

## Academic freedom and free speech: threats, rights, limits and responsibilities

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### Abstract

*In recent years, universities, and indeed some governments, have instituted or revised policies relating to academic freedom and free speech. This has derived from, but also prompted, complaints about threats to the exercise of these rights. These complaints have come from diverse directions, from both the political Right and Left; albeit relying on very different assumptions about what should and should not be allowed. These two principles are frequently treated as if they were isomorphic, yet there is an important distinction to be drawn between them. Furthermore, there is often a lack of clarity about what kinds of action each allows, on the part of whom, in the various contexts to which they might be applied; and, therefore, about what limits are associated with them. There is also the question of what sort of tolerance they demand on the part of others. Finally, all rights imply obligations: thus, both academic freedom and freedom of speech impose responsibilities on those exercising them. In this article I will begin by examining recent complaints about breaches of these principles, and then go on to clarify what I take to be their character and implications. This will indicate what must be defended, as well as what cannot legitimately be defended, through appeals to academic freedom and freedom of speech, and the implications of this in present circumstances.*

### Keywords

*Academic freedom, free speech, university autonomy.*

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## Introduction

While, historically, there have been recurrent threats to academic freedom and free speech (Hofstadter and Metzger 1955; Reichman 2025), there seems to have been an escalation in disputes about them in recent times (Ignatieff and Roch 2017; Wieviorka 2022; Cole 2025). Indeed, these terms have themselves come to be used as weapons in public debate. Furthermore, though they have been enshrined in international agreements,<sup>2</sup> in the national legislation of some countries, and especially in the charters or mission statements of many universities and academic associations, there are disagreements about what they mean: what they allow and proscribe, and the grounds for this (Pincoffs 1972; Lackey 2018). An illustration of their complexity is that occasionally appeals to academic freedom or free speech are offered in justification for attempts by one party to restrict the public expression of views by another. As this indicates, what is often neglected in disputes about them is that these principles involve limits and obligations as well as rights. There is also a tendency to conflate the two principles, neglecting the fact that they vary in who they assign rights to, and what entitlements they offer.

A wide range of documents are available, varying in status, indicating what the terms ‘academic freedom’ and ‘free speech’ cover, whether in general or within specific jurisdictions. However, not only are these statements often vague in key respects, but they are by no means univocal, have to be interpreted in application to particular cases, and are often applied selectively (see Beiter et al 2016). In addition, publicly stated claims and judgments about particular cases frequently conflict. There is also a substantial academic literature on academic freedom and free speech, but there is considerable disagreement here too (see, for instance, Scott 2009; Hammersley 2016). While I believe it is possible to identify coherent conceptions of the two principles, these will inevitably be contentious.<sup>3</sup>

I will begin by considering some recent claims about threats to academic freedom and free speech in universities. Then, in the main part of the paper, I will outline my interpretations of these two principles, and their implications.

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<sup>2</sup> For instance, they are included in the Universal Declaration of Human Rights ([Universal Declaration of Human Rights | United Nations](#)) and in the European Convention on Human Rights ([European Convention on Human Rights \(coe.int\)](#)).

<sup>3</sup> Indeed, my interpretation of academic freedom is at odds in at least one respect with the three principles laid down in a very influential statement on academic freedom by the American Association of University Professors published in 1915, which is still widely accepted today: while I agree that extramural speech is covered under academic freedom, unlike the AAUP statement I believe that it should be restricted to an academic’s area of expertise. Extramural speech outside of that area comes under free speech.

## 1. Current threats

Today, complaints about infringements on academic freedom and free speech come from all parts of the political spectrum – from Right, Left, and Centre – and the targets of blame can vary considerably too. Such complaints may challenge government laws or university administration policies that are designed to protect certain beliefs from criticism, or to suppress others – whether on ethical, religious, or political grounds, or because it is believed that their expression would damage the reputation of a country or an institution, harm a marginalised group, and/or lead to violence.<sup>4</sup> Alternatively, perceived infringements of academic freedom or free speech may relate to the actions of opposition politicians, university alumni or private donors, commercial organisations (for example pharmaceutical companies seeking to control the publication of research findings relating to their products), foreign governments, or even academics or students themselves. There may be outrage at restrictions or penalties imposed on: the publication of particular research findings; academics expressing controversial views in the public sphere (extramural speech), or criticising their university administrations, colleagues, or students in internal meetings (intramural speech); academics using, for teaching purposes, research findings or artefacts (such as reproductions of paintings or cartoons),<sup>5</sup> or expressing views, that some find offensive or threatening; or student demonstrations, on the grounds that the causes these support are judged to be unacceptable, or because they are held to breach university regulations or legal requirements. Even the expression of an opinion about limits on academic freedom may be condemned as an offence in terms of that very principle.<sup>6</sup> In polarised political contexts those on each side often regard the beliefs of those on the other side as beyond the pale and may seek to silence them; while yet at the same time insisting on their own academic freedom and/or freedom of speech.

In the United States, left-wing academics have often challenged what they regard as restrictions on, or penalties for, expressing their views; while right-wing activists and politicians have continually denounced what they regard as left-wing indoctrination of students and/or what they take to be suppression of right-wing beliefs or intimidation of

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<sup>4</sup> An example is the UK counter-terrorism programme *Prevent*, which, as Holmwood (2023) points out, imposes safeguarding duties on universities in relation to people irrespective of whether they are planning terrorism or have committed any illegal act: expression of ‘extremist’ views is taken to be sufficient for surveillance and re-education.

<sup>5</sup> For an example, see [The Review: Fired for Teaching Art History \(chronicle.com\)](https://www.chronicle.com/article/The-Review-Fired-for-Teaching-Art-History). Cartoons have also led to complaints in the public sphere: see Bano 2022; Gamper 2022.

<sup>6</sup> See [The Review: A Harvard dean attacks academic freedom \(chronicle.com\)](https://www.chronicle.com/article/The-Review-A-Harvard-dean-attacks-academic-freedom).

those holding them.<sup>7</sup> During a congressional hearing in late 2023, in the midst of widespread pro-Palestinian demonstrations on university campuses, the presidents of three elite universities were challenged by Republican Representatives for failing to protect Jewish students from antisemitic harassment. Two of the presidents were forced out of office.<sup>8</sup> More recently, the Federal Government has proposed a ‘compact’ with universities, one aspect of which is a requirement to protect ‘conservative ideas’ in the name of academic freedom or ‘viewpoint diversity’. This has been widely denounced as an attack on academic freedom.<sup>9</sup>

A high-ranking official in the German Education Ministry was sacked after she reportedly considered the use of legal and financial sanctions against academics who had criticised universities’ treatment of pro-Palestinian student protesters.<sup>10</sup> In the UK, a political sociologist specialising in Islamophobia was fired on grounds of antisemitism, though he later won his case for wrongful dismissal.<sup>11</sup> Some academics condemning Israel’s actions in Gaza have been threatened with sacking, such as Jodi Dean, a professor of politics at Hobart and William Smith Colleges in the U.S.<sup>12</sup> Two feminist academics were pushed into resigning their posts because of hostile responses to their ‘gender-critical’ insistence that sex is biologically determined. One of them took legal action against her university for failing to protect academic freedom, and won.<sup>13</sup> There have also been cancellations of invitations to speak in universities. For example, a talk to be given by Nancy Fraser, professor of philosophy and politics at the New School for Social Research, who is Jewish, had her invitation to visit the University of Cologne as its Albertus Magnus Professor revoked because she had signed public letters criticising Israel.<sup>14</sup> Finally, there have been attempts to curtail or suppress the work of, or expression of views by, academics through threats and intimidation. This is not uncommon on social

<sup>7</sup> Horowitz (1997) is an interesting source, since he moved from the radical left to the radical right. See also [Republicans push new federal limits on US academia \(timeshighereducation.com\)](https://www.timeshighereducation.com/news/republicans-push-new-federal-limits-on-us-academia). Both the current federal administration and the administrations of some states are now intervening in universities purportedly to protect ‘diversity of opinion’ but also to suppress what they take to be false or un-American ideas which are held to lead to violence.

<sup>8</sup> See [House Republicans castigate presidents of Harvard, Penn and MIT \(insidehighered.com\)](https://www.insidehighered.com/news/2023/10/10/house-republicans-castigate-presidents-of-harvard-penn-and-mit)

<sup>9</sup> [Compact-for-Academic-Excellence-in-Higher-Education-10.1.pdf](https://www.timeshighereducation.com/news/compact-for-academic-excellence-in-higher-education-10.1.pdf). For criticism of this compact, see [Compact shows ‘empowered’ Trump plans to ‘divide and conquer’](https://www.timeshighereducation.com/news/compact-shows-empowered-trump-plans-to-divide-and-conquer). On ‘viewpoint diversity’, see [Four Scholars Agree, Disagree, and Agree to Disagree on Viewpoint Diversity](https://www.chronicle.com/article/Four-Scholars-Agree-Disagree-and-Agree-to-Disagree-on-Viewpoint-Diversity)

<sup>10</sup> See [Top bureaucrat sacked over Gaza academic freedom controversy \(timeshighereducation.com\)](https://www.timeshighereducation.com/news/top-bureaucrat-sacked-over-gaza-academic-freedom-controversy)

<sup>11</sup> For an interesting discussion of this case, and others, in which the author upholds the principles of academic freedom and free speech while disagreeing profoundly with the views expressed see Heinze 2024.

<sup>12</sup> See [A Tenured Professor Was Removed From the Classroom Over a Pro-Palestine Essay \(chronicle.com\)](https://www.chronicle.com/article/A-Tenured-Professor-Was-Removed-From-the-Classroom-Over-a-Pro-Palestine-Essay)

<sup>13</sup> See [Jo Phoenix: ‘every v-c should read judgment’ | Times Higher Education \(THE\)](https://www.thetimes.co.uk/article/jo-phoenix-every-v-c-should-read-judgment-times-higher-education)

<sup>14</sup> See [German university rescinds Jewish American’s job offer over pro-Palestinian letter | Higher education | The Guardian](https://www.theguardian.com/education/2024/oct/10/german-university-rescinds-jewish-american-job-offer-over-pro-palestinian-letter)

media when controversial topics are involved. Moreover, state actors may engage in this, as with the Chinese Government's efforts to control the presentation of information and views about China within Western countries.<sup>15</sup>

As is clear from these examples, what is believed to offend academic freedom and freedom of speech, and views about what are grounds for restricting it, vary considerably. But it has also been claimed that recent major institutional developments within universities represent indirect threats to academic freedom and freedom of speech (Traianou 2015). These include moves towards the marketisation of higher education, which have led to universities being more concerned than previously with protecting their public reputations. Also relevant are increased managerialism, not least the strategic management of research, ethical regulation, policies on diversity, equity, and decolonisation, and pressure for 'community engagement', which have been held to conflict, in various respects, with universities' responsibility to protect academic freedom and freedom of speech. All of these developments have occurred against the background of a shift from universities operating in a collegial manner to becoming much more hierarchical organisations.<sup>16</sup>

While there have been many complaints about breaches of academic freedom and free speech, it has long been recognised that there are limits to what these principles cover (Ingram et al 2020). It is widely agreed that public expressions are unacceptable that involve incitement to violence, libel, or harassment; though there can, of course, be disagreement about whether or not particular cases fall under these headings. More controversial, perhaps, are restrictions relating to 'hate speech' about members of particular social categories, or concerning blasphemy and political bias (for example the attempt to suppress claims about past or present atrocities, whether those committed under the aegis of the British Empire, by Turkish nationalists, Hamas, or the Israeli Government) (Moody-Adams 2018). Sometimes the exercise of free speech on the part of one person may amount to a restriction on that of others; for instance, an audience may express their views by continually questioning, barracking, or even shouting down a

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<sup>15</sup> See [China-critical UK academics describe 'extremely heavy' pressure from Beijing | Universities | The Guardian](#).

<sup>16</sup> Reichman 2025. While collegial organisation was approximated in the past, universities were, of course, never free from outside interventions by governments and other agencies, sometimes very major ones. Furthermore, the developments mentioned, and reaction against them, began a long time ago: Green (1969:342-6) noted signs of government encroachment on universities' academic freedom in the 1960s, and predicted that this would increase. See also Gould 1968 and Graham 2008:ch1. For a more recent account see Collini 2012 and 2017.

speaker; or a speaker may be prevented from speaking in the first place – what is often referred to today as ‘no-platforming’.

So, complaints about restrictions on, or breaches of, academic freedom and free speech have been diverse in character, with opposing sides interpreting those principles differently – in part, no doubt, through the lenses of their own commitments and interests. This illustrates that it is essential to clarify the meaning of these two principles. I will argue that the source of both lies in liberal philosophical assumptions, and in the next section I will try to present a coherent conception of their components on that basis.

## 2. Two distinct principles

In many of the disputes I mentioned in the previous section, the terms ‘academic freedom’ and ‘free speech’ were, in effect, treated as synonyms (on this tendency, see van Alstyne 1972:62-4). They are, of course, closely connected; indeed, in the United States, on various occasions the Supreme Court has recognised that academic freedom is included under the protection of free speech clause of the First Amendment (Fischer 1977:385 Note 9), though this offers no guarantees (Leiter 2019). Yet, the two concepts need to be clearly distinguished, indeed they have rather different histories. I suggest that academic freedom is a form of professional autonomy (Hammersley 2011:ch8, 2016), whereas free speech is a civil right.

### 2.1 Academic freedom

Academic freedom operates at two levels.<sup>17</sup> First of all, it concerns the degree of autonomy of universities from the state and other external organisations, particularly as regards decisions about teaching and research. In some countries, there has never been much independence of this kind, and in many Western societies it has been reduced as a result of the increase in organisational scale stemming from the shift to mass higher education, and the considerable costs of some kinds of research, such as in astronomy and physics.<sup>18</sup> Also relevant have been more recent changes in governance of the public

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<sup>17</sup> There is also a third aspect of academic freedom relating to what is referred to in the Greek context as ‘academic asylum’ (see Kakarelidis and Georgiadou 2022, and [Greece weighs the future of "university asylum" \(insidehighered.com\)](#)). There are interesting questions about the relationship between this and other aspects of academic freedom (see Grigoriadis and Kamaras 2012), but I do not have space to discuss them here.

<sup>18</sup> In the United States in 2025 there has been a sustained attempt by the Federal Government to diminish the autonomy even of private universities such as Harvard, through interventions designed to force them to change existing policies or introduce new ones. See, for example, [Trump administration threatens Harvard](#)

sector, mentioned earlier, with increased monitoring and control over how universities spend public funds allocated to them, and emphasis on commercial engagement. This reflects a shift from a state patronage to an investment funding model (Hammersley 2011:Intro), though there have also been signs of a move towards the ideological model of the university (Hammersley 1995) which requires that a particular political or religious viewpoint is enforced.

The second aspect of academic freedom concerns the autonomy of the individual academic in relation not just to external agents but to university administrations, colleagues, and students.<sup>19</sup> This will be my main focus here. Academic freedom, in this sense, has the following components:

1. Its exercise is restricted to academics; it does not extend to lay people or even to undergraduate students.<sup>20</sup> Postgraduate students are a borderline case, with PhD students certainly included since they are engaged in research, and often teaching as well. In short, academic freedom is an exclusive rather than a universal right. We should note that, in this respect, it assumes the intellectual authority of academics over their students, as well as in relation to university administrations;<sup>21</sup>
2. What it allows is restricted to actions serving the purposes of research and teaching in specialised fields. This includes the selection and discussion, within legal constraints, of topics, images or material artefacts, and the development of lines of argument, that may be found objectionable, insulting, distressing, or disgusting by powerful groups in the surrounding society or by significant sections of the community, including among students. It also allows intramural discussion of university policy and organisations, and authoritative *public*

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[with foreign student ban - BBC News](#) and [Trump threatens Harvard's tax-exempt status after freezing \\$2bn funding - BBC News](#)

<sup>19</sup> There is an interesting question about whether academics exercise academic freedom as members of a university or as members of a discipline that extends beyond any particular university.

<sup>20</sup> However, these students benefit from their teachers' exercise of academic freedom, since this allows considerable freedom of inquiry in the classroom. My position here is at odds both with the view which treats students as engaging in discursive democracy within the university and with that which regards them as consumers of education. They are necessarily under the guidance of their teachers, otherwise what would the justification be for the latter being paid; but, at the same time, they are participants in learning not recipients of an education that is 'delivered' to them.

<sup>21</sup> Dewey (1936) insists that academic freedom applies to students as much as teachers, equating it with 'the freedom to learn', as well as extending it into secondary or even primary education. This seems to me to be out of line with his much earlier discussion (Dewey 1902) where he locates it in the context of universities as producers and disseminators of knowledge. Of course, it fits with his attempt (mistaken in my view) to treat the pursuit of knowledge as the pre-eminent society-wide goal.

statements about research findings and disciplinary knowledge more generally, and about the *potential* implications of these for policy issues and practical decisions (extramural speech);

3. However, the exercise of these forms of autonomy is restricted to academics' areas of expertise: it does not apply to all topics about which they have views. Furthermore, what is said must be justifiable in academic terms, respecting judicious requirements as regards the evidence available, and expressed in suitably qualified language. Furthermore, where it is not a matter of broad agreement within the relevant research community, this must be signalled. Indeed, when speaking in public an academic is, to a large extent, representing her or his research community, even though there is scope for the expression of personal views about relevant matters.<sup>22</sup>
4. Because of the nature of academic inquiry, the conclusions put forward in research publications, teaching, or extramural talk, should be limited to factual matters and/or to the clarification of ontological, epistemological, or axiological principles. In short, in my view, contrary for instance to 'critical', 'activist', or 'normative' conceptions of social science, academic freedom does not warrant practical evaluations of, or interventions in, social practices and institutions beyond the university (Hammersley 2017; see also Fish 2008);
5. The exercise of academic freedom is independent of any obligations an academic may have to a particular university, to any other organisation, or to a nation-state. This is because it is lodged in a profession that spans different universities, and indeed many countries. It can, however, be restricted by international law and by universalistic ethical principles, for instance relating to human rights. It is important to note, given this, the peculiarity of the responsibility that universities have in protecting academic freedom: doing this may on some occasions be at odds with their own interests.<sup>23</sup>

What are involved here, then, are both distinctive rights and also limits to those rights. As Max Weber pointed out a long time ago, there is an implicit contract between academics and society (this represented by the state) (Shils 1974): academic freedom

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<sup>22</sup> There is a potential problem here arising from the imperialism of academic subjects: their attempts to take over the territory of rivals. It is not difficult to identify examples of this in the case of economics, psychology, and sociology.

<sup>23</sup> This final point is at odds with the conception of 'academic duty' put forward by Kennedy 1999.



should be granted to academics so long as they observe the limits built into this contract, in particular by not exceeding appropriate claims to their intellectual authority.<sup>24</sup> Of course, there can be variation in how this contract is interpreted: as regards what are legitimate purposes in teaching and research, what can be taken to be the implications of research findings, what is and is not within an academic's area of expertise. Disagreements about these matters must be resolved through discussion, or through an agreed procedure, within the relevant research community.

The justification for academic freedom, as a form of professional autonomy, is that it is essential if both research and teaching are to be pursued effectively, and if the fruits of research are to inform public opinion and decision-making.<sup>25</sup> The academic duty is to produce and disseminate value-relevant factual or philosophical conclusions that have a high likelihood of being true; and these, and their implications, may well run counter to what is widely taken for granted, thought appropriate, or believed to be legitimate, by members of the wider society. In particular, these conclusions may be viewed as counting against the interests of various organisations, groups, or individuals, or against particular political or ethical causes. However, it should be remembered that, often, such judgments rely on automatic inferences that are not compelling because, for example, even within the bounds of conventional assumptions, facts rarely carry a single set of practical implications.

This notion of academic freedom relies on basic presuppositions that underpin a liberal model of the university (Hammersley 1995). These include the following: that it is possible to produce factual knowledge about the world and about concepts; that academics are best placed to produce this, and therefore can legitimately claim a distinctive form of intellectual authority; that this may require them to suspend acceptance of widely adopted beliefs and commitments – where these seem to create obstacles to inquiry – and to engage in dialogue with one another on this basis (Hammersley

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<sup>24</sup> Even as strong a supporter of academic freedom as John Dewey (2001) recognised that it necessarily had limits, and that these must be observed if it was to be defended effectively. He reiterated the argument of President Harper of the University of Chicago, as expressed in his Convocation Address of December 1900, that academic freedom is abused by professors who put forward conclusions as true that have not yet been established scientifically, use the classroom to promulgate partisan political views, or make sensationalised claims in speaking outside their areas of expertise.

<sup>25</sup> This draws on the longstanding idea that freedom is required if the truth is to be discovered: see Thomson 2020.

2011:chs3 and 7).<sup>26</sup> In short, this kind of liberalism recognises the possibility of producing factual knowledge through rational means, whose likely truth should be acknowledged by anyone who claims to be rational.<sup>27</sup>

Also central to this liberal model is the idea that academic expertise does not extend to making practical value judgments. This is because practical questions rarely have a *single* correct answer that can be rationally determined, even in principle. This arises from the fact that the answers rely on value principles which can be interpreted in different ways; and because these principles may carry conflicting implications for the same case or issue. There is scope, then, for reasonable disagreement (Gray 2013). So, while value questions allow for both more and less rational answers, choice amongst reasonable ones is legitimately determined by personal commitments and interests. The key point is that, even though academics may have greater knowledge of relevant facts, and/or a clearer sense of the implications of different values (neither of these virtues being guaranteed), this does not give them expertise in making value judgments. These are matters about which people must be allowed to reach their own decisions, to act on that basis, or to engage in persuasion and negotiation where collective decisions must be made. Thus, I am arguing that any claim to academic expertise in relation to value issues potentially subverts both individual freedom and democracy. This kind of liberalism therefore not only provides space for the production of knowledge, within wide bounds, but also insists that, wherever possible, there should be tolerance of competing value-judgments about any issue, where these are judged to be reasonable.<sup>28</sup>

If any of these assumptions is rejected, the grounds for academic freedom are undercut. This liberal model has been institutionalised in Western universities, to a large extent, and still operates today to a some degree, despite erosion: many of the institutional structures remain, and there are at least residual commitments to it on the part of most

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<sup>26</sup> One aspect of this is that views that are disagreed with, or found objectionable, should not simply be suppressed, for example in the reviewing process for journals: [Gender-critical scholars claim discrimination over BMJ rejections \(timeshighereducation.com\)](https://www.timeshighereducation.com/news/gender-critical-scholars-claim-discrimination-over-bmj-rejections)

<sup>27</sup> The term 'liberalism' is used in multiple ways, and the way I am employing it here will inevitably be at odds with some common interpretations. For instance, liberalism of this kind is not in line with the evangelical utopianism of 'neoliberalism', with its championing of 'free markets'. It is also at odds with notions like 'the end of ideology'; indeed, in my terms, liberal governance is a means of coping with ideological difference, which is assumed to be endemic in human societies. This view is also incompatible with what Shils refers to as 'collectivistic liberalism'. For discussions of various forms of liberalism, from rather different perspectives, see Shils 1978, Galston 1995, and Gray 2000.

<sup>28</sup> It may be argued that I have rendered the difference between reasoning about factual and value matters too sharply. After all, factual knowledge claims are always fallible, and at particular times academics do not agree on the answers to factual questions. This is true; but even though the difference is one of degree it is substantial.

academics. However, it is in conflict with competing conceptions of the university that have grown in influence over the past 50 years (Hammersley 1995).<sup>29</sup> On one side are economic models in which universities function to serve national economic requirements, either those of a command economy or operating on a commercial basis (see Hague 1991). On the other side are ideological conceptions of the university, whether promoted by the Right or the Left. Marxists have offered the most explicit and worked out version of this political alternative, and it was put into practice in Soviet universities (Fitzpatrick 1970). A similar approach, though of course based on a very different ideology, occurred in Nazi Germany (Hartshorne 1937). But more influential in recent times, albeit less destructive as yet, have been interventions by new social movements, such as feminism and anti-racism, that have established academic journals and university courses expressly committed to substantive political positions; and their attitude towards those who put forward findings or theoretical views to which they object can sometimes be far from tolerant (Smith 2014). As this makes clear, it is not just external agencies, but also some social scientists themselves who reject (or fail to recognise) the assumptions on the basis of which academic freedom must operate (Hammersley 2022).

Commitment to these alternative models has often arisen from recognition that, while it may well produce knowledge that is of broad value, freely operating academic inquiry does not necessarily serve what is taken to be the public interest, and on occasion may even count against it. Those models often break with the idea that the aim of research and teaching should be restricted to factual knowledge organised in terms of academic disciplines. Instead, it is demanded that both research and teaching address what are taken to be the most urgent topics, in economic or political terms, to critically assess the phenomena being investigated, to propose ways of changing them, and perhaps even to engage directly in attempts to bring about such change. Alongside, and in the case of the political model often intermingled with, these developments have been epistemologically relativist and sceptical views that deny academic expertise, sometimes viewing it as imposing an alien epistemological regime on the oppressed or marginalised, or on

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<sup>29</sup> Graham (2008) employs a different trichotomy from that I am using here: between the medieval, Napoleonic, and Humboldtian conceptions of the university. For my purposes, what is of importance is his emphasis on competing views within what I am calling the liberal model: between the liberal arts college and the research university. This points to a significant tension. There is also the notion of the 'public university' (see Holmwood 2011).

potentially autonomous individuals. Even though some of these views have long been present within Western universities, they are much more influential today.<sup>30</sup>

## 2.2 Free speech

As I argued earlier, while the principles of academic freedom and free speech both concern freedom of expression, they are significantly different in character and application. I suggest that the freedom of speech principle has the following features:

1. It assigns a right to all citizens of a state, or perhaps to all persons – it is not restricted to those with expertise related to the topic of discussion. Of course, speakers in public discussions may have expertise of various kinds, whether that of an academic, of a practitioner in a relevant field, or of a person who has had particular sorts of relevant experience;
2. It allows speech across all topics, within the law, including evaluative views not just factual judgments, so long as these do not amount to libel, incitement to violence, harassment, or disclosure of legitimate state, community, or commercial secrets;<sup>31</sup>
3. It permits criticism not just of expressed views but also of those putting them forward. This may be, for example, on the grounds that speakers or authors are being inconsistent or hypocritical, that they are pursuing their own interests rather than what is in the collective interest, and so on. However, the principle does not legitimate mere personal abuse, even if this is not explicitly proscribed;
4. Its exercise may be lawfully restricted, in specific respects, by obligations to an employer or to a political state (see Leiter 2016). This relates to the issue of what tolerance of free speech entails. An employer may sometimes legitimately sack someone whose expression of views is at odds with their role responsibilities or

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<sup>30</sup> There is also a tension between the assumptions I have identified as underpinning the principle of academic freedom and the orientation of academics engaged in the education of those entering professional occupations, such as health, law, education, or leadership and management. They routinely engage in assessments of policy or practice in terms of substantive values connected to the occupation they are serving; and they are frequently directly involved in practical interventions in their professional fields, whether through offering advice or carrying out evaluations. In the terms I have laid out here this potentially exceeds the limits to academic expertise on which the principle of academic freedom relies. This implies that any challenge to prevent these academics promoting their views through teaching and/or research could not be defended in terms of that principle. However, it can be defended on the basis of their expertise in the relevant profession, and/or under the heading of free speech.

<sup>31</sup> All of these restrictions are, of course, subject to interpretation and dispute. An illustration of the problems surrounding the law of libel in the US is provided by the case of Jeffrey Masson versus Janet Malcolm (see Forde 2008). And the politically contentious character of claims about official secrecy is highlighted by the US Government's attempt to convict Julian Assange.

that damages the organisation's reputation, especially if this contravenes a legal contract.<sup>32</sup> So, there are limits to free speech, and toleration does not require that others must take no action against a person expressing views with which they disagree – only that there are some actions against them that should not be taken (imprisonment, murder, physical assault or the threat of it, etc).

So, as with academic freedom, there are limits to free speech, although along with the rights assigned these are different in the two cases.<sup>33</sup> Once again, though, the limits are supposed to be neutral as regards substantive content, at least within broad scope. In this sense, Fidel Castro's reported statement about the boundaries of free speech in Cuba – 'Within the revolution, everything. Against the revolution, nothing' (quoted, without citation, in Nolan 2024:23) – amounts to a denial of the principle of free speech, just as do substantive restrictions from other political perspectives. These are different from constraints relating to the manner in which opinions are expressed, that they should not be sheer abuse or denunciations, and those relating to consequences, such as harassment or incitement to violence. There is also a difference between having the right to free speech, having opportunities to engage in this, and being heard and responded to.<sup>34</sup>

However, there is considerable scope for reasonable disagreement about what does and does not come within the limits of free speech, and what types of response to its exercise breach the principle. The boundary between expressing an opinion and inciting others to take action is fuzzy: there are ambiguities in language, scope for insinuation and 'dog whistles'. Actions of various kinds may be treated as coming under the heading of free speech, such as booing and heckling speakers, or even throwing objects at them so long as these are unlikely to cause injury. An extreme example, one that probably crosses the line, is holding the rector of a Greek university hostage by building a wall across his office door.<sup>35</sup> What is and is not acceptable may hinge on intention, but that is often difficult to determine with any certainty. Much the same is true of harassment: when does persistent criticism turn into this? Similarly, what counts as racism, antisemitism, or transphobia, is by no means an uncontroversial matter. An example is the tendency for any criticism of Israel to be denounced as antisemitic, or for any criticism of Muslims to

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<sup>32</sup> Arising here, of course, is the difficult issue of 'whistle-blowing'.

<sup>33</sup> That there must be limits to free speech has long been recognised, even by some of its strongest advocates, see Peacey et al 2020.

<sup>34</sup> The issue of opportunity to exercise free speech relates to access to media, but also to the issue of self-censorship where potential speakers fear the reaction of audiences to what they would want to say (see McGowan 2018).

<sup>35</sup> See [Countering the abuse of academic freedom \(universityworldnews.com\)](https://www.universityworldnews.com)

be labelled Islamophobia. While some views must be treated as beyond the pale – liberalism does not warrant the expression of any and all opinions – policing the boundary is by no means straightforward, nor is the issue of who should do this, and what the penalties should be. In Germany, holocaust denial is legally proscribed, but in practice this can rule out or discourage reasonable questions about what happened in the Nazi period and about the way in which it is often portrayed.<sup>36</sup>

There are also obligations associated with free speech, at least if this is justified in terms of discursive or deliberative democracy. There may be an obligation to speak out, in the sense of not engaging in self-censorship.<sup>37</sup> But there is also a requirement to formulate opinions as soundly as one can, not just in terms of their rhetorical persuasiveness but also as regards their truth and rationality.<sup>38</sup> This is an obligation that is frequently breached today, under the influence of commercial advertising, the political spin engaged in by many politicians, the propaganda deployed by publicity and lobbying companies, and ideological commitments. Indeed, there have been arguments that such is the extent of the abuse of free speech in this respect that we now live in a post-truth era (D’Ancona 2017; Davis 2017).

An equally important question is: what sort of tolerance does the principle of free speech demand from audiences? As already noted, the bottom line is that, so long as it is exercised within the broad limits of what is acceptable, the speaker will not be fined, imprisoned, tortured or put to death by the state, as can happen in countries where the right to free speech is not accepted or enforced. Furthermore, speakers should be protected, as far as this is feasible, from any informal punishments by fellow citizens that are against the law, for example being attacked or killed by those who object to what has been said. However, the principle of free speech does not imply that there will be no sanctions at all. Most obviously, it does not require that people refrain from criticism of what has been said, or even of the person who has said it, so long as this does not amount to libel; indeed, the principle underpins their right to criticise. Nor does this principle proscribe people snubbing or shunning someone with whom they disagree, or engaging in any other negative action towards them that is within the law or the rules of a relevant organisation. For example, responses posted online which may damage a speaker’s public

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<sup>36</sup> On the issue of Holocaust Denial and academic freedom, see Hammersley 2011:ch8.

<sup>37</sup> For claims about academic self-censorship, see for instance [Psychologists self-censoring ‘taboo’ beliefs – survey \(timeshighereducation.com\)](https://www.timeshighereducation.com/survey/psychologists-self-censoring-taboo-beliefs)

<sup>38</sup> The issue of what are legitimate and illegitimate forms of rhetoric arises here, see Vickers 1988.

reputation are not ruled out by the principle of free speech. As regards employment, generally speaking this cannot be terminated because of what someone has said or written unless it amounts to a breach of contract, or where some other form of legal liability holds. Whether there is protection against minor forms of discrimination in the workplace is more uncertain. Here as elsewhere judgments must balance the freedom to speak of multiple parties, as well weighing that principle against other considerations.

The principle of free speech can be justified on two sorts of ground. First, it may be deemed a universal right.<sup>39</sup> Article 19 of the UN's Declaration of Human Rights states that: 'Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers'; and Article 10 of the European Convention on Human Rights reiterates this.<sup>40</sup> Alternatively, freedom of speech may be justified as essential to democracy, or to the achievement of wise governance.<sup>41</sup> Here, the assumption is that, through public discussion, ideas will be tested so that the truth will emerge, or what is in the common good will become clear, the wide range of ideals and interests to be found within any population being taken into account.<sup>42</sup>

These two justifications are independent but not in conflict, indeed they can be regarded as complementary. But both derive from liberalism and have been subjected to considerable criticism. Liberalism's focus on negative liberty (Berlin 1969:ch3) supports a range of individual rights, but some critics have argued that this hollows out communality and increases social inequalities. They emphasise the importance of communal obligations that limit or even undercut rights, including that of free speech. Others have objected to the universality of rights on the grounds that this ignores the effects of past injustices, which need to be countered and compensated for. This, they

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<sup>39</sup> As both Durkheim and Shils have argued, this depends on the notion of the sacredness of the person (see Shils 1980).

<sup>40</sup> However, there is an accompanying qualifying statement in the European Convention to the effect that this right: 'may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary'.

<sup>41</sup> As Leiter (2019) points out, Mill's justification for freedom is entirely on instrumental terms, as too is Marcuse's argument for restriction of free speech, despite the sharp difference in their views about when and where it should be allowed. Leiter comments: 'Will freedom of expression maximize human welfare when ignorant, simple-minded or sick people expose millions of their fellow citizens to falsehoods and misleading information?' (p.123), a question that seems even more pertinent today than when he expressed it.

<sup>42</sup> Lynch 2018 offers a parallel argument for academic freedom. There is a considerable literature on the rationales for free speech. For a recent example, see Bonotti and Seglow 2022.

insist, is more important than a largely unrestricted right to free expression (see, for instance, Kekes 1997).

Meanwhile, critics of the idea of discursive or deliberative democracy point out that it is a long way from being realised in any contemporary society. Furthermore, they suggest that the conditions required for it to be achieved – that people will have a sustained commitment to honesty and truth-seeking in what they say and will exercise the necessary tolerance for opposing views – are utopian. They also point out that the public sphere is not just a place for intellectual discussion, it is a political battleground as well as a site for entertainment, and that these three functions cannot be kept separate. It is a weakly regulated realm where speech is used to pursue many different purposes which are often in conflict, and where some participants have much greater resources for making their voices heard (and effective) than others. Furthermore, in large complex societies policy decisions are necessarily made by elites, rather than by public discourse involving the whole population.

It is also important to note that democracy is not the same as good governance, nor will it necessarily lead to this. While some aspects are conducive to that goal, such as taking account of diverse perspectives and perhaps also learning by working through disagreements, there are others that may not be, notably related to the role of expertise and the fact that this may not be sufficiently respected in public discussion.<sup>43</sup>

University academics can exercise both academic freedom and free speech.<sup>44</sup> However, given the differences between the two principles, it ought to be made clear which is in play where this could be in doubt. As we have seen, each principle allows and proscribes different forms of expression, and they tend to apply to somewhat different contexts. Thus, within the classroom, at research conferences and in publications, it will generally be academic freedom that is in operation. This reflects the fact that this principle covers not simply the expression of opinion but, primarily, the presentation of knowledge. Where academics are speaking in administrative meetings (intramural speech), both principles may apply, and indeed it may be difficult to determine which ought to prevail. In the case of campus meetings about contentious topics (an example of extramural speech), where academics put forward views for or against some action, policy, or practice, it is free speech that is the most relevant principle. A problem with the

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<sup>43</sup> See [ebp-science-and-democracy-28-3.pdf \(wordpress.com\)](#) and Hammersley 2023.

<sup>44</sup> Leiter (2019) raises the interesting question of whether there should be greater restraints on academics' free speech than on that of other citizens.



application of both principles is that, in the past, this has been based on the idea of the university as a collegial association when, as I noted earlier, many universities are now closer to managed organisations.

Academic freedom is, I suggest, much more central to the functioning of universities than is free speech, assuming their continuing commitment to the production and dissemination of knowledge. But this is not to deny that a right to free speech applies to all participants in them, subject to relevant restrictions. A case can be made for a wider interpretation of the free speech principle in universities, on the grounds that this can facilitate learning, but this depends upon the conception of the university being adopted. It is in line with the liberal model, but from the point of view of the economic model, which is increasingly influential, campus societies and meetings may be regarded as of secondary importance at best, and participation in demonstrations would certainly not be regarded as part of student education. The ideological model would censor public expression on campus and beyond.

### **3. Conclusion**

In this paper I began by outlining recent claims about threats to academic freedom and freedom of speech in universities. I went on to argue that it is important to recognise the differences between these two principles and highlighted some of the complexities arising in their application in different contexts. I emphasised that, while these principles signal rights of expression that are wide in scope, they nevertheless involve limits and obligations, somewhat different ones in each case. I also noted how these principles can come into conflict with other commitments that members of universities and others may have, whether this is to social justice, to the national interest, to the best interests of the university, or to some other value or concern. Such conflicts have to be negotiated, and this may involve compromises. Neither principle should be regarded as overriding all others. Nevertheless, universities have a major obligation to protect academic freedom and freedom of speech for their members. Above all, they must take care that they do not themselves impose or allow unwarranted restrictions on these rights.

As I noted, my account of academic freedom and free speech here relies on assumptions that even some academics now challenge. These relate to the nature of a university and of academic work, and to some extent also that of the wider societies in which universities operate. The account I have presented is probably not the only

reasonable one that could be offered, but one of the problems with much discussion of these principles is that what they are being taken to mean is not spelt out, the justification for the interpretation being employed is not made clear, and sometimes there is inconsistency in how the principles are applied. I emphasised that my account here assumes what can be referred to broadly as the liberal model of the university. I believe that commitment to this is preferable to prioritising the economic functions of higher education or defining the purpose of the university in terms of political or communal goals (Graham 2008). If either of these other models of the university is adopted, this will have implications for how ‘academic freedom’ and ‘freedom of speech’ are interpreted and could even lead to the abandonment of those principles, in practice even if not explicitly.

Of course, the liberal model is an ideal type, and it has always been the case that Western universities have fulfilled multiple functions, and done this through dependent relationships with other institutions, whether this was the Church, the state, financial donors, or students. This has meant that there have always been internal tensions within universities, including between academic freedom, free speech, and other considerations. Equally important, it is necessary to remember that no university operates in ideal conditions for fulfilling its functions, and many operate in conditions that are far from perfect. This too will necessarily lead to some compromising of the two principles on some occasions. Nevertheless, it is important defend them and the liberal model of the university with which they are associated, and to remain as close to that model as we can.

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