The (Un)free University

On the Deplatforming Debate and the Liberal Notion of Academic Freedom

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Abstract

This thesis explores the concept of academic freedom underpinning popular and academic debates about deplatforming. Using the case study of professor Charles Murray's attempted deplatforming at Middlebury University, it explores the role of academic freedom in localized and generalized deplatforming discourse. Through a reading of John Stuart Mill and John Dewey, as well as contemporary scholarly debate, it argues that the concept of academic freedom at play here is a specific, liberal conception. Finally, using Stanley Fish and Herbert Marcuse, this thesis explores some of the limitations of liberal academic freedom - first and foremost its preoccupation with deplatforming in a time when the academy faces far greater threats.

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1. Introduction

At the start of March 2017, political scientist Charles Murray spoke at Middlebury College. He had been invited to discuss his latest book, *Coming Apart*. Murray has long been a controversial figure both within and outside of academia, particularly for his book *The Bell Curve*. At Middlebury, Murray was met with a group of student protestors who set off fire-alarms and chanted in order to disrupt his speech. After the event, protestors attempted to prevent Murray and his interviewer, Middlebury professor Allison Stanger, from leaving, in the process of which Stanger sustained a serious neck injury. The event led to sanctions for protestors as well as a protracted debate within and outside Middlebury about the merits or dangers of 'deplatforming' as a whole.

Deplatforming, in the context of the university, is the practice of advocating or protesting against the extending of speakerships and fellowships to academics whose views are deemed unfit for the academy. In debates on academic deplatforming, it is frequently positioned against academic freedom. Both the deplatforming debate that took place at Middlebury and the wider societal debate about deplatforming center on the question of whether it impedes academic freedom, or strengthens it.

This raises the question of what exactly we mean when we talk about academic freedom. One popular conception of academic freedom draws primarily on John Stuart Mill's account of freedom of speech in *On Liberty*, as well as the *Declaration of Principles* written by the American Association of University Professors in 1915, headed at the time by John Dewey. These texts inform what I will call the liberal account of academic freedom. We will try to uncover the core of this conception, and examine it critically.

This thesis will be structured as follows. The first chapter will examine the state of the deplatforming debate. Using a closer examination of Charles Murray's visit to Middlebury, as well as consequent debates taking place within Middlebury about the nature of academic freedom, we will discover how these debates take shape concretely. From there, we will zoom out to create an overview of discourse around deplatforming and academic freedom more broadly. This overview will provide us with an understanding of the conception of academic freedom at play within these debates, and the role it takes in them.

In the second chapter we will reconstruct a definition of the philosophical concept of academic freedom, as it is generally used in these debates. At this stage, we will study Mill's *On Liberty,* Dewey's liberalism, and the "Declaration" in order to create a robust case for the liberal conception of academic freedom. From this baseline, we will examine a broad range of contemporary positions in philosophical debates on the topic. This will allow us both to create a systematized definition of this conception of academic freedom, and further allow us to see how and why deplatforming is so consistently posed as a fundamental threat to that freedom. We will find here that liberal academic freedom plays a crucial role not only in popular, but

also in philosophical debates about deplatforming, and we will start to see some of the limitations of this approach.

The third chapter will turn fully to a critical evaluation of the liberal notion of academic freedom. First, we examine some contemporary threats to the academy, and evaluate the liberal account for its ability to pinpoint these threats. Secondly, using the works of Herbert Marcuse and Stanley Fish, we will formulate a critique of the liberal account. Finally, using the work of Pierre Bourdieu and Gayatri Spivak, we explore what a different account of academic freedom might look like.

All in all, our main aims will be the following: We start by examining the widespread claim that deplatforming is a threat to academic freedom. Understanding the nature of this claim will force us to reexamine what we mean when we talk about academic freedom. We will see that both popular deplatforming debates and philosophical debates about academic freedom are dominated by a particular, liberal understanding of academic freedom. Secondly, we will examine what exactly this framework entails. Thirdly, we will explore its limitations - what might we miss by relying exclusively on liberal academic freedom? Our initial question - whether deplatforming threatens academic freedom - will lead us to focus on a reevaluation of academic freedom. Finally, by negation, mapping out the flaws of the liberal account may point the way towards a new program in defense of a richer academic freedom. Such a new program will emerge from an attempt to reckon with the lacunae of the liberal account, and it may provide us with clues to a different perspective on deplatforming.

2. Deplatforming

Although academic deplatforming as a form of protest is by no means a recent invention[1], the subject has enjoyed unprecedented attention in recent years. One of the first cases that served to put a new spotlight on academic deplatforming was Charles Murray's 2017 visit to Middlebury College. Exploring this case in depth will serve several purposes. First, it will show us what a case of deplatforming might actually look like on the ground. Second, it will give us one example of what players are involved, and what their positions are. Thirdly, examining how media outside Middlebury discuss cases like this will show us how the deplatforming debate takes shape outside of the specific arena of one case at one university, and the way academic freedom is discussed within these debates. What conception of academic freedom is appealed to in these debates? This examination will not be aimed at arbitrating the case of Middlebury. Instead, we will try to uncover the shared suppositions upon which the disagreement is built. Finally, as we depart from Middlebury, we will discover the profound effects these suppositions have when placed in the hands of legislators. All in all, this study will serve to highlight the urgency of the academic freedom debate and the prevalence of a specific theoretical framework within it.

2.1 Deplatforming in Action: Charles Murray visits Middlebury

The events at Middlebury transpired as follows: The American Enterprise Institute Club, a student chapter of a neoconservative think tank, invited political scientist Charles Murray (a scholar of that same think tank) to speak at Middlebury on March 2, 2017. Murray was to speak about his new book *Coming Apart*, which deals with changing class dynamics in America, and seeks to explain the rise of Donald Trump. The speaking arrangement drew sharp criticism from a section of the student body, who decided to launch a protest.

Murray has long been the subject of criticism and protest, in particular for his 1994 work *The Bell Curve*, which has been equal parts influential and controversial. *The Bell Curve* discusses IQ, its influences, and potential policy implications of these findings. *The Bell Curve,* among other things, claims that differing results in IQ-tests between races are 'at least partly genetic'. Its policy recommendations skew towards eugenics, suggesting that the elimination of welfare policies will discourage the low-IQ poor from reproducing, thereby preventing a drop in average IQ. The claims in *The Bell Curve* rest on a host of dubious assumptions, such as a misuse of the statistical tool of 'heritability'.[2]

[1] Evan Smith, *No Platform, A History of Anti-Fascism, Universities and the Limits of Free Speech* (London & New York: Routledge, 2020)

[2] The methodological problems of *The Bell Curve* are covered extensively in Stephen Jay Gould, *The Mismeasure of Man* (New York: Norton, 1996)

Murray's appearance at Middlebury became a hotly debated topic upon its announcement. The debate took place in part on the pages of the university paper *The Middlebury Campus*.[3]

Murray was to speak about *Coming Apart*, followed by a critical Q&A session hosted by Middlebury professor Allison Stanger. However, among the roughly 400 attendees, many protested the event *in situ*, drowning Murray out with chants. After 20 minutes, Murray and Stanger abandoned the stage for a video studio in order to proceed with the talk. While they were able to conclude their talk, the events so far certainly constitute an attempt at deplatforming. After the talk, on the way to their car, Stanger and Murray were blocked by protestors. In the ensuing chaos between protestors, Stanger and Murray, and campus security, protestors attempting to get hold of Murray instead got hold of Stanger, in the course of which she sustained a concussion and a neck injury.[4]

The events of March 2 sparked a wide debate. On the third of March Laurie L. Patton, the President of Middlebury, released a statement, expressing her disapproval of both the protests and the violent turn of events afterwards, and indicating the initiation of an investigation and disciplinary procedures.[5] In her statement, Patton also attempts to find a middle ground between the different camps: "We must find a path to establishing a climate of open discourse as a core Middlebury value, while also recognizing critical matters of race, inclusion, class, sexual and gender identity, and the other factors that too often divide us."[6] Patton attempts to do justice both to the call to recognize the 'validity of marginalized people' and to the call for a 'climate of open discourse'.

Drawing out the latter of these positions even more clearly is an open letter released shortly after 2 May. "Free Inquiry on Campus" is a statement of academic principles signed by over a hundred Middlebury professors, including Stanger. "Free Inquiry" lists a number of principles point by point. The points most pertinent to our investigation are the following:

> Genuine higher learning is possible only where free, reasoned, and civil speech and discussion are respected.

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[3] See the contrasting viewpoints of the magazine's board and the AEI club, which invited Murray: The Middlebury Campus Editorial Board, "Show Murray What We Stand For", *The Middlebury Campus*, March 2, 2017, https://middleburycampus.com/35307/opinion/show-murray-what-we-stand-for/ and Phil Hoxie, Alexander Khan, Hayden Dubois, and Ivan Valladares, "Letter from the AEI Club", *The Middlebury Campus,* March 2, 2017 https://middleburycampus.com/35341/opinion/letter-from-the-aei-club/

[4] *The Charles Murray Event at Middlebury,* Middlebury Newsroom, accessed 30-7-2021, http://www.middlebury.edu/newsroom/information-on-charles-murray-visit, provides a brief run-down of events.

[5] The investigation and disciplinary hearings were concluded on the 23rd of May, leading to sanctions for 74 students. See: "Middlebury College Completes Sanctioning Process for March 2 Disruptions", Middlebury Newsroom, May 23, 2017, http://www.middlebury.edu/newsroom/archive/2017-news/node/547896

[6] Laurie L. Patton, "Letter from President Patton Concerning Last Night's Events", March 3, 2017, http://www.middlebury.edu/about/president/addresses/2017-addresses/node/545919

> Only through the contest of clashing viewpoints do we have any hope of replacing mere opinion with knowledge.
>
> Exposure to controversial points of view does not constitute violence.
>
> A protest that prevents campus speakers from communicating with their audience is a coercive act.
>
> The purpose of college is not to make faculty or students comfortable in their opinions and prejudices.
>
> The primary purpose of higher education is the cultivation of the mind, thus allowing for intelligence to do the hard work of assimilating and sorting information and drawing rational conclusions.[7]

The professors state that the function of the university lies in part in facilitating a civil clash of divergent viewpoints, allowing the rational mind to sort fact from opinion. Such clashes can be confronting, but they cannot be violent acts. Disruptive protests have no place in this process, but are a coercive interruption of it: such protests work only to bypass the rational process, giving way to a desire for comfort and reaffirmed prejudices. Although the term 'academic freedom' is not mentioned, we will soon see that this picture fits perfectly within the common conception of academic freedom as the basis for a clash of ideas leading to truth, with deplatforming as an attack on this freedom in the name of feelings (i,.e. comfort) and opinions (i.e. a purported anti-Murray prejudice)."Free Inquiry" provides us with a clear example of a common position in the deplatforming debate. Zooming out will allow us to both broaden and deepen the discussion by uncovering both the pervasiveness of this point of view and its philosophical foundations.

2.2 'Deplatforming' in Action: The Power of a Concept

Somewhat similar cases have occurred throughout the Western world. Jordan Peterson, a conservative psychologist known for controversial views on transgender rights, climate change, and conspiracy theories about ´postmodern neomarxism´, was offered a visiting fellowship at Cambridge University in 2019. As a result of further review, the invitation was rescinded, with the university stating that "[Cambridge] is an inclusive environment and we expect all our staff and visitors to uphold our principles. There is no place here for anyone who cannot."[8] That same year, Paul Cliteur, professor of law and prominent member of the far-right Dutch party Forum voor Democratie, was invited to speak at the Groningen Nacht van de Filosofie. One

[7] "Free Inquiry on Campus: A Statement of Principles by over One Hundred Middlebury College Professors", March 6, 2017, https://freeinquiryblog.wordpress.com/

[8] Sarah Marsh, "Cambridge University Rescinds Jordan Peterson Invitation", *The Guardian,* March 20, 2019, https://www.theguardian.com/education/2019/mar/20/cambridge-university-rescinds-jordan-peterson-invitation

professor of the Rijksuniversiteit Groningen speculated on the merits of the invitation in a blogpost[9], and although no attempt to withdraw the invitation was made, the Dean of the university felt compelled to reconfirm the invitation while national news publications came to the defense of Cliteur's visit in the name of academic freedom.[10] Events as diverse as the Murray protests, the Peterson disinvitation, and the Cliteur discussion, tend to be grouped into a singular phenomenon of 'deplatforming', generally seen as a threat to academic freedom.[11]

This perspective, in which deplatforming forms an existential threat to academic freedom, has a more profound and concrete impact than just shaping discourse. One clear example of how this discourse becomes ossified to profoundly restructure the university is "Academic Freedom in the U.K.", a piece of research by the right-wing think tank Policy Exchange which went on to inform a Tory policy proposal.

"Academic Freedom in the U.K." helpfully begins by providing a short history of academic freedom, giving us a clear indication of its theoretical framework. Citing John Stuart Mill's *On Liberty* as well as the American Association of University Professors (AAUP)'s 1915 "General Declaration of Principles" the piece defines academic freedom as:

> [...] the principle that individual scholars and scientists should be free to research, teach, and contribute to public debate without restriction. More specifically, they should be able to choose the issues and questions that they research for themselves, and in particular, should not be prohibited from working on a given topic. They should be free to publish the results of their work. They should be free to deliver their teaching as they see fit, choosing what and how they teach. And they should be able to engage in public debate, contributing as experts in their field, and exercising their freedom as citizens.[12]

"Academic Freedom in the UK" gives us a concrete definition of academic freedom: According to them, it is the freedom of scholars to choose their research topics, publish their findings, teach their expertise and participate in public discourse. The authors state that the AAUP's "Declaration" largely adopts Mill's defense of free speech in *On Liberty*, but expands upon the specific application of this principle within the university with its functions of enquiry, education and the production of experts:

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[9] Martin Lenz, "On Giving Propagandists an Platform", *Handling Ideas*, March 24, 2019, https://handlingideas.blog/2019/03/24/on-giving-propagandists-a-platform/

[10] Such as Frits Abrahams, "Laat Cliteur Maar Komen", *NRC*, March 29, 2019, https://www.nrc.nl/nieuws/2019/03/29/laat-cliteurmaar-komen-a3955014

[11] For one example of this broad consensus, see the Richard Vedder, "A Star is Born: The Academic Freedom Alliance", *Forbes,* March 15, 2021, https://www.forbes.com/sites/richardvedder/2021/03/15/a-star-is-born-the-academic-freedom-alliance/?sh=716e21426efe and Academic Freedom Alliance, "Mission of the Academic Freedom Alliance", *AFA*, accessed April 15, 2021, https://academicfreedom.org/about/.

[12] Remi Adekoya, Eric Kaufmann, and Thomas Simpson, "Academic Freedom in the UK", *Policy Exchange*, 2020, 16

> [T]he Declaration goes beyond Mill. Whatever the merits or otherwise of a settled social consensus, universities have a specific responsibility to enable ideas that run counter to public opinion to be openly and freely discussed.[13]

The university, then, has the same obligation to uphold freedom of speech as society at large, only even more so.

Based on this understanding of academic freedom, Policy Exchange evaluates whether deplatforming poses a threat to it. They state that in a world greatly changed since 1915, the university is no longer just under attack from external threats, but now faces an internal threat as well. This internal threat, they say, "derives from the way that some in the university—both students and faculty members—relate to others on campus, being willing to penalise them on the basis of their perceived or actual political views."[14] This apparently novel development, exemplified by deplatforming, is a threat to the individual freedom of research (according to Policy Exchange). The threat is serious enough to warrant government intervention. While they acknowledge that the AAUP sought primarily to safeguard the institution of the university from pressure from above and outside it, they deem this internal threat great enough to justify "a modest reduction in institutional autonomy."[15] What this 'modest reduction' entails becomes clear as we move from the think tank to the policy maker.

"Academic Freedom in the U.K" forms the foundation of Tory MP Gavin Williamson's policy proposal: "Higher Education: Free Speech and Academic Freedom". In line with the think tank's perspective, the proposal seeks to strengthen the influence of existing free speech legislation within universities. In it, Williamson stresses that the issue addressed by this proposal is "[...] not just no-platforming. It is true that most speaking events are able to proceed – though even one no-platforming incident is too many. But there are far more significant concerns."[16][17] However, he goes on to suggest a broader problem with university culture of which deplatforming is an indicator: "The rise of intolerance and 'cancel culture' upon our campuses[.]"[18] The most notable items in the proposal are the following:

> legislate for a Free Speech and Academic Freedom Champion with a remit to champion free speech, investigate infringements of free speech in higher education and recommend redress
>
> legislate to require the Office for Students (OfS), the higher education regulator in England, to introduce a new, registration condition on free

[13] Ibid., 19
[14] Ibid., 26-31
[15] Ibid., 42
[16] Secretary of State for Education, "Higher Education: Free Speech and Academic Freedom", Department of Education, February, 2021, 5
[17] British English usage tends to favor 'no-platforming' over 'deplatforming' - their meanings are identical. For consistency, I will continue to use 'deplatforming' outside of citations.
[18] Secretary of State for Education, "Higher Education", 5

> speech and academic freedom, with the power to impose sanctions for breaches
>
> extend the duty to apply directly to SUs [Student Unions]
>
> introduce a statutory tort for breach of the duty, enabling individuals to seek legal redress for the loss they have suffered as a result of breach of the duty[19]

In the name of free speech and academic freedom (the proposal uses these interchangeably), Williamson proposes a vast increase in government involvement in the regulation of universities. The first two items aim to achieve this by making universities sign a new 'registration condition', infraction of which could lead to sanctions up to deregistration, and by appointing a watchdog at each university to oversee the upholding of these principles. The third makes student unions directly answerable to the government for infringement of the principles. The fourth proposes a special category of legal accountability for infractions. This would, for example, support someone who was deplatformed at a university in taking legal action against that university.

On balance, this proposed policy would greatly increase the incentive for both universities and student unions to prevent or suppress any form of protest or counterspeech by students or staff which could possibly be interpreted as infringement of free speech or academic freedom. Under the proposed bill, failure to do so would always risk legal and monetary consequences, with an existential threat to the university as the ultimate consequence.[20] What exactly this 'free speech and academic freedom' which must be upheld entails, is kept rather vague[21], incentivizing universities to err on the side of caution. At time of writing it is unclear whether the proposal will be implemented wholesale, amended or rejected.

At this point, a curious observation presents itself to us. In much of the discourse we have thus far analyzed, there has been a broad consensus on what academic freedom is, although it has not always been as clearly delineated. This notion of academic freedom is often closely related to freedom of speech, and emphasizes the need for a sphere of reasoned and civil debate, where even the most controversial

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[19] Ibid., 8

[20] The proposal suggests OfS deregistration as the harshest consequence. OfS registration is required to award recognized degrees, recruit international students, and participate in public grant funding programs (as per "What can registered providers do?", Office for Students, accessed 20-5-2021, https://www.officeforstudents.org.uk/advice-and-guidance/regulation/how-to-register/what-can-registered-providers-do/) - deregistration of any higher education provider would effectively cause that provider to no longer provide higher education.

[21] Secretary of State for Education, "Higher Education", 13, defines academic freedom only as the freedom of academics to

> "[...] question and test received wisdom; and to put forward new ideas and controversial or unpopular opinions without placing themselves in jeopardy of losing their jobs or privileges they may have at the provider."

ideas can be discussed, allowing society to uncover truths and allowing students to test their world views, even if it makes them uncomfortable. We have also seen a broad consensus that deplatforming constitutes the most significant threat against academic freedom by interrupting this sphere to protect pre-existing biases and feelings - although deplatforming is patently not pressure from an outside institution, it nevertheless presents such a drastic break with civility and reason as to require a swift and sharp response, from such outside institutions if need be. Deplatforming emerges not just as the greatest, but as the only significant threat to an academic freedom otherwise relatively unassailable and well-protected. This frame has been repeated again and again throughout the Western world, leading ultimately not only to a policy proposal which would greatly increase the level of government interference in the university, but to such a proposal being presented as a protection of academic freedom. Williamson's proposal gives us reason to begin to doubt this story. How is it that a notion of academic freedom can come to serve as a justification for sweeping government interference into the very heart of the university?

In order to diagnose the problem accurately, it is worthwhile investigating the philosophical foundations of this concept of academic freedom. To examine how it came to pass that deplatforming was seen as such a threat against academic freedom that sweeping government intervention became justified, we have to ask: What exactly is this academic freedom on which a broad consensus exists?

3. What is 'Academic Freedom'?

As we have seen, the common conception of academic freedom has led to seriously dubious outcomes in at least one important case. We have also seen that this conception is founded upon a specific philosophical framework, although that framework is not always explicated. In turning our attention now to that foundation, our primary questions will be as follows: How does the troubling application of academic freedom in the deplatforming debate relate to those philosophical roots? To what degree is the philosophical basis for academic freedom misused in cases like Williamson's proposal? And to what degree does the problem that emerges here stem from those roots themselves?

In order to address these questions, we will proceed along the following path: In the first part of this chapter, we will examine how Mill's defense of free speech laid the groundwork for a defense of academic freedom. In the second part, we turn to John Dewey and the American Association of University Professors, exploring what has become the landmark text in academic freedom theory. Thirdly, we will examine a range of contemporary contributions to the philosophical debate about academic freedom. This step-by-step approach will serve the following purpose: In tracking Mill's influence on Dewey and Mill and Dewey's influence on contemporary debates, we will discern a thread running through the disparate viewpoints and discussions that take place under the umbrella of academic freedom. This thread, I will argue, is a specific, liberal conception of academic freedom.

3.1 John Stuart Mill

John Stuart Mill's *On Liberty* is one of the foundational texts of the liberal tradition. In its introduction, he sets out the core liberal principle as he views it, before using that principle to guide his defense of free speech. He lays it out as follows:

> The object of this Essay is to assert one very simple principle, as entitled to govern absolutely the dealings of society with the individual in the way of compulsion and control, whether the means used be physical force in the form of legal penalties, or the moral coercion of public opinion. That principle is that the sole end for which mankind are warranted, individually or collectively, in interfering with the liberty of action of any of their number, is self-protection. That the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others. [...]Over himself, over his own body and mind, the individual is sovereign.[22]

[22] John Stuart Mill, *On Liberty* (London: Longmans, Green, Reader and Dyer: 1869), https://en.wikisource.org/wiki/On_Liberty , 21-22

Unpacking this section will give us a broad understanding of Millsian liberalism. Mill's principle is aimed chiefly at protecting the individual from the forces of the many, whether those forces operate through the state or through public opinion. Individual freedom, for Mill, is the highest good. The only warranted interventions in this freedom, are those that prevent harm to others - the harm principle. We can also see Mill use an early version of the division between the private and public spheres: one's private thoughts and bodily autonomy are not to be interfered with, so long as they do not cause harm to others.[23] Finally it is worth noting that Mill speaks here only of members of a 'civilized community'. Mill did not hold any of his principles to be applicable to 'barbarians', who supposedly did not possess the sophistication required to warrant a respect for individual autonomy.

In this context, Mill dedicates the next chapter of his work to his case for freedom of speech:

> If all mankind minus one, were of one opinion, and only one person were of the contrary opinion, mankind would be no more justified in silencing that one person, than he, if he had the power, would be justified in silencing mankind. [T]he peculiar evil of silencing the expression of an opinion is, that it is robbing the human race; posterity as well as the existing generation; those who dissent from the opinion, still more than those who hold it. If the opinion is right, they are deprived of the opportunity of exchanging error for truth: if wrong, they lose, what is almost as great a benefit, the clearer perception and livelier impression of truth, produced by its collision with error.[24]

Interestingly, we see here that Mill's primary argument in favor of freedom of speech is not one based on individual freedom on its own, but on individual freedom as the best way to secure the public good - free speech must be protected not simply because we all have an innate right to it, but rather because protecting it is ultimately best for society. It is also an epistemological argument: free speech is good because it leads to the uncovering of the greatest degree of truth, and the rebuttal of the greatest amount of falsehood. While this defense based on societal good may seem to contradict Mill's earlier individualism, they can in fact be easily reconciled.

Liberalism holds that organization along lines of the protection of individual liberties leads to the best possible society, and is desirable on that account.[25] The way free speech serves this goal, for Mill, is in facilitating a clash of opinions. Underlying this argument is another liberal assumption: The individuals that must be protected are first and foremost rational beings - they are capable of giving and being persuaded by reasons. In a confrontation of ideas, good reasons will generally triumph over bad ones, and so truth will persevere. Mill gives us four main arguments in favor of the

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[23] R. J. Halliday, *John Stuart Mill* (London: Routledge, 2004), 120
[24] Mill, "On Liberty", 33
[25] Charles R. McCann, Jr., *Individualism and the Social Order: The Social Element in Liberal Thought* (London & New York: Routledge, 2004), 37-70

clash of opinions: An unpopular opinion may nevertheless be true. An unpopular opinion may be false overall, but contain elements of truth undiscovered by popular opinion. Even if it is wholly false, denying the confrontation between it and the popular view causes the popular view to become dogmatically accepted and the unpopular one dogmatically rejected. A free confrontation between ideas, then, is desirable in any case, because it can help uncover new truths or allow us to test received truths and become convinced of them on their own merits, rather than dogmatically.[26]

Mill goes on to discuss the question of civil discourse, and how a discussion may have to be bounded by rules. On this he says:

> Much might be said on the impossibility of fixing where these supposed bounds are to be placed; for if the test be offence to those whose opinion is attacked, I think experience testifies that this offence is given whenever the attack is telling and powerful, and that every opponent who pushes them hard, and whom they find it difficult to answer, appears to them, if he shows any strong feeling on the subject, an intemperate opponent. [...] Undoubtedly the manner of asserting an opinion, even though it be a true one, may be very objectionable, and may justly incur severe censure. But the principal offences of the kind are such as it is mostly impossible [...] to bring home to conviction. [...] [I]t is rarely possible on adequate grounds conscientiously to stamp the misrepresentation as morally culpable; and still less could law presume to interfere with this kind of controversial misconduct.[27]

Mill, then, draws a distinction between fair, temperate debate and illegitimate tactics, such as misrepresentation, sophistry and lies. However, he argues that, since the accusation of bad faith can itself be used in bad faith to shut down unwelcome opinions, and since none of us are immune to these failings, we have no way to outlaw objectionable forms of debate without throwing out the baby with the bathwater, and stifling all debate. Interestingly, sophistry cannot be stamped out altogether according to Mill, but can nevertheless be wholly distinguished, analytically if nothing else, from an untainted, civil, and rational discourse. It falls upon us as participants within the public debate to uphold ideals of fair and reasonable debate, and to judge those who stray from that ideal, whatever side they may be on.

Mill viewed society, at least the kinds of society he was concerned with, as being composed of rational individuals capable of reasoned discourse. As such, he held that this society is best served by minimizing restraints on such individuals: only when their autonomous acts harm others' autonomy may they be restricted. In Mill's view, speech warrants special protection: the free exchange of ideas between rational individuals is in service of the best ideas. Thus, freedom of speech simultaneously serves a social

[26] Mill, *On Liberty*, 95
[27] Ibid., 95-96

and epistemological function: it allows each individual to develop themselves to the best of their ability, and allows for the greatest amount of truth to be uncovered, furthering the march of civilization. It is not immediately obvious how Millsian free speech could have any bearing on academic freedom; this understanding of freedom of speech is aimed at society at large, not at a specific institution with a unique and complicated relationship to society and the state.[28] To see how the translation from free speech to academic freedom plays out in practice, we will turn to the American Association of University Professors' Declaration of Principles and John Dewey, who was a founder of the AAUP and its head when the Declaration was drafted.

3.2 John Dewey and The AAUP Declaration of Principles

While John Dewey wrote extensively about the meaning and function of (higher) education under his own name[29], it is not his own work but the 'Declaration of Principles' published by the AAUP under his leadership which would become his most impactful contribution to debates about academic freedom, forming the second pillar upon which the modern liberal conception of academic freedom is built. In order to contextualize the 'Declaration', then, we will first briefly explore Dewey's own work. Here we will focus on Dewey's specific brand of liberalism. Examining the 'Declaration' from the perspective of Dewey's own work will allow us both to uncover some of its philosophical foundations and see where the piece diverges from Dewey's own body of work.

John Dewey's liberalism takes serious departures from the earlier liberalism of Mill even as it remains tied to those roots. Dewey's 1935 essay "The Future of Liberalism" provides us with the contours of his political philosophy. He begins the essay with a critique of the classical liberalism under which we can group Mill. Although crediting it for its emancipatory victories, Dewey considers it ultimately inadequate. What Dewey strongly opposes in the kind of liberalism we find in Mill, is the idea of individuals as divorced from social factors, who are free so long as nothing actively constrains them. He faults this kind of liberalism for ignoring 'historic relativism'[30] - individuals are in fact tied up in all manner of social, cultural and political bonds. Following from this, whether an action promotes liberty cannot be evaluated in an abstract vacuum: what may be an emancipatory act coming from an oppressed minority can be a reactionary means of maintaining dominance from another. If we take such a big step away from Mill, what liberalism are we left with? According to Dewey

> [S]uch liberalism knows that an individual is nothing fixed, given ready-made. It is something achieved, and achieved not in isolation, but [through] the aid and support of conditions, cultural and physical,

[28] K.C. O'Rourke, *John Stuart Mill and Freedom of Expression*, (London & New York: Routledge, 2001), 78-89
[29] John Dewey, *Democracy and Education* (Pennsylvania: The Pennsylvania State University, 2001)
[30] John Dewey, "The Future of Liberalism", *The Journal of Philosophy* 32, No. 9 (Apr. 25, 1935), 226

> including in “cultural” economic, legal and political institutions as well as science and art. [...] It is as much interested in the positive construction of favorable institutions, legal, political and economic, as in the work of removing abuses and overt oppressions.[31]

Some three decades before the publication of Isaiah Berlin's famous essay ´Two Concepts of Liberty´, we see Dewey here draw a similar distinction between positive and negative liberty, arguing that liberalism should not only concern itself with negative ´freedom from´, but also positive ´freedom to´. Moreover, Dewey emphasizes that, in his view, there is no clear boundary between atomic individuals and society[32] - instead the two are always interlinked. The project of liberalism should be to promote the kind of society that allows individuals to cultivate their freedom.

On a note more closely aligned to Mill, Dewey states that the way to work towards this kind of society is through a “maximum reliance on intelligence”[33]. This intelligence he places in opposition to violence - violent resistance will generally beget violent regimes, whereas intelligent resistance or reform paves the way for intelligent ones. The role of intelligence here is at once similar and dissimilar from Millsian rationality. Unlike that rationality, it is no abstract property divorced from social, cultural and material conditions. However, like Mill’s rationality, Dewey’s intelligence is contrasted with totalitarian force, and hoisted up as a guiding principle by which to organize society.

In 1915, the American Association of University Professors released its ‘Declaration of Principles’, providing what would become one of the most influential conceptions of liberal academic freedom. While Dewey was the AAUP’s president at the time, he shares credit for the piece with the ‘AAUP Committee on Academic Freedom and Tenure’. As both a piece of collaborative writing, and a piece released by an organization representing professors, intended to protect those professors, it diverges from Dewey’s own work at certain points, while sharing characteristics with it at others.

At the outset, the AAUP ‘Declaration’ focuses on the academic freedom of the teacher, rather than that of the student. The academic freedom of the teacher, it argues, comprises three senses: “freedom of inquiry and research; freedom of teaching within the university or college; and freedom of extra-mural utterance and action.”[34] It states that the first of these, freedom of research, is all but secured. While the report states that the third, freedom of extra-mural speech, then as now caused the most controversy, it suggests that this freedom is simply an extension of the second - freedom of teaching. It therefore focuses on this second freedom, considering its findings broadly applicable to both. The report further states that three main questions

[31] Ibid., 227

[32] Daniel Savage, *John Dewey’s Liberalism: Individual, Community, and Self-Development*, (Carbondale and Edwardsville: Southern Illinois University Press: 2002), 39

[33] Dewey, “The Future”, 229

[34] The American Association of University Professors, “AAUP’s 1915 Declaration of Principles” (The American Association of University Professors, 1915), 1

must be addressed to shed light on the problem of academic freedom: ‘Who has authority over the academy?’, ‘What does it mean to be an academic?’ and ‘What is the (societal) function of the academy?’[35]

According to the AAUP, any universities not set up simply to serve specific ideological or material goals (such as religious schools) are, whether practically speaking private or public, ultimately beholden to the public. The responsibility they bear is to serve a higher purpose than mere propaganda. It is here not yet clear what exactly that higher purpose is, although it requires a form of neutrality: In order to fulfil this higher purpose, academics should not be or even give the impression of being “subject to any motive other than their own scientific conscience and a desire for the respect of their fellow-experts.”[36] These motives should help academics steer clear of undue influence, and the fact that this impression comes across to the wider public protects them from being disregarded as foils for particular interests.

Regarding the second question, what it means to be an academic, the Declaration expands on the preceding section, stating that:

> If education is the cornerstone of the structure of society and if progress in scientific knowledge is essential to civilization, few things can be more important than to enhance the dignity of the scholar's profession, with a view of attracting into its ranks men of the highest ability, of sound learning, and of strong and independent character.[37]

An image begins to emerge of what the purpose of academia is, according to the AAUP. It performs what we may call a social and an epistemological function - educating the populace and advancing our stock of knowledge. In this formulation we can see echoes of both Millsian and Deweyan liberalism. After all, despite their differences, both held that structuring society around the liberty of the individual (even as they disagreed on which individuals counted, and what exactly that liberty constituted), allows them the greatest free use of their rationality/intelligence, and thus contributes to the greatest possible amount of social progress.

The final and largest section of the Declaration concerns itself more closely with what the purpose of the academy entails exactly. It lays out three main goals:

> A. To promote inquiry and advance the sum of human knowledge.
> B. To provide general instruction to the students.
> C. To develop experts for various branches of the public service.[38]

With regard to the first, the AAUP contends that in the natural sciences, the social sciences, and in philosophical and religious inquiry, we have made great strides, which nonetheless have only made us more aware of how much remains to be uncovered.

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[35] Ibid.
[36] Ibid., 4
[37] Ibid.
[38] Ibid.

This uncovering requires freedom: “In all of these domains of knowledge, the first condition of progress is complete and unlimited freedom to pursue inquiry and publish its results.”[39] The second purpose, to teach, also hinges on the freedom of professors. Teaching, the AAUP contents, requires that the student respects the teacher and has faith in their integrity. If the student has cause to doubt whether the teacher is purely following their intellectual curiosity, the lessons will not land nearly as well. The third function, the development of experts, is once again dependent on academic freedom. Legislators require expertise to inform their policy on complex and technical matters, and “[t]o be of use to the legislator or the administrator, he must enjoy their complete confidence in the disinterestedness of his conclusions.”[40]

Simply put, the university fulfils important functions for society, and in order to be able to fulfil any of them, professors must be free to pursue their scientific curiosity without external pressures guiding or impeding them. The Declaration goes on to discuss threats to this freedom. It notes that, whereas threats to this impartiality once came primarily from the church wishing to intrude on the natural sciences and philosophy, at time of writing it was the social and political sciences that found themselves strained.

According to the AAUP, this threat can operate in three main ways: Private universities are governed by and rely on funding from private entities, who are likely to have a class interest and so favor conservative lines of inquiry (conservative here taken in the broadest sense, conserving that class’ privileged status). State universities, on the other hand, may depend on favor from the government. The pressure from the state, the Declaration suggests, may be progressive rather than conservative. However, the existence of the pressure is more important than its form: “The question resolves itself into one of departure from accepted standards; whether the departure is in the one direction or the other is immaterial.”[41] In the third concern, we see a clear echo of Mill. Beyond clear vested interests exerting top-down influence on academics, the Declaration warns of the force of public opinion:

> In a political autocracy there is no effective public opinion, and all are subject to tyranny of the ruler; in a democracy there is political freedom, but there is likely to be a tyranny of public opinion. An inviolable refuge from such tyranny should be found in the university.[42]

Beyond simply stating, with Mill, that certain research may be out of line with public opinion, the Declaration suggests the discrepancy between academic research and ‘the tyranny’ is likely to be in a specific direction. Where public opinion can be quick to shift, “the university is, indeed, likely always to exercise a certain form of conservative influence.”[43] An important societal role of ‘men of science’ is to temper changeable

[39] Ibid., 5
[40] Ibid.
[41] Ibid., 6
[42] Ibid., 7
[43] Ibid.

public opinion, and help the public to be more self-critical by placing the discussion in its proper sociological and historical context. That public is more likely to take such tempering seriously if they can depend upon the academics' independence and dedication to scientific principles. And so again, independence from state and private influences, a freedom to pursue science is a prerequisite to fulfilling this function.

The idea of an 'inviolable refuge', while comfortably fitting in with Mill's liberalism, is harder to reconcile with Dewey's. After all, under Dewey's account, individuals are not wholly independent atoms but instead always socially situated. In Dewey, the border between the public sphere of changeable opinion and the researcher's private sphere of cool intellect is far more porous, such that an 'inviolable' border becomes impossible. Likewise, the type of 'freedom' at play here is largely negative rather than positive: Unlike Dewey's call to facilitate 'freedom to', the AAUP emphasizes 'freedom from'. Simply put, we see the AAUP's liberalism here take a more Millsian than Deweyan shape, in a move we will see repeated frequently in the philosophy of academic freedom.

Nevertheless, the Declaration of Principles does not conceive of academic freedom as an absolute freedom to do anything. Rather, it is a freedom from forces influencing one of the tasks of the academic: to pursue scientific inquiry. Wholly departing from "the scientific spirit and method"[44] does not fall under this freedom. However, while it is crucial that universities uphold this scientific standard, the document warns against any outside organization enforcing it. After all, non-academics would lack the expertise to clearly draw the distinction, and they could easily become just the sort of external force academic freedom was meant to prevent in the first place. Instead, it should fall upon professors themselves to regulate their own, and ensure that scientific principles are upheld among their ranks.

Finally, the Declaration returns to the subject of intramural and extramural academic speech. With regard to teaching, it states that teachers should show some restraint in teaching young pupils, introducing them to new concepts gradually, and being extra careful not to sway their opinion rather than teaching them to form their own. With regard to extramural speech, it remarks that

> [...] academic teachers are under a peculiar obligation to avoid hasty or unverified or exaggerated statements, and to refrain from intemperate or sensational modes of expression. But subject to these restraints, it is not, in this committee's opinion, desirable that scholars should be debarred from giving expression to their judgments upon controversial questions, or that their freedom of speech, outside the university, should be limited to questions falling within their own specialties.[45]

According to the AAUP, then, academics are not wholly free to say what they may wish, within or outside the university, but neither should they be constrained by outside

[44] Ibid.
[45] Ibid., 9

forces, or the domain they speak on be limited. The Declaration again echoes Mill here, holding that restraints should be managed within the domain of public debate and the academy respectively, not forced upon them by the state. The professor's own conscience and the judgement of their community should guide them to act according to scientific standards, and within those standards they should be minimally constrained.

Taken together, we can use Mill, Dewey and the Declaration to construct a liberal conception of academic freedom. Before we explore how this theory functions as the dominant framework in contemporary academic freedom debates, and discover some of its limitations, let us sum up its key features. Society and academia, they argue respectively, function best when the liberty of rational individuals is taken as the starting point, and impaired only where it would harm another's liberty. While Dewey formulates a more expansive understanding of this liberty, in both Mill and the Declaration it emerges as a freedom from constraints. In Mill's case, the relevant restraints are any infringement of free expression. The AAUP focuses on the professor's academic freedom, and argues that some restraints are in fact required here. Being guided by scientific principles and the esteem of the scientific community are prerequisites for participation in academia. Within that framework, however, professors should enjoy freedom from external pressures or incentives, allowing them to advance our stock of knowledge and pass that knowledge on to students. They are to be protected not only from private and state influence, but also from public opinion, the changeability of which ought to be slowed down by the cooler heads of scientific inquirers. With regards to extramural speech, professors should keep that cool - refraining from intemperate judgements - but they should not be otherwise limited in their expression.

There is a great deal to admire in the liberal account of academic freedom. It forcefully makes the case for the university as an important institution in society requiring special protections.[46] After all, even acknowledging that individual researchers are bound to have biases and interests, academic freedom stands above these, and by protecting each individual, oversees the exchange between them which will lead to something greater than the sum of its parts - in a word: science. Furthermore, the liberal account is, at least in theory, welcoming to anyone invested in the academic project, regardless of their politics. After all, as a neutral overseer, it privileges no viewpoint, holds no position to be better or more important than another, so long as disciplinary principles are upheld. Another great appeal of the account is its individualism. It places great stock in the individual freedom and responsibility of the academic, thus giving them a double autonomy: autonomy in their research and teaching, and autonomy in the upholding of academic freedom itself.

The appeal of the liberal account has not gone unnoticed - contemporary philosophical debate about academic freedom takes place almost exclusively within

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[46] It bears mentioning here that it was the AAUP which, undergirded by this conception of academic freedom, instituted the tenure system in 1940., see AAUP, "1940 Statement of Principles on Academic Freedom and Tenure", accessed 25-05-2021, https://www.aaup.org/file/1940%20Statement.pdf

its framework. We turn now to some of this contemporary thought, to see how this framework operates today.

3.3 Beyond Mill and Dewey: Contemporary Philosophy of Academic Freedom

With the AAUP Declaration over a century old, the philosophy of academic freedom has continued to evolve and adapt to changing circumstances. However, even as new questions have emerged, much of this debate still takes place within a liberal framework profoundly influenced by Mill's argument for free speech and the AAUP's conception of academic freedom.

Within the contemporary philosophy of academic freedom, two collections of essays stand out. The first, *The Future of Academic Freedom*, was published in 1996 by the AAUP. The second, simply titled *Academic Freedom*, was released in 2018. These collections will serve to offer an overview of the contemporary state of the academic freedom debate. We will explore that debate through a series of topics. First, we will examine how the contemporary project of liberal academic freedom is formulated: What, today, must the academy be protected from, and what must it be protected for? Secondly, we will explore what are considered the main philosophical opponents by those engaging in this project. Understanding what kind of theory is identified as the enemy, and why, will serve to further elucidate what liberal academic freedom itself stands for. Thirdly, we will see how, within the liberal account, academic freedom is sometimes moved into the ethical domain. Evaluating how and why this ethical turn happens will again deepen our understanding of the broader project. Finally, several liberal accounts will themselves offer up clues as to the limitations of a liberal approach to academic freedom. Exploring each of these topics in turn will allow us to uncover both the ways in which Mill, Dewey and the AAUP reverberate through these debates, and the particular shape liberal academic freedom takes in contemporary philosophy.

At first glance, our first question - what must the academy be kept free from? - is perhaps the easiest to answer, being addressed in the foreword to *The Future* and the introduction to *Academic Freedom*. *The Future of Academic Freedom* came out at the height of the intense debates about 'political correctness' in the 1990s, and positions itself squarely within those debates. The foreword, written by then-president of the AAUP Linda Ray Pratt, states:

> By 1990, the growing controversies within the academic disciplines had spilled into the popular press and the political arena. [...] Speech codes, multicultural curricula, affirmative action, sexual harassment, women's studies, deconstruction, and every meeting of the Modern Language Association excited a new round of attacks. The changes in the universities that the public didn't like were collectively

> categorized as "political correctness" [...] Even in the hottest and meanest of the debates, almost everyone, on all sides, has affirmed the necessity of protecting academic freedom. But with such intense agreement on the principle, how was it that academic freedom suddenly seemed so vulnerable?[47]

Before examining what happens in this foreword, it is worthwhile looking at Jennifer Lackey's introduction to 2018's *Academic Freedom,* so that we can analyze them in tandem. Lackey writes:

> Academic freedom, which allows members of institutions of higher learning to engage in intellectual pursuit without fear of censorship or retaliation, lies at the heart of the mission of the university. [...] A wide range of new issues - including content warnings, safe spaces, social media controversies, microaggressions, and no platforming - have given rise to loud cries, in both scholarly and popular contexts, that academic freedom is under serious attack. Despite this, there is surprisingly little philosophical work squarely on the topic of academic freedom, and even less that directly takes up some of these new challenges.[48]

It should already be clear that these works take up very similar projects. What is that project, precisely? Both signal a peak in political controversy around the topic of academic freedom, a peak that coincides with certain developments within the academy, such as a rise in deplatforming practices. Interestingly, Pratt and Lackey position themselves similarly with regard to these controversies. Playing the role of the AAUP's cooler heads, they do not simply replicate the panic. However, they do agree that these changes (ones like deplatforming and speech codes) raise fundamental philosophical questions about the nature of academic freedom, questions that cut to the heart of the academy but are also often overlooked. About the importance of this academic freedom, Pratt notes a broad consensus, which seems hopeful but also makes the intensity of the debates somewhat puzzling. It is this puzzling state of affairs which both of the bundles aim to intervene in.

These introductions suggest to us that the primary preoccupation of contemporary liberal academic freedom is to reformulate itself in light of developments like speech codes, safe spaces and deplatforming. Before we critically evaluate the merit of this focus, we will survey some different aspects of the debate, to get an understanding of how this project is undertaken.

Despite the broad consensus signalled by Pratt, liberal academic freedom is not without its philosophical detractors. At this stage, we will explore what proponents of

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[47] Linda Ray Pratt, "Foreword" in *The Future of Academic Freedom,* ed. Louis Menand (Chicago & London: The University of Chicago Press, 1996), vii-viii

[48] Jennifer Lackey, "Academic Freedom", in: *Academic Freedom*, ed. Jennifer Lackey (Oxford: Oxford University Press, 2018), 3

the liberal approach themselves view as their enemies, and why. Later in this thesis, we will return to some of these opponents, to examine them from a different vantage point.

Both Cass R. Sunstein and Thomas Haskell clearly point out what they view as their philosophical opponents. In Sunstein's contribution, he argues for a liberal understanding of free speech rooted in the model of deliberative democracy, here not dissimilar from Mill's defense of free speech: a free exchange of information and perspectives facilitates a better decision-making process.[49] In defending his vision, he positions himself against 'traditionalists' and 'postmodernists'. In the context of the academic canon, he argues that these two groups commit the same error in different ways: traditionalists treat the cannon as a given, and any critique of the way it came about as a threat to the academy itself. Postmodernists, on the other hand, treat the canon merely as a constructed hierarchy reflective only of historical power relations. The postmodern position

> [...] is little better [than the traditionalist one]. At least in some forms, that position makes it very hard to explain why we should engage in intellectual life at all; if political power and political interest are all that is at stake, discussion of texts is hardly a good path to follow.[50]

It is against the backdrop of traditionalist fundamentalism and postmodern nihilism, then, that Sunstein hopes to offer a way out. That way out is "a modest form of liberal perfectionism, designed to exemplify and to promote individual autonomy."[51]

Thomas L. Haskell's contribution takes aim in large part at the same postmodern nihilism derived from a kind of hyper-politicization which Sunstein was keen to defend against. As his main opponent, he chooses postmodernist Stanley Fish, who, according to Haskell, stands in for the worst kind of relativism. People like Fish, Haskell contends, play a cheap but destructive game:

> [A]nyone can play. Here's how. First acknowledge no limits to interpretation. Second, acknowledge no difference between intended and unintended consequences. Third, disregard all distinctions between acts of commission and omission. Fourth, firmly embrace (as if true) the logical fallacy of supposing that whoever is not for your cause is against it. [...] Adopt them and you, too, will find that politics has expanded to fill your entire universe. [...] It is a perspective from which academic freedom can be seen as a political prize, well worth

[49] Cass R. Sunstein, "Academic Freedom and Law: Liberalism, Speech Codes, and Related Problems", in: *The Future of Academic Freedom*, 94
[50] Ibid., 115
[51] Ibid., 117

> hanging on to, but also one from which all efforts at justification have to be interpreted as self-serving rhetoric.[52]

Although we will return to Fish later, our interest here is not to arbitrate their dispute. Rather, we note a commonality between Sunstein and Haskell, one that follows in the footsteps of the AAUP Declaration: Academic freedom must be justified independently, on academic merits, and one of the great threats to the ideal is the introduction of politics into the question - looking at academic freedom as a politically motivated value quickly strips it of any value it may have had, and leaves it open to abuse by the highest bidder.

Sunstein and Haskell both identify as their primary philosophical opponents those who view the academy as being an irretrievably political domain, such as (in their view) postmodernists. In doing so, they highlight a key aspect of the contemporary liberal concept of academic freedom. While neither Sunstein nor Haskell argue strongly for an entirely apolitical view of the academy, it is clear that, for them, there must be a limit to the politicization. If we let politics fill our entire universe, if politics are all that is at stake, we risk giving up something vital about the academy. From the liberal perspective, if there is anything to the academy worth defending, it must be allowed to stand above politics, it must serve something loftier and more robust than the whims of changing interests.

Ronald Dworkin and Joan W. Scott's contributions exemplify an ethical turn in liberal academic freedom. Dworkin considers a Millsian instrumental defense of academic freedom - protecting academic freedom provides a greater access to truths - but rejects it on the grounds that it is too universal, not allowing academic standards to play a role. Instead, then, he suggests an ethical justification:

> Professors and others who teach and study at universities [...] have a paradigmatic duty to discover and teach what they find important and true, and this duty is not [...] subject to any qualification about the best interests of those to whom they speak. It is an undiluted responsibility to the truth, and it is, in that way, the closest a professional responsibility can come to the fundamental ethical responsibility each of us has, according to the ideals of ethical individualism, to live our lives in accordance with our own felt convictions.[53]

This justification grounded in ethical individualism, Dworkin suggests, better pinpoints what we want academic freedom to do. It allows universities to decide who to hire, but greatly restricts their interference with the research conducted by a tenured professor.[54]

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[52] Thomas L. Haskell, "Justifying the Rights of Academic Freedom in the Era of Power/Knowledge", in: *The Future of Academic Freedom*, 82

[53] Ronald Dworkin, "A New Interpretation of Academic Freedom" in: *The Future of Academic Freedom*, 189

[54] Ibid, 197

If Dworkin strays from Mill somewhat here, he stays true to the liberal tradition to a much greater degree. Individual liberty, he agrees, is the most important point of departure. Its protection is now cast not as a good in service of another, but a good in its own right: the value of ethical individualism.

Joan W. Scott's essay also explores the ethical dimension of liberal academic freedom. Scott goes somewhat further than Dworkin in acknowledging structural pressures on academic freedom, but agrees that it is not by politicizing the issue but by upholding an individual, ethical practice that we best defend that freedom:

> The problems we confront *are* tremendously difficult: an increasing imbalance in the distribution of economic resources nationally and globally, an increasing impotency of citizens in the political sphere, an inability to negotiate the seemingly irreducible differences among contending groups in the society. But the answer does not consist in the infusion of "values" into the national psyche. Along that path lies the elimination of enemies and the enforcement of orthodoxy, the end of history and the final solution. The insistence on a return to "values" precludes precisely what is probably the only answer we have: a notion of ethical practice. While "values" represent closed meanings, "ethical practice" is an operation open to change.[55]

Interestingly, Scott offers up no clues about how this ethical practice of individual academics constitutes an answer to such structural issues as economic inequality - while it may be more malleable than "values" it also seems more irrevocably tied to a Dworkinesque liberal individualism.

In Dworkin and Scott, we can see a logical progression from Sunstein and Haskell's liberal academic freedom. If liberal academic freedom in the realm of university structures must play the role of a neutral arbitrator, then the only domain we are left with for making normative demands is that of individual professors. That demand must be ethical as opposed to political. After all, the political is precisely what the liberal perspective wishes to keep at bay. Liberal academic freedom, then, produces a tension: On the one hand, this strain of thought wants to elevate the academy above politics, at best petty and at worst tyrannical. On the other hand, it wants to acknowledge that everything is not perfect in the academy and conceive of a means of exerting influence in order to change it for the better. Dworkin and Scott show us one way to resolve this tension - by appealing to the ethical practices of individual researchers - but it is not clear how this resolution offers an adequate defense against the threats facing the academy.

Turning to 2018's *Academic Freedom,* we see two developments occurring jointly. First, several of the later essays in *Academic Freedom* turn their attention directly to precisely the kind of politicizing developments, like deplatforming, against which we have now seen a host of politicians, media pundits, professors of all stripes

[55] Joan W. Scott, "Academic Freedom as Ethical Practice", in: *The Future of Academic Freedom,* 178

and philosophers try to defend academic freedom. Secondly, as if approaching a mirage, it is precisely these essays that begin to call into question whether it is really deplatforming, safe spaces and speech codes that form 'the backdrop against which discussions about academic freedom must take place', and whether these phenomena really constitute its greatest threat today.

This shift starts with Jennifer Saul's essay, in which she takes on silencing discourse. Saul primarily discusses content warnings and microaggressions, two developments rather different from deplatforming, but often construed as a threat to academic freedom akin to deplatforming. Saul notes that the move towards content warnings and talk of microaggressions "comes largely from students, who have far less institutional power than faculty."[56] These developments can in fact have problematic consequences, she suggests, but only when they gain coercive force. The fact that, today, students can exercise coercive force with relative ease is due not to any politically correct orthodoxy, but rather to "the precarious employment structure of today's academia [which] means that many things which should not be firing offenses can lead one to lose one's job."[57] According to Saul, then, it is not the emergence of content warnings or talk of microaggressions that poses a threat to academic freedom, but rather the increasing degree of precarity in academia, making professors vulnerable to firing for perceived infractions against student satisfaction or other demands from their superiors.

Saul's essay contains an interesting shift: she sets out to discuss silencing but ends up diagnosing the real problem within the economic structuring of the university. The last essay complements this shift, setting out to address what Lackey in her introduction labelled the 'new challenges' of academic freedom, only to conclude that they are not really the new challenges after all. Nevertheless it is these 'new challenges' they both focus on - Saul discusses approaches to silencing in great detail and the precarity which she identifies as the real problem only very briefly.

Robert Mark Simpson and Amia Srinivasan attempt to reconcile the practice of deplatforming with liberal ideals. Before they take up this task, they acknowledge that some deplatformers may hold il- or anti-liberal ideals, such as "that liberalism colludes in oppression: in its focus on individual negative liberty, its insistence on a distinction between the public and private realms, and its idealization of the public sphere as a place of reasoned deliberation."[58] We will return to some of these non-liberal perspectives later, but for now we note that Simpson and Srinivasan opt to take on a liberal perspective all the same.

They conceive of academic freedom as independence from outside actors, and of the university as a place where disciplinary standards serve epistemic goals. Based on this framework, they argue that student protests, which are properly understood not as an external but an internal influence, can participate in the ongoing academic debate whereby disciplinary standards are created and upheld. In this way, such

[56] Ibid., 127
[57] Ibid., 132
[58] Robert Mark Simpson & Amia Srinivasan, "No Platforming", in *Academic Freedom*, 188

protest can be orthogonal to academic freedom, simply taking place within academic practice, or it can at times even be a vanguard of academic freedom, pushing back against external influences acting on the academy.

Simpson and Srinivasan go beyond arguing that deplatforming does not need to be fundamentally at odds with academic freedom. In their conclusion, they criticizing the very notion that this is the question before us today:

> [T]here are graver threats to academic freedom than anything arising out of progressive student activism. No platforming, trigger warnings, safe spaces, and calls for curriculum reform are the bugbears of some self-appointed champions of academic freedom. But in the end they may distract from the more potent threats to the independence of academic experts from outside influences. When it comes to political interference in academic research, threats from the pro-Israel lobby or the anti-climate science lobby seem to exert much more pressure than student activists. And when it comes to factors that passively incentivize academics to direct their research away from some topics and towards others, the influence of corporate sponsorship, private grant-making bodies, and government research agendas is stronger, and in some cases more pernicious, than the influence exerted by students. Student activists can be easy targets for criticism, but this is not a good reason to be especially engrossed by them, especially when there are other more urgent threats to the academic integrity of the university. In that context, the civil libertarians' preoccupation with student activism is at best a distraction, and at worst a misrepresentation of what academic freedom really consists in, and what needs to be done to protect it.[59]

Simpson and Srinivasan claim not only that deplatforming is reconcilable with liberalism, but beyond that, that there are many far more serious pressures on academic freedom, which demand our attention far more sharply. And yet their suggestion that it is the civil libertarian who forces our gaze towards deplatforming in order to obscure or distort the real problems facing us today, fall somewhat flat. Both 1996's *The Future of Academic Freedom* and 2018's *Academic Freedom*, the very volume in which we now find Simpson and Srinivasan rebuking a preoccupation with student activists, have been filled to the brim with questions about just such activism. While the authors diverge in their theoretical framework, in the specific questions they ask and the specific answers they come to, they almost uniformly treat just these developments as the central impetus for contemporary academic freedom debates. Even Saul and Simpson and Srinivasan, who outline what they think the real challenges of academic freedom are, do so only in the conclusion of their contributions. They do not explore where we stand with regard to financing structures, political

[59] Ibid., 206

lobbies and rising precarity, or what to do about these threats, having already spent the bulk of their essay tackling deplatforming. It is not just the civil libertarian, it seems, who is easily sidelined by protesting students. Those operating with a liberal concept of academic freedom, too, are susceptible to this preoccupation.

Exploring the contemporary state of philosophical debates about academic freedom has given us several insights. First, although different authors position themselves in different ways and to different degrees with regard to Mill, Dewey and the AAUP, it has become clear that the debate about academic freedom still takes place predominantly within a liberal framework. Second, those operating within this framework tend to identify practices like deplatforming as the key challenge facing academic freedom today. Thirdly, we have seen how, from the liberal perspective, the main philosophical opponents are those who would unduly politicize the question of academic freedom. Fourthly, in order to preserve agency while minimizing politicization, several liberal accounts call upon the autonomous agents populating the academy to behave ethically. Finally, we have seen how even those operating within the liberal account point out challenges more complex and impactful than deplatforming, while failing to suggest ways to address these challenges. Before we shift from mapping out to critically evaluating the liberal framework, we will briefly recapitulate what studying its past and present has taught us.

Following debates from Mill up to the present day has given us a clear picture of the liberal account of academic freedom. That account, in the broadest possible form, can be summarized as follows: The academy, through research and education, performs important societal functions. In order to be able to perform these functions properly, it is paramount that the academy remains free. The kind of freedom that must be safeguarded is primarily the freedom of individual researchers to pursue their work in line with scientific principles and community standards, but unhindered by any external influences. After all, researchers freely studying their field and sharing and debating their results with peers is the best way we have to ensure that good ideas are promoted while bad ones are shut down. Academic freedom, then, must allow for political differences between researchers, but it must itself be an apolitical principle - it must stand as a neutral arbiter outside academic disputes, advocating no values save the values of scientific principles and free exchange.

The biggest threat to this kind of academic freedom are those who would take the politics that should clash under its umbrella and apply them to the umbrella itself - if we allow the concept of academic freedom itself to become politicized, disputable, we quickly open ourselves up to letting the most forceful voice dictate whose freedom should be protected, and whose denied. Letting dominant political interests set the agenda in this way would fatally undermine science. Moreover, this would undermine the justification of the existence of the university - if it stands in service of nothing greater than those in charge of it, why afford the academy a special status in society? We have seen this depoliticization reflected in the various ethical accounts, which localize the force capable of producing and upholding academic freedom within the individual researcher.

For all the many merits of the liberal account of academic freedom, examining its role in the deplatforming debate highlights issues that warrant serious reevaluation. Our last few authors have given us reason to suspect that developments like deplatforming are neither *a* structural challenge to academic freedom, nor *the* challenge to academic freedom we should be concerned with today. Is it true that deplatforming is less of a problem than has been suggested? And if so, what are the real threats academic freedom faces today? If the danger does lie elsewhere, then why is it not just 'civil libertarians', conservative politicians and sensationalist pundits who are susceptible to a story in which deplatforming presents the great crisis of academic freedom today, but scholars operating with the liberal notion, too?

At first glance, the question may appear as 'whataboutism': Even if there are other problems, greater problems even, that tells us nothing about whether deplatforming is worth discussing. However, we pose the question not to distract from or defend deplatforming, but to better understand liberal academic freedom. If it is to be an effective framework for understanding the value of the university and the threats it must overcome, then surely it ought to be able to adequately point out those threats. If it turns out that there are greater threats, that would not tell us deplatforming is harmless, but it would suggest that there are problems with liberal academic freedom's ability to map out and defend what we agree is worth defending in the academy.

4. Crises of Academic Freedom

Having established how entrenched the preoccupation with deplatforming is among those working within the framework of liberal academic freedom, we will proceed along the following lines: Firstly, we will examine the state of the academy today. Is it true that there are more powerful forces threatening academic freedom? While by no means exhaustive, a brief foray into some of the structural issues indicated above will confirm this suspicion - there are indeed other, more serious crises of academic freedom consistently missed by liberal accounts. At this point, we must conclude that, beyond crises of academic freedom, there is also a crisis of 'academic freedom' - for all its usefulness for many decades, the liberal account of academic freedom now finds itself seduced by a conservative story about progressive meddling, consistently treating marginal developments as the true threats to academic freedom while treating of the real threats not at all. Thus we will also be forced to engage our second and final question: How and why does the liberal account fail us? To what extent is the liberal foundation itself responsible for these failures? Answering this question will require a critical examination of the fundamental liberal assumptions underwriting all the academic freedom accounts we have seen so far. In order to lend us such a critical perspective, we will draw on several of the sharpest critics they themselves have identified as well as some theorists of academia wholly outside the discourse examined so far. While, as we will see, some of these critics would have us do away with academic freedom altogether, our aim here is not to refute it, but to seek ways to reinvigorate and reorient it, suggesting directions in which it will have to move to regain its value in protecting what is worth protecting about the university.

4.1 The Real Crises of Academic Freedom

Former vice-chair of the AAUP, Henry Reichman, conducted his own survey into contemporary challenges to academic freedom.[60] Reichman's book does also discuss developments like deplatforming, but, contrary to the works we have examined so far, treats them as a marginal problem compared to the far more sweeping crises haunting the academy. In the single chapter out of ten in his book dedicated to platforms and deplatforming, he covers some of the same ground we have covered in this thesis. For example, he notes that, despite the sound of much public discourse, intolerance in the form of calls for deplatforming comes disproportionately not from the left but from the

[60] We will spend some time here discussing Henry Reichman, *The Future of Academic Freedom* (Baltimore: Johns Hopkins University Press, 2019). While Reichman is also associated with the AAUP and his work shares its title with the 1996 bundle we have discussed earlier, this book was released on his own title rather than by the AAUP, and the works are otherwise wholly distinct. So as to minimize confusion, I will refer to this book exclusively using its author's name rather than its title in the main text.

religious right.[61][62] He also emphasizes that the attention for deplatforming within academic freedom debates is overblown:

> [S]uch attacks [cannot] be said to merit greater attention than quite a few other challenges to free expression and academic freedom that have, as yet, attracted much less public notice, several of which pose considerably more ominous dangers.[63]

Much of the rest of Reichman's book is dedicated to these more ominous dangers. One of these, perhaps most obviously linked to the AAUP, is the changing status of tenure. Universities are increasingly staffed by part-time employees and untenured full-time employees, who thus lack job security. This precarity makes them more beholden to their employees and limits their academic freedom - they are incentivized to eschew research which their superiors might frown upon, lest they lose their positions altogether. As Reichman puts it:

> If, as the AAUP has argued, tenure provides the most reliable protection for academic freedom - especially if its protections can be enforced by the provisions of a collective bargaining agreement - then academic freedom today may be as endangered as it has been at almost any moment since the AAUP's inception.[64]

Not only tenure, but also these collective bargaining agreements that lend tenure its strength, are under pressure.[65] Tenure, then, is increasingly rare, and the unions that protect the rights of the tenured and the untenured have been weakened significantly.

Reichman also tackles the issue of outside donors, focusing on the influence of the Koch brothers, the billionaire coal magnates. He notes how the Koch's have set up centers across a broad range of American universities, exerting influence over hiring and firing policies as well as academic content, while attempts to uncover or criticize the funding streams are disincentivized, sometimes through threats.[66] On this issue, Reichman concludes that, rather than with individual faculty members, the problem lies with two structural issues. Firstly, there is a lack of clear guidelines on what influence funders should be able to exert over the university they fund. The second and more important structural cause is an ever decreasing degree of public funding: shrinking access to public funds increasingly incentivizes universities to seek private funds and sacrifice academic standards to obtain them, if need be.

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[61] Reichman, 2019, 186-193

[62] The way deplatforming and intolerance affect the academic freedom of leftist professors in the United States, for example, can be found in Anthony J. Nocella II, Steven Best & Peter McLaren, *Academic Repression: Reflections From the Academic Industrial Complex* (Edinborough, Oakland & Baltimore: AK Press, 2010)

[63] Reichan, *The Future*, 200

[64] Ibid., 4

[65] Ibid., 241-242

[66] Ibid., 105-135

Moving away from the American context, we can see these same problems arise in Europe as well. In 2019, a collective of French journals went on strike to protest a law advancing just such developments. Their manifesto lays out clearly and succinctly what they deem the crises of the academy. They see the problem as

> a twofold, seemingly contradictory shift: the state's budgetary disengagement, reflecting a neoliberal approach, and the authoritarian strategic management of research by the very same state.[67]

They note that the French state simultaneously considers itself less and less responsible for funding the university, and more and more responsible for managing the university. This management, they posit, pushes the university to produce research in line with 'economic and industrial interests'[68]. These developments in turn can be explained by an obsession with anglosphere-style universities, run as efficient businesses and ranked for their success. Interestingly, the journals are keenly aware of their own role within this ecosystem:

> They [journals] are venues where an intense collective, productive work is performed, and effective outlets for the dissemination of scholarship, but they tend to be instrumentalized and mobilized in support of the dominant neo-managerial vision of research.[69]

The journals themselves, against their own will, are subsumed into the business model, so that entries into the most prestigious journals become quantifiable markers of success, thereby making the volume of prestigious publications a goal in itself, divorced from the content of the works. The journals echo the work of Reichman, warning about the loss of autonomy and integrity that comes with increased precarity and research goals increasingly oriented towards effective business.

One way to conceptualize these different problems, where precarity becomes streamlining, sheer quantity becomes the measure of good research, and undue economic influences become efficiency, is offered to us by a concept introduced by Sheila Slaughter: Academic capitalism. In two works, *Academic Capitalism: Politics, Policies and the Entrepreneurial University* and *Academic Capitalism and the New Economy* she creates a theoretical framework and traces the history of academic capitalism through various countries. Slaughter understands academic capitalism to be "the move to the marketplace,"[70] whereby students become consumers during their

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[67] Collective of Journals Joined in the Struggle, "Why French Academic Journals are Protesting", *Cultures et Conflits*, 116 (Autumn 2019), 20
[68] Ibid.
[69] Ibid., 22
[70] Sheila Slaughter, "The Neoliberal University", in: *New Labor Forum* 6, (Spring-Summer, 2000), 73

education and products for the labour market after[71], and research similarly becomes a product to be plugged into the knowledge economy.[72]

These structural problems can be considered problems caused by academic capitalism. While these problems are actively studied and discussed throughout academia (this is true for increased precarity[73], for funding streams[74], and for incentivization towards quantifiable output in both research[75] and education[76]), rarely do they receive the label of 'crises of academic freedom' so freely ascribed to deplatforming. However, if academic freedom has anything at all to do with a lack of undue influence on scholarly pursuits, these developments constitute 'ominous dangers' for academic freedom indeed. In fact, if we wanted to point out an ongoing crisis of academic freedom, the influx of academic capitalism would surely be it. After all, contrary to deplatforming, these developments are not incidental but directly impact the core structure of the university, and they do so in ways which far more sweepingly direct research and education towards market-goals and away from academic goals, whatever those may be. Our final question, then, becomes the following: Why is the liberal understanding of academic freedom which we have studied at length so easily seduced into excessive concern with deplatforming, and why is it so poorly equipped to see the rising threats of academic capitalism which form the real crises of academic freedom?

4.2 The Real Crisis of 'Academic Freedom'

In order to understand why the conceptual framework of liberal academic freedom has failed us, it is worth reevaluating some of its sharpest critics: Herbert Marcuse and Stanley Fish. In defenses of liberal academic freedom, Marcuse and Fish often figure in the role filled by sceptics and nihilists throughout the history of philosophy - they are treated as presenting a compelling but ultimately destructive case. In the harshest liberal readings, such as Haskell's reading of Fish, they are enemies of the value to be defended, whose harmful theorizing must be wholly overcome. In the most charitable liberal readings, such as David Estlund's treatment of Marcuse[77], they provide new insights through contrast, and their critiques can be incorporated into the positive value to make it more rounded and robust. Setting the liberal framework aside will allow us to understand Marcuse and Fish not as highlighting contrasts but as radical critique.

[71] Sheila Slaughter, *Academic Capitalism and the New Economy: Markets, State and Higher Education*, (Baltimore: The Johns Hopkins University Press, 2004), 1
[72] Ibid., 17
[73] AAUP, "The Status of Non-Tenure-Track Faculty" https://www.aaup.org/report/status-non-tenure-track-faculty, accessed 31-05-2021
[74] Ringa Raudla et. al., "Implications of project-based funding of research on budgeting and financial management in public universities'', in: *Higher Education* 70, No. 6 (December 2015), 957-971
[75] Paul Benneworth and Ben W. Jongbloed, "Who matters to universities? A stakeholder perspective on humanities, arts and social sciences valorisation", in: *Higher Education* 59, No. 5, (May 2010), 567-588
[76] David J. Hornsby, and Ruksana Osman "Massification in higher education: large classes and student learning", in: *Higher Education* 67, No. 6, (June 2014), 711-719
[77] David Estlund, "When Protest and Speech Collide", in: *Academic Freedom*, 162-165

Our purpose will not be to do what the staunchest defenders of liberal academic freedom fear, and do away with academic freedom altogether. Neither will we position these works as truths in opposition to liberal falsehoods, adopting their theses wholesale. Instead, we will uncover in their works a fundamental critique of liberal academic freedom, providing us with an understanding of how the liberal account goes awry and suggesting a direction in which to seek a better account. Using this understanding, we will turn to some alternative conceptions of the academy (in the form of Pierre Bourdieu's understanding of reproduction, as well as Gayatri Spivak's decolonial theory of academic freedom), investigating how they might further enrich a form of academic freedom suited to contemporary challenges.

In "Repressive Tolerance", Marcuse turns the liberal understanding of tolerance on its head. He recounts Mill's caveat to freedom of speech, that it can only serve its function of furthering truth in a society composed of rational, self-determining individuals. Where Mill took it to be self-evident that this condition obtained in the advanced, civilized, rational society he found himself in, if not so much to any others, Marcuse is far more sceptical. A society already so unrestrained that freedom of speech can function within it as Mill envisioned does not yet exist - our task is to move towards it:

> [T]he problem of making possible [...] a harmony between every individual liberty and the other is not that of finding a compromise between competitors, or between freedom and law, between general and individual interest, common and private welfare in an *established* society, but of *creating* the society in which man is no longer enslaved by institutions which vitiate self-determination from the beginning. In other words, freedom is still to be created even for the freest of the existing society.[78]

According to Marcuse we do not live in Mill's free society, in which tolerance of free expression is a good. Instead, we live in a society thoroughly controlled by the 'predominant interests'[79]:

> Under the rule of monopolistic media - themselves the mere instruments of economic and political power - a mentality is created for which right and wrong, true and false are predefined wherever they affect the vital interests of the society.[80]

In such a thoroughly subjugated society, a neutral toleration for free speech from all sides can in fact be used as a kind of smokescreen to both support and help disguise the dominance of the powers that be. This tolerance of a faux-freedom in service of

[78] Herbert Marcuse, "Repressive Tolerance", in: Robert Paul Wolff, Barrington Moore Jr. , Herbert Marcuse, *A Critique of Pure Tolerance*, (Boston: Beacon Press, 1965), 87
[79] Ibid., 115
[80] Ibid., 95

repression can take various forms. By creating a level playing field for both sense and nonsense to endlessly engage each other in front of an audience deliberately poorly equipped to tell the difference, the truth is disarmed.[81] Furthermore, the view preferred by the powers that be is so thoroughly indoctrinated into the populace that, should someone be confronted with that view and its opposite side by side, they can be trusted to side with the view that is in line with dominant interests.

Contrasting this 'perverted' kind of tolerance, Marcuse argues for a liberating tolerance. We should use our rational faculties, those of us fortunate enough to have been able to develop them, in order to discern which positions and actions lead to a freer society from those which help impede freedom, being extremely tolerant of the former and intolerant of the latter. Marcuse makes no bones about it: for him, this can be distilled into "intolerance against movements from the Right, and toleration of movements from the Left."[82]

We can see why Marcuse's version of tolerance caused a fair degree of uproar, in its time in the nineteen-sixties up to today. However, we are less interested in evaluating the merits of this account on its own than we are in facilitating a confrontation between the Marcusian critique and liberal academic freedom. How, then, do we read Marcuse to extract a fundamental critique of liberal academic freedom? We will approach this question after examining the work of Stanley Fish.

Although Fish dedicated a whole book to his vision on academic freedom, the work of his that has been most influential in academic freedom debates is the polemical essay "There's No Such Thing as Free Speech, and It's a Good Thing Too". Fish launches a very different critique and arrives at very different conclusions from Marcuse, but we will find commonalities in what they oppose about a liberal account. In his essay, Fish judges free speech virtually meaningless:

> [A]bstract concepts like free speech do not have any "natural" content but are filled with whatever content and direction one can manage to put into them. "Free speech" is just the name we give to verbal behavior that serves the substantive agendas we wish to advance; and we give our preferred verbal behaviors *that* name when we can, when we have the power to do so, because in the rhetoric of American life, the label "free speech" is the one you want your favorite to wear.[83]

'Free speech', then, is nothing but a badge that makes you look better, to be donned whenever possible. For all the absolutism with which free speech is often posited, speech cannot exist without any form of restriction - it always occurs in a specific context, and that context is always somehow bounded, or else it is meaningless. Neither is speech ever 'mere speech', wholly distinct from actions: Speech aims to

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[81] Ibid., 94-95

[82] Ibid., 109

[83] Stanley Fish, "There's no Such Thing as Free Speech, and It's a Good Thing, Too", in: Stanley Fish, *There's no Such Thing as Free Speech … and it's a good thing too"*, (New York & Oxford: Oxford University Press, 1994), 102

effect change in the world beyond itself. Or in other words: "[W]ords do work in the world of a kind that cannot be confined to a purely cognitive realm of "mere" ideas."[84] Defenses of free speech, according to Fish, tend to defend a type of 'pure speech' that does not and cannot exist - speech is always more than mere speech, because it aims to effect some change in the world, and it is always less than purely free, because it is bounded by its context. So why is a defense of pure free speech so compelling? According to Fish

> [P]eople cling to First Amendment pieties because they do not wish to face what they correctly take to be the alternative. That alternative is *politics*, the realization [...] that decisions about what is and is not protected in the realm of expression will rest not on principle or firm doctrine but on the ability of some persons to interpret - recharacterize or rewrite - principle and doctrine in ways that lead to the protection of speech they want heard or the regulation of speech they want silenced.[85]

A principled stance on free speech, then, promises a value outside and above the realm of political values. But this is a false promise: politics are not evaded so easily. Based on these observations, Fish does not issue a blanket defense of speech restrictions, but moves "away from general principle to the pragmatic (anti)principle of considering each situation as it emerges."[86] For Fish, there is no neutral arbitrating principle wholly outside of the context of a speech act, by which we might test that act. Instead, we can judge it only by engaging with that context. For example, we cannot judge a case of holocaust denialism without taking a stand on the truth and historical weight of the holocaust.[87]

In the postscript to his essay, Fish responds to some of his critics with a few points, one of which bears on our project specifically. To the counterpoint that allowing hate speech does not equal condoning it, but rather means leaving the disapproval up to free, rational individuals, he says:

> [T]his is to assume that the machinery of deliberation in individuals is purely formal and unaffected by what is or is not in the cultural air. Such an assumption is absolutely necessary to the liberal epistemology shared by my respondents, but it is one that I reject because [...] the context of deliberation is cultural (rather than formal or genetic) and because it is cultural, the outcome of deliberation cannot help being influenced by whatever notions are current in the culture.[88]

[84] Ibid., 109
[85] Ibid., 110
[86] Ibid., 111
[87] Ibid., 112-113
[88] Ibid., 118

So what exactly do the critiques of Marcuse and Fish have in common? And how can we use their critiques of liberal free speech in order to pinpoint the problems with liberal academic freedom? Let us recall the definition of liberal academic freedom we surmised from our overview earlier.

Taking as its starting point the liberty of rational individuals, the principle of liberal academic freedom aims to facilitate a minimally restrictive backdrop against which scholars can exchange ideas. This notion of minimal restriction does allow, in most accounts, for some restrictions, but these should be based solely on academic standards, be they justified epistemologically (what leads to the greatest amount of true knowledge) or pragmatically (whatever the academic community agrees works). Beyond this academic boundary, liberal academic freedom states that no forces should be allowed to restrict the field further - if this is allowed, whether it be by the state, the church, private business or the public at large, it is bound to push academics towards a certain ideological bent over another, and thus direct the university away from its true goals. Instead, the university should as much as possible be a neutral field, within which individual scholars from any political persuasion are welcome so long as they can withstand the test of academic scrutiny.

Now, using Marcuse and Fish, we can begin to discern what it is about this liberal academic freedom that makes it so susceptible to overestimating the threat of deplatforming while underestimating the threats of academic capitalism. The problems are tightly interlinked, but can be roughly separated analytically into the following two tendencies: Individualization and depoliticization. Let us consider each of these in turn.

As Fish notes, what he calls ‘liberal epistemology’ has as its core assumption and smallest unit of analysis the private, rational, autonomous individual, divorced from broader networks and structures. It is this individual, first and foremost, whose interests Mill, the AAUP, and many of our other authors have sought to protect. The problem, as Fish points out, is that, because the entirety of liberalism ultimately hinges on the protection of such rational individuals, liberal academic freedom is ill-equipped to offer situated accounts of individuals. After all, the more we conceive of individuals as situated - rooted in and shaped by a culture, networks and structures - the weaker the liberal account becomes. As such, the autonomous individual becomes more than just a foundational principle of liberal academic freedom - the academy which liberal academic freedom analyzes must first and foremost be one composed of such individuals. We see this individualization reflected most clearly in ethical explanations of academic freedom such as the one we have seen Scott defend. In order to understand pressures on academic freedom from the liberal perspective, we cannot reach an analysis wherein those pressures turn out to be both structural and thoroughly structuring the relation of each individual academic to her work - after all, this conclusion would undermine the idea that there are autonomous agents to be protected in the first place. Thus, while hinting at the impact of economic and cultural disparities, Scott’s advice ultimately returns to the individual of liberalism: the best we can do is implore the individual researcher to autonomously decide to uphold academic freedom. We have also seen its influence in broader deplatforming debates, such as

in “Academic freedom in the U.K”’s focus on the liberties of individual researchers, and Allison Stanger’s reading of the situation at Middlebury, where she saw the calm rationality of individuals evaporate.

How does this individualization feed into an overemphasis on deplatforming and an underemphasis on academic capitalism? As we have seen, under the liberal account the individual becomes not just the ultimate bedrock but the only unit of analysis in a broader sense. This makes it ripe to be pulled into deplatforming debates, wherein it is possible, as Stanger does, to center the question of the rationality of individuals. It is easy, although not necessarily exhaustive or even sufficient, to analyse the question of deplatforming in terms of the behavior of a collection of individual deplatformers, who may or may not be upholding academic standards. Turning to academic capitalism, however, its problems are much harder to individualize. Although the AAUP was in fact deeply concerned with institutional and systemic pressures, these pressures are difficult to conceptualize under a liberal account. After all, the gradual defunding of the university based on principles of streamlining, leading to reduced tenure, increased precarity, and a greater reliance on sometimes dubious funding streams, are not in the first instance problems of individuals - they work *on* and *through* individuals, but analysing these processes only leads us where the liberal account does not want to go: to individuals deeply influenced by the context they are situated in. In short, deplatforming is more easily individualizable in a way liberal accounts require.

Secondly, and closely related to this first aspect, liberal academic freedom depoliticizes. Because there is only a limited role in liberal accounts for structural and systemic issues, it makes sense that they would aim to minimize these influences. But as both Marcuse and Fish note, whether a society with freedom from systemic influences is attainable or not, we certainly do not live in one. Now, the liberal accounts we have seen do not wholly reject the possibility of systemic influence; one of the AAUP’s main concerns, after all, was precisely with such influence. However, the foundational ideal of rational individuals unperturbed by undue influence does require a specific vision of society. Being based on an idealized state of fully rational, autonomous individuals, the liberal account must forever reconcile this ideal with a reality which refuses to conform to it. This reconciliation often takes the form of simply denying the disparity, such as in “Free Inquiry”, where the ideal is held to be relatively unproblematic except for the harm done to it by deplatforming. Elsewhere, the two are reconciled by claiming that the ideal, even if fundamentally unattainable, can nevertheless serve as a guiding principle, showing us the direction we should aim towards even if we may never get there. In either case, a key role is reserved for a kind of neutral playing field - a domain which itself is unshaped by values, interests or politics, allowing such values to confront each other fairly within it. To consider the shape of the domain, the liberal fears, is to give way to justifications for totalitarian control over it. Moreover, considering the ways the domain is shaped once again undermines the liberal account of the individual. The political, then, should be seen as an interplay between rational individuals taking place within a sphere which is itself apolitical, formless.

The impact of depoliticization on the myopia of the liberal account mirrors the impact of individualization. If we take the academy to be the kind of domain liberals would like it to be, one that is or ought maximally be formless in order to be able to house the greatest amount of viewpoints, values and interests, then deplatforming is an easy enemy. Deplatforming, after all, is certainly an attempt to reshape the domain of discourse. However, what of academic capitalism? Does it not radically reshape the domain, through changes in, for example, valorization and employment structures? Certainly, but there is a key difference. Precisely *because* the forces of academic capitalism are so much more sweeping, more structural than those of deplatforming, the former are much harder to deal with for a liberal account. After all, acknowledging that the terms of employment impact the shape of the academy is to depart from the ideal of a neutral domain. On the other hand, condemnation of deplatforming can be reconciled with the ideal - deplatforming then is simply an aberration, an intrusion upon neutrality. Following from this, condemnation of deplatforming can be portrayed as being itself an apolitical standpoint; in the interest of protecting the apolitical shape, one attacks those who would distort it. Acknowledgement and critique of the forces of academic capitalism, on the other hand, is now itself a political standpoint. Since, under liberal accounts, the academic domain simultaneously is and is not but should be maximally neutral, the measure for how political a standpoint is becomes the degree to which it opposes this neutral domain. Radically opposing, or even questioning, the existing structure of the domain becomes unwanted, totalitarian interference, while radically defending it becomes rational and apolitical.

Liberal academic freedom has served its purpose well for many decades, providing a site for defence against state and private pressures. However, when both public and academic discourse about academic freedom become at once laser-focused on the fairly marginal and not unambiguously threatening influence of developments like deplatforming, and at the same time blind to much more serious threats like the increasing pressures of academic capitalism, we have to diagnose a fatal crisis in the liberal conception. As Marcuse and Fish have helped us discover, this crisis cuts to the very core of liberal academic freedom, relating to its foundational tenets about rational individuals operating in a neutral, apolitical field. While we should be careful to heed concerns about totalitarianism, and seek consensus on what it is about education and research that we deem worth protecting, it may be time to retire liberal academic freedom, and look elsewhere for ways to liberate the university.

4.3 Towards an Alternative Conception

We will briefly explore two approaches we might employ to develop an alternative perspective. One avenue for a new theory of academic freedom can be found in Pierre Bourdieu's *Reproduction in Education, Society and Culture.*[89] In this sociological-cum-philosophical study of the French school system, Bourdieu takes rather the opposite

[89] Pierre Bourdieu & Jean-Claude Passeron, *Reproduction in Education, Society and Culture* (London, Thousand Oaks, New Delhi: Sage Publications, 1990)

approach to liberalism's case for a neutral domain. The difference between his theoretical framework and the liberal one we have explored in depth is reflected in his methodology - he does not use a model of neutral domains filled with autonomous agents, but one of complex systems of interrelation acting upon each other.[90] Using a model in which social hierarchies and school hierarchies are tightly interwoven, he studies the ways in which the university reproduces (is at once shaped by and plays a shaping role in) social class relations. This leads him to

> a model of the social mediations and processes which tend, behind the backs of the agents engaged in the school system - teachers, students and their parents - and often *against their will*, to ensure the transmission of cultural capital across generations and to stamp pre-existing differences in inherited cultural capital with a meritocratic seal of academic consecration by virtue of the symbolic potency of the *title* (credential).[91]

Through a range of studies and arguments, Bourdieu makes the case that the university replicates the existing class structure through subtle selection processes. Simply put, it works to ensure that those from a high-status, high-class background will broadly grow up to maintain that status and class, while keeping those from a lower-status, lower-class background in their place. By furthering that structure, the university in fact serves the function of reproducing a stratified society with more fervor and more effectively than it pursues academic merit.

> In ever more completely delegating the power of selection to the academic institution, the privileged classes are able to appear to be surrendering to a perfectly neutral authority the power of transmitting power from one generation to another, and thus to be renouncing the arbitrary privilege of the hereditary transmission of privileges. But through its formally irreproachable verdicts, which always objectively serve the dominant classes [...], the School is better able than ever [...] to contribute to the reproduction of the established order, since it succeeds better than ever in concealing the function it performs.[92]

In fact, according to Bourdieu such inscriptions of objective legitimacy onto contingent social hierarchies are the primary function of the school. In the process of doing so, it effaces its own influence, presenting itself not as a reproducer of hierarchies but as an arbiter of merit:

[90] Ibid., 87 and 102
[91] Ibid., ix-x
[92] Ibid., 167

> This privileged instrument of the bourgeois sociodicy which confers on the privileged the supreme privilege of not seeing themselves as privileged manages the more easily to convince the disinherited that they owe their scholastic and social destiny to their lack of gifts or merits, because in matters of culture absolute dispossession excludes awareness of being dispossessed.[93]

Using this model, Bourdieu's different theoretical framework also leads him to a different focus in other aspects of the academy. The AAUP (being an organization primarily by and for professors) focused exclusively on the freedom of research, teaching and extramural utterances of professors. As we have seen, much of the scholarly and popular debate about academic freedom has adopted this focus wholesale. Bourdieu, however, is interested not just in the restraints on the expression of the professor, but also in the ways the professor restrains the student. The teacher, becoming the representative of the educational system, adopts its authority:

> Just as the priest [...] causes the responsibility for failure to fall neither on the god nor on the priest but solely on the conduct of the faithful, so the teacher who, without acknowledging it and without drawing all the inferences, suspects he is less than perfectly understood, can, so long as his status authority is not contested, blame his students when he does not understand their utterances.

In Bourdieu's theory, then, the student is no longer an afterthought, but become one more crucial player in the complex web of interrelations, one frequently subjected to the arbitrary-disguised-as-meritocratic power of the education system in the personification of the teacher.

Although Bourdieu does not explicitly mention academic freedom, his study is indubitably, among other things, an account of various forms of academic restriction. The theory of reproduction in education can be read, then, as a theory of academic unfreedom - an account of the ways in which teaching, research, and studying are *not* free but restrained by myriad internal and external structures. Contrary to liberal academic freedom, this account does not view the academy as a neutral sphere populated by autonomous agents, but rather as a sphere of influence populated by individuals with various degrees of power according to their social status, individuals who continuously both shape that sphere and are shaped by it.

Bourdieu does not offer up an easy way out of the academic restraints he identifies: he does not suggest that the interplay between a stratified society and its education system can simply be overcome. However, the reproduction theory of academic unfreedom does not need to lead to fatalism. In pinpointing the ways in which systems of hierarchy and power act on and through the academy, the theory identifies potential sites for struggle; if we can identify ways in which class is

[93] Ibid., 210

reproduced in the academy, we can begin to form strategies to counteract this reproduction. In contrast to liberal academic freedom, the mode of operation this theory calls for is not one of defense but a more active one - liberation.

Supplementing a class-based analysis of the function of the university, we can turn to Gayatri Spivak for a post-colonial analysis. Spivak argues that liberal academic freedom as we have encountered can be seen as part of the project of the Enlightenment.[94] The post-colonial project of academic freedom, according to Spivak, must be "to think of geo-political rather than cosmopolitical answers to the question "What is Enlightenment?""[95] One of the questions this new perspective raises is who we should consider the subject of academic freedom.[96] In the cosmopolitan story of academic freedom Spivak argues, that subject is taken to be 'the University', the university as it already exists. Making the existing university the subject of academic freedom, however, creates a closed system. If academic freedom is part of the enlightenment project, applying it exclusively to the university is a means of delineating along gendered and colonial lines who is and is not fit for enlightenment. Those who are not already included among the recipients of academic freedom are not invited to discuss who should be included.

Uprooting the cosmopolitan, Enlightenment understanding of academic freedom requires us to re-open the question of who its subject is, and what freedom they lay claim to, allowing challenges to emerge from all directions:

> We must keep alive the possibility of learning from below, if only moral dilemmas and questions such as the following, with the long-term pedagogic goal of making them responsibly accessible, accessible in order that responses may be practically made and unmade even as their theory shifts and shifts with, the rhythms of history:
>
> Who claims freedom [...] in the academy?

Like Bourdieu, we can read Spivak as working towards an alternative notion of academic freedom. Spivak reminds us that the academy is not neutral in another way: it is situated in the unequal geo-political historical reality of a world deeply shaped by colonialism and gender-inequality past and current. Liberal academic freedom considers the question of who academic freedom applies to as settled - it applies to the academy and/or academics. Spivak asks us: What of everyone who is kept out of the academy in countless ways, and thereby already excluded from the conversation. A decolonial approach to academic freedom calls for a critical reevaluation of what is and is not considered part of the academy, and why.

Opening the academic freedom debate to voices 'from below' can take various shapes. It involves not just diversifying but decolonizing the canon of academic

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[94] Gayatri Spivak, "Thinking Academic Freedom in Gendered Post-Coloniality", *T.B. Davie Academic Freedom Lecture* (University of Cape Town, 1992), 2

[95] Ibid., 3

[96] Ibid., 6

disciplines - not simply adding non-western voices to a western-centric order, but challenging that order.[97] It involves exchanging an anonymous, neutral viewpoint for a situated one, acknowledging and reckoning with the geo-political and historical situatedness of authors discussed, as well as the teacher and the student.[98] It involves challenging the structures of academia by which Eurocentrism is maintained, and working to create space for those outside that existing order.[99]

From very different perspectives, Bourdieu's and Spivak offer us clues as to how a richer understanding of academic freedom might take shape. A study of academic freedom informed by reproduction theory and decolonial theory will diverge from liberal academic freedom in several ways. Rather than treating the academy as a domain that is or ought to be maximally neutral, it takes as its starting point the recognition that the academy is in fact inextricably bound up in broader society, and is influenced by and influences the stratifications and inequalities of that society. In place of the abstract, rational individual freely entering a neutral domain, these theories place subjects which are themselves deeply enmeshed in these social structures.

In a theory of academic freedom informed by the likes of Bourdieu and Spivak, the project called for is not to protect a domain of free and independent thought, but rather to understand and challenge the various unfreedoms and dependencies of the academy and the academic. Further, we must ask whether we should simply try to undo such factors where they exist, still working towards the liberal ideal, or whether the university in fact always plays a social role, one that can never be exchanged for a neutral domain of knowledge. If in fact the academy's interconnectedness with broader society, politics and economics are inevitable, the question would become how we want that social role to take shape. With Bourdieu, we have to abandon our hopes of a pure meritocracy in order to understand what function the academy truly fulfils. With Spivak, we have to abandon the cosmopolitical neutral subject for the geo-politically embedded one, and break open the question of 'whose academic freedom?' An understanding of academic freedom enriched by these perspectives would be better equipped to map out the way the university is socially, culturally, politically and economically shaped, and to meet head-on the challenges this positionality incurs. In the process, however, we may lose claim to the apolitical neutrality that was both liberal academic freedom's greatest strength and weakness. As Fish said, we cannot escape politics.

[97] Nelson Maldono-Torres et al., "Decolonizing Philosophy", in: *Decolonizing the University*, ed. Gurminder K. Bhambra et. al., (London: Pluto Press, 2018), 83
[98] Carol Azumah Dennis, " Decolonizing Education" in: *Decolonizing the University*, 192-196
[99] William James Richardson, "Understanding Eurocentrism as a Structural Problem in Undone Science" , in: *Decolonizing the University*, 241-243

5. Conclusion

Departing from the case of Murray at Middlebury, our study of deplatforming has led us into a more fundamental study - that of academic freedom. We have shown that critiques of deplatforming from across the political spectrum, both in popular media and within the academy, hinge on a specific form of academic freedom - liberal academic freedom. While this conception is often present only implicitly, we have shown it to be the dominant framework in philosophical debates on academic freedom. Liberal academic freedom has accomplished a great deal from the days of Dewey up to today, but we have come up against flaws in the approach that are not incidental but fundamental. In today's world of increasingly marketized universities, the liberal account is blinded to real threats to academic freedom and easily seduced into taking deplatforming to be its most important question. Using Marcuse and Fish, we have established that these flaws can be traced back to the individualization and depoliticization at the core of liberalism itself.

There are several things this thesis has not tried to do. We have not even begun to arbitrate cases like Murray's visit to Middlebury, let alone deplatforming as a general phenomenon. The question of how we evaluate deplatforming remains entirely open. Although something like Fish's "pragmatic (anti)principle of considering each case as it emerges" now seems more attractive, we have not decided how or on what grounds each case should be considered.

The main reason we have suspended judgement about deplatforming is because we have not replaced the dominant liberal account of academic freedom with any other account. We have established the limitations of an account that hinges on the ideal of a neutral sphere occupied by fully autonomous, rational individuals, but we have not proffered an alternative. However, Bourdieu and Spivak have given us clues as to the direction which a project of rebuilding academic freedom might take. As its starting point, a new program of academic freedom would have to engage with those aspects of academia which the liberal account is poorly equipped to engage. First and foremost, it will have to take up the task of studying the systemic and structural forces acting upon and through the university. This will require us to treat that university and its denizens not as abstract neutral entities but instead as embedded in a specific society, with all the social, cultural, economic and political influences that implies.

By building a theoretical framework with aspects like Bourdieu's Reproduction and Spivak's geo-politics, we can come to an understanding of the university not as a neutral domain for autonomous individuals, but to the contrary as a heavily structured and structuring domain. Mapping out the ways the university is shaped and gives shape to its inhabitants, we can reformulate key questions of academic freedom from this new vantage point: Whose freedom ought to be protected? And from what exactly should they be kept free? Why does it deserve these special protections? As almost all of our liberal commentators have pointed out, such a project of radical revaluation is not without its risks: we must be on guard at all times, lest our critical questions on the value of the academy be used to shrink them further, or our analyses of power's

role in the university abused to justify wanton power-grabs. However, the alternative - staying with the liberal account, and staying woefully unable to conceptualize the real threats the academy faces today - is not without its perils either. In fact, it may well be far more dangerous.

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