to deny that in spite of dire warnings about the negative impact of the neoliberal cascade (e.g., Brown, 2015), what can be called the capacity for 'academic dissent' has never been entirely or effectively stifled in Australia (e.g., Anderson, 2008; Carmody, 2013; Heath & Burdon, 2013; Rhodes *et al.*, 2018). There have been high profile cases involving academics who resisted managerialist power (e.g., Judith Bessant), or who became courageous whistle blowers (Gerd Schröder-Turk at Murdoch University), or who simply carried on expressing unpopular views and publicly criticising the work of their colleagues (Peter Ridd at James Cook University). These cases are significant because in each case, the academic involved was subjected to serious and sustained attempts to silence them by dismissal, or by taking disciplinary measures against them. In the first two examples, the cases ended up in the Federal Court and were resolved in favour of the academics concerned (Bessant, 2014). There are also cases of effective collective academic resistance such as industrial action by academics at Sydney University attest.

Rather, I have emphasised a long-standing-crisis of academic freedom, one best understood as the absence of positive academic freedom. This does not have much to do with the confected crisis that conservative and neoliberal commentators allege is now a reality on our campuses. Likewise, this doesn't have anything to do with the nostalgic *mythos* sustained by defenders of the 'traditional' university. As Henry Giroux (2009) says, to speak truth to power is not 'a temporary and unfortunate lapse into politics on the part of academics'. Rather, 'it is central to opposing all those modes of ignorance, market-based or otherwise instrumental rationalities, and fundamentalist ideologies that make judgments difficult and democracy dysfunctional'. Absent a detailed empirical study that I have yet to complete, I must leave it to the reader to ask themselves how often they see this kind of academic freedom practised in our universities e.g., in staff meetings, or in Academic Boards and Senates, or what happens when academics are asked to fill out the next management survey of staff morale or comment on the next meaningless university strategy plan.

Rob Watts is Professor of Social Policy at RMIT University.

Contact: Rob.watts@rmit.edu.au

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