

Academic Freedom and the War on Terrorism:
A Lobster Tale

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It's pretty discouraging to think that here we
as intelligent human beings have been trying
our best to harvest this thing that has no brain
to speak of and they're outsmarting us.
-Paul White, chief executive officer of the
Maine Lobsterman's Association (quoted in
Woodward 2004: 261).

Introduction

In this paper I will discuss "War on Terrorism's" impact on academic freedom in the United States. I believe that it is important for defenders of academic freedom to think carefully about this impact for two reasons.

First, the War on Terrorism is not the hasty invention of the Bush Administration provoked by the September 11, 2001 attacks on New York and Washington. It initially was the brain-child of the Clinton Administration that launched it after the bombings of the US embassies in Nairobi, Kenya and Dar es Salaam, Tanzania in the summer of 1998. Moreover, the Bush Administration's present disarray should not lead us into thinking that the War on Terrorism's days are numbered. In essence, it is a "bi-partisan" policy that grows organically out of the role the United States plays in the preservation of capitalism throughout the planet. It will

continue to be a political presence in the United States for years after 2008. Consequently, we will have to confront it frequently in future struggles in defense of academic freedom.

Second, the War on Terrorism violently decentered and confused an important struggle between the supporters of a neoliberal concept and a commonist concept of academic freedom that had taken clear shape in the 1990s. This neoliberal/commonist struggle did not “become history” after September 11, 2001, of course, but the War on Terrorism has forced a shifting of alliances and relations of power among the supporters of these two concepts and politics. The field of academic freedom discourse faces the return of an old presence--the capitalist state--(the famous “two ton elephant in the middle of the room”) and we need to assess the changes it has produced after almost a decade of the War on Terrorism to understand the serious challenges to academic freedom today.

A Lobster’s Tale and a Warning

Let me begin with a parable. For centuries lobster fishers believed that they caught lobsters because their catch was attracted by the bait in the trap and the crustacean was too stupid to get out once enticed in. But recently researchers placed television cameras near lobster traps. They clearly showed that lobsters danced in and out of the traps effortlessly, often with the “bait” in their claws. It so happened that some lobsters “liked” the trap, perhaps finding it a safe place to while away a few hours digesting the bait, and they stayed. If they stayed long enough, however, a lobster fisher (who thought s/he had actually trapped the lobster) might haul them up, “accidentally” as the medieval philosophers would say. As a result, many lobsters enjoyed free bait, while many fishers got their lobsters, whatever either thought (Woodard 2004: 258-261).

Below and above water, from the lobster to its fisher, these inter-species confusions provide us with conceptual warnings. We should be careful of our concepts, especially when they seem to “work.” The lobsters’ “conception” of safety and satisfaction and

the fishers' conception of trap were entirely mistaken in this situation, but they seemed to "work" (until they didn't!) This is a warning that should be especially heeded by students and zealots of academic freedom, since it is such an amorphous, but historically- and politically-laden concept. At the same time, it is a very useful term, especially for those who are on the receiving end of police clubs and tear gas or more subtle forms of intimidation. Crying "Academic Freedom in Danger!" in the middle of a crowded university can "put the spanner in the works" of a repressive administration or government when deployed properly. It works!...(until it doesn't, of course).

Inevitably then, it is important to understand the complexities of the notion, especially in a period when the concept is undergoing major challenge as it is today. For example, it is important to distinguish between academic freedom applied to institutions and individual students and teachers. Also, it is important to distinguish historically (1) the medieval notion of academic freedom considered as a privilege granted to particular "guilds" by virtue of their role in the division of labor, (2) the notions of academic freedom developed in the 19th century German university system (*Lernfreiheit* and *Lehrfreiheit*) (3) the commonist conception of academic freedom as the production and regulation of a common good, knowledge (cf. for (1), Kibre 1962; for (2), Metzger 1955; and for (3), Caffentzis 1994). Finally, one should distinguish between academic freedom concerning the expression of belief or opinion and academic freedom in the production and distribution of knowledge. These are not the only distinctions that are important, of course, but I will concentrate on the last one, since it will be most helpful in analyzing the War on Terrorism's impact on academic freedom.

Expressing Belief and Producing Knowledge: Two Different Freedoms

Philosophers often point out that belief and knowledge are quite different, though they deeply differ as to this difference.

Analytic philosophers argue that knowledge is a specific kind of belief, i.e., a justified, true belief. Philosophers influenced by pragmatism, question the notion of “truth” appealed to in the analytic notion of knowledge, and they substitute some process of verification that the belief must pass. Postmodern philosophers make the distinction between belief and knowledge even more absolute by pointing out that though your beliefs might be a fact about you, knowledge is fundamentally social and non-personal. It is collectively constructed like a goal in soccer game, though some individual might “make” or “claim” it, like the goal, it is actually the “team’s.”

This is not the place to adjudicate these differences, the point I want to make is that they all agree that belief and knowledge differ. It follows that academic freedom when applied to either differs as well. Indeed, in most people’s minds academic freedom is identified with the academic’s freedom to express his/her beliefs in an academic setting.(1) The notion of academic freedom with respect to knowledge is often forgotten in the dazzle of the high profile cases of professors being punished for what they “professed.” This tradition goes back, we are sometimes told, to Socrates’ trial and forward to Galileo’s inquisition and ends, for example, in the University of Colorado committee assessing Prof. Ward Churchill’s alleged plagiarisms and “research misconduct.” The trope of the transgressing academic punished for expressing unpopular doctrines has always taken front-and-center position in the hagiography of academic freedom. But in this “PC” climate of gender-neutral language and sensitivity to speech that might hurt student minorities (or majorities, in the case of women), it is not clear when academic freedom ends and hate speech begins. The tangle of issues concerning academic freedom of expression of beliefs is similar to the debates concerning “freedom of speech” in general: an idea hallowed in the abstract, but curiously problematic when put to the test.

This notion has been provocatively investigated by Stanley Fish who has argued that, just as “there is no such thing as free

speech,” academic freedom [in the sense of the expression of beliefs and opinions] does not justify any type of speech or instruction, since not all truth claims are equal. All speech, including speech in a college or university, is produced and made meaningful in a community that puts limitations on speech:

[These] limitations on speech in relation to a defining and deeply assumed purpose are inseparable from community membership. Indeed, ‘limitations’ is the wrong word because it suggests that expression, as an activity and a value, has a pure form that is always in danger of being compromised by the urgings of special interest communities; but independently of a community context informed by interest (that is, purpose), expression would be at once inconceivable and unintelligible. Rather than being a value that is threatened by limitations and constraints, expression, in any form worth worrying about, is a product of limitations and constraints, of the already-in-place presuppositions that give assertions their very particular point” (Fish 1994: 108).

Fish is simply deploying in this passage some elementary lessons of the philosophy of language (as developed by Wittgenstein, Austin, Searle and Grice) in the understanding of this facet of academic freedom (Wittgenstein 1953 and Searle 1969). Speech, if it is not just the expulsion of air from the lungs, must enter into a field of presuppositions and conditions that, if violated, make it either null and void or an attack on the community that is addressed (something like a modern day equivalent of blasphemy) (cf. on blasphemy (Villa-Flores 2006: 148-155)). Like it or not, some members of the speech community addressed and attacked by a particular utterance will respond to the “insult” against them, if not God. Even if there are no anti-hate speech codes or loyalty oaths, there will be consequences for parody, offensive speech,

“dangerous words,” and nonsense. The question for expressions of belief and opinion outside the norm is always: how far from the presuppositions and conditions do they fall and why are they being expressed?

On the other side of the discussion of academic freedom as expression of belief, it should be remembered that in a commodity-exchanging society, where speech (like any other useful activity) can potentially be the source of monetary return, there is a generalized concern about restricting speech, especially in an academic setting, as an impediment to the freedom of the market. This anxiety is often dressed up as a concern for “truth,” and perhaps there are those who believe this conception. But in the German university tradition the key consideration supporting this kind of freedom arose out of the commodity conception of the transaction between professor and student (each having a freedom, the professor to say what s/he believes to be true and usefully transmitted and the student to study when, where and how s/he chooses). But whether one accepts the search for truth or the selling and buying of speech conceptions, or, as in some pragmatic views, the synthesis of the two in the “marketplace of ideas” trope, support for interpreting the ideal of academic freedom as the absolute freedom of speech has continually challenged the “inherent community limitations” view of academic freedom defended by Fish.

This polarity has been exposed again and again in the history of academic freedom fights in the US from the rise of the American Association of University Professors (AAUP) in 1915, through the McCarthy-era inquisitions of professors who were Communist Party members in the 1950s, through the “culture wars” of the 1990s, the secular versions of blasphemy were debated. Of course, one era’s “blasphemy” becomes another era’s commonplace. Thus for a long period of time in the Deep South a professor’s or a university’s expression of support for desegregation invited reprisals from the powerful pro-Jim Crow establishment (Smith 1958). Today, of course, a professor’s or

university's pro-Jim Crow expressions would lead to severe consequences. That is the way of history.

But what of the category of blasphemy itself (as St. Thomas defined it, an insult against God, disparaging his divine goodness) (Villa-Flores 2006: 9)? Some like T. S. Eliot were terrified of "blasphemousless world," because it meant that the religious presuppositions of "normal" speech have been erased, so that, ironically, true blasphemy "might now be taken rather as a symptom that the soul is still alive" (quoted in Villa-Flores 2006: 155). Others, of course, saw in its demise an era of intellectual liberation. Soulless or not, though the post-blasphemy world seems to have survived, it is not able to do without some sort of limits (in the form of presuppositions and conditions) to speech that actually create its meaning. Fish is right. One cannot speak without entering into a community (with all its historically and conceptually rooted limits) and communities have certain, if not sacred, at least common, presuppositions. To think that there is something like presupposition-less speech is like believing in a realm of pure category-less sense data. You are free to do so, but in order to express it you will end up like the ancient philosopher Cratylus who held a similar position and could only point to "things" in trying to express truths!

On the other side, one can say something and think, while saying it, literally anything. John Locke was deeply impressed by this freedom and he described in the following words: "the great Augustus himself, in possession of that power that rules the world, acknowledged he could not make a new Latin word" (Locke 1959: III, ii, 8). Locke joins with the postmodern philosophers who have correctly reminded us, that language and thought which are so rule-based, are continually becoming rule-breakers. In fact, it is in this infinite reflexive capacity of both rule-making and -breaking that is the model of *Libertas Philosophands* ("philosophical freedom")--the original model of academic freedom--is rooted (Sutton 1953). Every historical effort to put language and speech

“in order” is continually matched by a meta-level jump outside and beyond that “order.”

This double-sided nature of language and thought destines the debate on limits to expression to be eternally *a posteriori*. Questions posed by the violation of the academic freedom of expressions of beliefs and opinion are always potentially new because both the academic communities’ presuppositions change (often unbeknownst to their members, until the communities are tested) and the academic’s jump to the meta-level is unpredictable and often deeply problematic. One can see this indeterminacy in the clash between prohibitions of hate speech and the use of “the N word” on campus. Questions like “do black professors or students (if anyone) have the right to use it?,” “when does irony transgress into laceration?,” and “what are the limits to ‘truth telling’?” flood in and are typical of the kind of questions that make this field of academic freedom endlessly fascinating, but they do not comprise the whole of academic freedom. Let us not forget knowledge, the presumed goal of freedom of expression.

Knowledge is not belief and the academic freedom pertaining to it is very different from the individual dramas that the academic freedom of expression provides. This is often not understood. Consider that among 470 entries in Stephen Aby and James Kuhn IV’s otherwise excellent bibliographic survey *Academic Freedom: A Guide to the Literature* less than a dozen directly address the typical issues of this branch of the field (Aby and Kuhn 2000): free access to education, sometimes known as “the right to study;” ownership of knowledge (involving intellectual property rights embodied in patents, copyrights, and the definition of the academic commons); free access to the tools for the production of knowledge; the definition of the ideal “realm of knowledge” at any particular moment in a society’s history. These issues have been the source of a tremendous debate (both conceptual and practical), especially since the rise of neoliberal political economy, the global corporations’ demand to impose an intellectual property regime on the planet, and the struggle against structural adjustment programs

in the universities of the “Third World” in the late 1980s. But the academic freedom issues they evoke seem to be in a separate world from the “culture wars” and the “hate speech” polemics of that age. This separation, perhaps, has to do with the difference between knowledge and belief. For the expression of belief is clearly a “personal matter,” but knowledge has an impersonal, social character.

Two concepts of producing knowledge and its associated academic freedoms: neoliberalism and commonism

The production of knowledge is not a self-evident matter. After centuries of the Cartesian “look into your mind” self-certainty paradigm, philosophers in the 20th century stopped fruitlessly searching for the marks of knowledge in the objects of knowledge itself (thoughts and beliefs). By taking the “linguistic turn” with respect to knowledge they took a “social construction turn” as well. Knowledge stepped out of the mind and into the world. But “the world” that received it was a contested one. Was it the world of the market, of capitalist accumulation, of private property or was it the world of free social cooperation, reproduction of useful things without reduction of wealth, and infinite collective creativity?

By the 1990s this question left the realm of epistemology and entered into the political realm. Neoliberal political economists claimed that knowledge was a product, i.e., was produced, and useful, so it should be considered a commodity owned by some person, real or artificial. On the basis of this analysis, they envisioned a regime of intellectual property rights that was incorporated into the major globalization treaties of the era, especially the World Trade Organization charter. But the opposition to neoliberalism that took the political form of the anti-globalization movement countered that knowledge is a product of social cooperation, based on the labor of collective humanity, and

should be considered a common good accessible to all. Let us examine these positions more carefully.

The neoliberal notion of academic freedom arises from viewing knowledge as a commodity (i.e., as so many pieces of intellectual property to be bought, sold or leased) and education as a path to income generation that must be privatized and made profitable in order for it to be maximally effective. Academic freedom in the neoliberal perspective would thus be equivalent to reducing government restrictions on the commodification of knowledge and on the privatization of education. Thus the World Bank, one of the primary supporters of neoliberalism throughout the planet, views many of the provisions of the Structural Adjustment Programs [SAPs] relevant to universities and knowledge as increasing academic freedom which, for the Bank, means the freedom to make money from ideas in an international market for intellectual property goods (Caffentzis 2000).

For example, from its perspective the SAP provisions that require, for example, African governments to subscribe to the copyright and patent policies of the US and to open their nations' markets to intellectual property items (from films, to software, to the molecular structure of pharmaceuticals, to music CDs, to video games, to genetically modified seeds, etc.) appear as ways to guarantee that the Africans would be academically free to buy (or sell) any intellectual fare they can afford unhindered by government restrictions (World Bank 1998: 145). Similarly, the SAP requirement that forces African governments to allow private, for-profit universities to open their doors on their territory is another "blow for academic freedom" in the World Bank's eyes since it increases the choice of educational institution available and increases competition (World Bank 2002). Finally, the SAP proposals reducing the subsidies for university students and requiring that the students "share" the cost of their education is another forward step for academic freedom, since it recognizes that the end of education, knowledge, increases personal income and its institutional costs should be paid for by the eventual benefactors.

In the last two decades, students and faculty members all across Africa have responded to the World Bank's imposition of neoliberal policies as an attack on *their* academic freedom with demonstrations, strikes, and boycotts. They have paid for their resistance with hundreds killed, tens of thousands beaten, arrested and tortured by African governments eager to show their commitment to the World Bank's programs in order to keep their credit line open to save themselves from bankruptcy. The Committee for Academic Freedom in Africa (CAFA) has chronicled anti-SAP student and faculty movements across Africa and has admired their tenacity and ubiquity (Federici, Caffentzis and Alidou 2000). The notion of academic freedom these militant students and faculty were fighting for at such great cost was clearly antithetical to the neoliberal conception of knowledge, education and academic freedom. The World Bank was, in effect, "enclosing" knowledge, education and academic freedom in their view and they were fighting back.

But what was their notion of knowledge, education and academic freedom? After reading many documents of the struggle and interviewing many students and faculty members involved, I and my colleagues in CAFA concluded that these anti-SAP protestors viewed knowledge as a commons, education as a public good and academic freedom as an effort to preserve and expand the commons of knowledge and to increase access to education as a public good (Caffentzis 1994). They saw neoliberal agencies' use of money as a barrier to knowledge and education and hence the World Bank was an enemy of their academic freedom. These anti-neoliberal conclusions have been shared by many outside of Africa, of course, who have increasingly seen the effort to sanctify intellectual property rights (with draconian penalties for the violators) in many recently negotiated "trade treaties" (like the WTO, NAFTA, MIA, FTAA) as a sort of "second enclosure movement." The free-software and the creative commons movements, for example, increasingly recognize knowledge as a common good that must be preserved against the stifling of its

production by commodification (cf. Stallabrass 2002 and Studer 2004). Thus the anti-SAP African students and faculty have been part of a growing worldwide "commoner" movement to preserve the commons of knowledge and to keep education a public good.

The War on Terrorism: "Battering down the Chinese Walls"

The struggle between two visions of the academic freedom to access and produce knowledge presented by the neoliberal and the commonist sharpened throughout the 1990s. It became especially confrontational in the venues where the intellectual property rights issue was a matter of life and death (South Africa, for example) and the structural adjustment of education from primary schools to universities was denying to millions of young people in Africa and South America the right to study. In the brief "anti-globalization Spring" between the battles in the streets of Seattle in November 1999 and September 11, 2001, the confrontation between these two politics of knowledge was open and increasingly clarified. Then the planes hit the Twin Towers and the story became much more complex, since a new presence appeared in the confrontation: the War on Terrorism.

A major problem with this presence is its deliberately vague self-description. Since War on Terrorism is a war, who or what is the enemy? The specification of this enemy varies with the particular context: sometimes it is Osama bin Laden and Al-Qaeda; sometimes it is terrorist groups (specified in an ever changing list created by the State Department which today includes both Hamas in Palestine and the FARC in Colombia); sometimes it is the "axis of evil" nations which were, before May 1, 2003, Iraq, Iran, and North Korea, sometimes it is "radical" "Islamofascist" fundamentalism which is striving to create a new Caliphate stretching from West Africa to Indonesia, sometimes it is 40 or 50 countries that host or help or even unknowingly are visited by terrorists (this is a hazy list that include the flotsam and jetsam of the last twenty years of the State Department's semantic invention: "failed" states, "rogue" states, "terrorist" states).

The accordion character of this list indicates a major difference between this “war’s” ideology and the Cold War’s. For whatever the intricacies (and self-deceptions) of the latter, the “enemy” was clear and present: Communism. Communism was an ideology that systematically rejected the basic tenets of capitalist life and was a system of actual states armed with thousands of nuclear weapons. After all, at its peak, there were more than a dozen states ruled by Communist Parties and their citizens comprised almost a third of humanity. Terrorism, in contrast, is neither an ideology nor an actual state doctrine; it is a tactic that can be used by states to preserve their power and revolutionary groups to overthrow them.

Another major difference between the Cold War and the War on Terrorism is in the way it is being fought. The operative strategy of the Cold War was “containment.” Soviet soldiers and US soldiers never engaged in a fire-fight and, after the Korean War, the US did not militarily counter the Chinese government. Mutually Assured Destruction (MAD) was the assumed nuclear war policy from the early 1960s to 1991. Whatever confrontations took place, they were always on the periphery (e.g., Vietnam, Cuba, Nicaragua, Ethiopia). The right-wing call for a confrontational military “roll back” of Communism was never heeded by right-wing administrations, except on the margins (most crucially in Afghanistan). The US government’s operative strategy in this War on Terrorism is “regime change” in the case of states, “physical destruction” in the case of groups, and “annihilation” in general. The invasion of Afghanistan, the invasion of Iraq, the open crushing of human rights in Guantanamo and Abu Graibe, the extra-ordinary rendition of suspects throughout the world, revealed the sense of a state unrestrained. The asymmetric levels of force clearly gave the US government a sense of “full spectrum dominance” militarily that only now being questioned in the face of military failure in Iraq and Afghanistan.

The marriage of vagueness and violence that characterizes the War on Terrorism has caused much skepticism towards the US

government's self-description of its role in it. From the beginning of the "war" there was a wide spread suspicion that the attacks on the Twin Towers and the Pentagon were secretly welcomed by the Bush Administration, since they allowed for the passage of repressive laws (like the USA PATRIOT Act) and of mass support for military adventures that would have been resisted in pre-9/11 times. There is now a growing consensus that a better way to describe the War on Terrorism's antagonists is as the states and social movements that reject (for whatever reason) neoliberal economic and social policies while the US government's role in the War on Terrorism should be called "US-led, disciplinary neoliberal form of globalization," "military neoliberalism," and "terrorizing the recalcitrants of the neoliberal order into cooperation" (Gill 2005; Boal et al. 2005; Caffentzis 2003 respectively). I.e., the US is taking on the role that Britain had as the enforcer of the rules of the world market and globalization of capital in the early 21st century. Its job is to "batter down the Chinese Wall" of resistance to neoliberal globalization in the same way that the British did in the Opium War of the 1840s that inspired Marx's phrase in the *Communist Manifesto*.

This view of the War on Terrorism explains the vagueness of the official enemy (since almost any state or social movement can become an "enemy"), the indefinite timetable for "victory" (decades, we are told), and the unmediated violence of the methods employed (the pace of expropriation must ever intensify in order to prevent a solidification of resistance). It also explains the many consequences of the War on Terrorism at "home" in the US.(2) Most importantly, this view shows how the War on Terrorism is not to be considered as the product of a conspiracy of a coven of neo-conservatives foisted on an unwilling and unsuspecting ruling class (Caffentzis 2003b). The disagreements as to how to fight it and how to deal with the inevitable intra-class tensions that arise out of its prosecution are now openly expressed in Congress, but the War on Terrorism itself arises out of larger class strategy that cuts across party political lines as well as across branches of

industry. It is not going to go away when George W. Bush leaves or is driven from office.

In the next two sections I describe what have been the consequences of the War on Terrorism for academic freedom in the US.

The War on Terror and the Expression of Beliefs on Campus: A New McCarthyism?

The first characterization of the impact of the war on terrorism in the US was as an analogy to McCarthyism of the late 1940s and 1950s (Cole 2003a). David Cole, for example, in 2003 expected a “New McCarthyism” to arise from the ashes of the World Trade towers (Cole 2003b). The initial impact on immigrants from the Middle East or South Asia was harshly repressive and seemed to forebode such a development. More than five thousand Arab and Muslims were imprisoned under the rubric of preventive detention between September 11, 2001 and May 2003 using minor infractions of the immigration laws as a cover (Cole 2003a: 25). Many of them were later deported in a way reminiscent of the round of repression that took place after the “Palmer raids” that led to the arrest of thousands of immigrants and the deportation of 556 between July 1919 and June 1920 (Cole 2003a: 123).

Critics of the Bush Administration like myself waited for the inevitable attacks on academic freedom of expression of beliefs that were an essential aspect of the McCarthy era. Their intent being to completely eliminate a critical Left intelligentsia from the universities. We waited for the congressional committees, for the loyalty oaths, for the local right-wing elite to pressure the university administration to fire the “extremists,” the “appeasers,” and the “terrorist sympathizers,” for the formation of an academic blacklist that would ban especially younger professors critical of the war in Iraq from finding jobs, these being the signs of a new McCarthyism on campus in analogy to the old (Schrecker 1986).

We waited and waited and, by early 2007, the shoe had not dropped.

This is not to say that there were no “casualties” in the last few years. There is a list of those who for a variety of reasons have suffered because of the expression of their anti-War on Terrorism beliefs and opinions in the period after Sept. 11, 2001. They include:

-Prof. Richard Berthold of the University of New Mexico joked on Sept. 11, “Anyone who would blow up the Pentagon would have my vote.” After that, Berthold was harassed both on and off campus and eventually was pressured to retire.

-Prof. Nicholas De Genova of Columbia University during a panel discussions called for an Iraqi victory over the U.S. and said he wanted to see “a million Mogadishus.” As a result, 104 Republican members of the House of Representatives demanded that the Columbia University administration fire him. He was not dismissed.

-Writing teacher Elizabeth Ito at Forsyth Technical Community College in North Carolina was fired after spending 10 minutes in class criticizing the war in Iraq (cf. Wilson 2005).

There are many more names on the list, of course, and a couple of them that have had exceptional prominence, especially that of Professor Ward Churchill of the University of Colorado.

Churchill was castigated for quoting John Zerzan’s description of some of the people killed in the WTC towers attack as “little Eichmanns” in an essay written soon after 9/11 arguing that the bombings were inevitable consequences of the United States government’s imperialist behavior throughout the planet, since, using the title of the essay, “Some People Push Back.” The governor of Colorado, among others, called for his dismissal. But the university administration rejected this demand, noting that such

an action would be a violation of Churchill's academic freedom to express beliefs (in this case, a quoted metaphorically expressed one.) However, other charges soon followed, alleging that Prof. Churchill had plagiarized the work of another scholar and engaged in other types of "research misconduct." In response, the university instituted a committee to consider these charges against his scholarly work. The case is still within the university walls, but it will most likely find its way to the courts.

Churchill has also attracted perhaps the harshest rhetoric aimed at an academic coming from the world of right-wing punditry. But Bill O'Reilly is not Joe McCarthy. One can switch Bill off, but Joe had the power to put others in jail. In fact, much of the alleged McCarthyism of the post-9/11 era is to be found in the high volume of the right-wing talk show business and not in courts, prisons, or Congress. We should remember Churchill's situation is still an *individual* case (which must be fought vigorously, but not hyperbolically). Indeed, the operative attack on him is not on his right to quote a disturbing metaphor in his writings. Rather, it is based on questioning the authorship of the work he claimed, i.e., on the issue of ownership. This is hardly a generalizable legal tactic and is clearly an awkward and contrived effort to make Churchill "pay" for his strong critique of US behavior in the Middle East. But however it turns out, the case has formally ceased being one concerning the violation of the academic freedom of expression of beliefs.

In fact, the predicted trampling of academic freedom of expression feared by those waiting for the "New McCarthyism" does not seem to be on the horizon, especially after the US military's failure to defeat the Iraqi resistance after four years of battle. Academic freedom of expression of beliefs and opinions seem to be largely unscathed. True, Michael Moore's *Fahrenheit 9/11* was harassed in a number of venues (such as Rowan-Cabarrus Community College in North Carolina and Utah Valley State College), but in the end the film was shown on hundreds of campuses and became a big money-maker for Moore (Wilson

2005: 128). Moreover, academics have published anything from conspiracy theories pinning the authorship of the 9/11 attacks on President Bush to exposes of the Bush Administration's deliberate under pricing of the war in Iraq, hundreds of teach-ins against the war have been held, and critiques of the War on Terrorism (including this very paper) have become an academic sub-specialty, all without any noticeable negative consequences five and a half years after September 11, 2001. Why has the "New McCarthyism" not materialized on US campuses?

Can the Bush Administration's failure to attack academic freedom of expression of beliefs be explained? I can see at least three different levels of explanation based on the differences between the Cold War state and university of the 1950s and the War on Terrorism state and university of the early 21st century: (1) the change in function of US universities; (2) a change in the power relations between university faculty and administration; (3) a change in the meaning of "blasphemous" speech in the post-Cold War era. Let me briefly comment on each.

First, the universities of the 1940s and 1950s were still *ideological* institutions, whose job was the justification of free market capitalism and electoral democracy in the face of an existing alternative model of social life as embodied in the "actually existing socialism" of the USSR and its allies. The US universities were important elements in the training of military personnel (since the overwhelming large part of the student body was comprised of young white men) given that many graduates went on to the officer corps, due to the pressure of the draft. Scientific research was only beginning to become an important material force in university functioning. The continuing primacy of ideology in the 1940s and 1950s made the answer to Marx's question--"who shall educate the educators?"--crucial to the achievement of the universities' mission. The inquisitional character of the anti-Communist purges of the universities (so similar to the anti-Popery campaigns in early modern Britain) provided the answer in the form of a question fit for the times:

“Are you now or were you ever a member of the Communist Party?”

A half-century later US universities have become different creatures: centers for the *production of knowledge and the reproduction of trained labor power*. Their main function now is to train personnel for a global capitalism that is without a fixed ideological competitor and to do research (both social and natural) that would be vital to the process of capitalist accumulation. With their older ideological mission gone, the universities are now considering their personnel not as loyal or disloyal supporters of the system, but from the point of view of their instrumentality. An inquisitional campaign would jeopardize the training and research agenda that is vital to the life of these institutions. The right-wing intelligentsia has been howling for such an inquisition for decades, but it never got it either from the Reagan, George H. W. Bush or George W. Bush administrations, simply because inquisitions in important production facilities do not pay.

Second, the organizational power of university teachers has increased in the intervening fifty years. During the 1950s the percentage of unionized professoriate was quite small while the AAUP proved to be a very weak defensive profession organization (Schrecker 1986: 336-337). Full unionization of university faculties increased dramatically in the 1960s and early 1970s. Even with the Supreme Court’s *Yeshiva University* decision in 1973 (that identified faculty members in private universities as part of management and hence they were not entitled to NLRB’s recognition of their vote to have a union), state university faculty members were able to organize unions, often affiliated with powerful organizations like the American Federation of Teachers or the National Education Association. Consequently, the contractual rights of university professors have substantially increased, making the kind of intimidation the McCarthy era faculty members faced a thing of the past (for the moment). Moreover, the legal struggles over academic freedom rights had also accumulated (partly as a result of the McCarthy-era cases) a

juridical weight making the type of imperious administration dismissals without legal appeal that was common in the 1950s impossible.

Third, the situation had completely changed in terms of ideational or semantic crimes of the sort persecuted in the 1950s. The conviction that there was a collective fate requiring a common sharing of faith in the state is in decline after a long period of neoliberal critiques of the state. (In this, the right-wing has only itself to blame.) Also, anti-government and anti-capitalist speech is no longer considered “dangerous” partly because it has lost all concrete referents to specific alternative organizational realities. Without them, critical speech becomes vacuous in the eye of the state. We in the US are in a situation with respect to the state and capital similar the decline of blasphemy in the 18th-century Mexico. As Villa-Flores described the latter:

Religiously, the gradual demise of the idea of collective salvation and the ensuing decline of the conviction that disasters were punishments by an angry God for human sins delegitimized the discourse of blasphemous speech as a source of sacred contagion...As blasphemy lost its capacity to “touch” the Divinity, the authorities’ interest in repressing this sin and crime also started to dwindle...Clearly, the days in which the Spanish king deemed it crucial to punish this crime in order to secure his kingdom and protect his people were long gone (Villa-Flores 2006: 153-154).

The modality of the major slogan of the anti-capitalist movement in the US and around the planet--“Another World is Possible,” instead of “Another World is Probable” or even “Another World is Necessary”--shows us the reason for this capitalist class’ confidence or, perhaps, over-confidence.

A similar twilight of the anti-leftist inquisition in US academe cannot be easily reversed in the face of the 21st century

“terrorist threat” for good reason. Whatever one might say in criticism of McCarthyism’s principles and methods, it was undoubtedly true that many university professors in the 1950s had been or were members of the US Communist Party or were friendly with CP members. But not even the Bill O’Reillys of the world can make the similar claims about the contemporary professoriate’s relation to Wahabist Al-Quaeda! Weak-willed liberals they might be, but they could hardly be members of bin Laden’s circle, since, after all, the overwhelming majority of them would be executed in the coming Caliphate if they publicly expressed their beliefs concerning the appropriate social role of women, and the rights of homosexuals and atheists. Indeed, the Bill O’Reillys of the US would probably find a better reception in bin Laden’s Caliphate than the typical US college professor!

This is not to say that there are no examples of college professors being charged with involvement in terrorist activities, if not supporting Al-Quaeda. The case of Prof. Sami Al-Arian of the University of South Florida is the most prominent of them, if, tellingly, it is not unique.

Putting these factors together, then, one can begin to construct an explanation of the lack of an attack on the academic freedom of expression of belief in US universities in the era of the War on Terrorism. But what of the academic freedom of producing and accessing knowledge in all its forms? How has it fared in the last six years?

War on Terror and the Production of and Access to Knowledge

Though the War on Terrorism has not brought about a New McCarthyism in the realm of the expression of belief and opinion in US academe, it has had a profound impact on the production and distribution of knowledge. This impact has affected both the neoliberal view of knowledge production as well as the commonist. As a consequence, the political field is very complex,

for though the “real” purpose of the War on Terrorism is to “save” neoliberalism, the Bush Administration has often found itself at odds with its neoliberal allies in the corporate, financial, and academic worlds. I shall examine the impact of the War on Terrorism on three levels: the movement of knowledge workers across the US borders; the increasing secrecy imposed on workers producing knowledge for the state and hence the contraction of the freely accessed common of knowledge; and the intensified state surveillance of knowledge production.

Neoliberalism promised to the academic community a sense of “no borders” to academic discourse through organizing open, “global” universities and scholarly networks where knowledge and information could circulate ubiquitously at light speed (remember those Microsoft ads of just a few years ago?) The war on terrorism legislation is now restricting and even blocking the information channel. Indeed, the result is becoming the exact opposite of the neoliberal “deal” that promised a small increase in “user fees” and “licenses” for intellectual property would exchange for a huge increase the flow of information and diffusion of knowledge. The ideology of neoliberalism is being strangled by the war on terrorism's effort to save it.

The clearest example of this is in the dramatic collapse of the so-called “global universities” in the U.S. They were one of the most visible examples of the globalization of knowledge in the 1990s, since their existence was premised on the increased movement of students from Asia, South America and Africa to US universities. Indeed, the money these foreign students (their families and/or governments) expended to finance their university education in the US was the equivalent of \$13 billion dollars of US exports (Dillon 2004a). These students certainly embodied the free movement of knowledge promised by neoliberalism. Moreover, the scientific and technical intellectuals that came to the utopias of neoliberalism--global universities in the US whose “catchment area” was the planet--often stayed and became the theoretical backbone of the computer and genetic-engineering “revolutions” of

the 1980s and 1990s (given the refusal of US-born students to enroll in demanding scientific and technological fields). After all, in 1998 foreign citizens earned 44 percent of the doctorates conferred by US universities in engineering, 30 percent of the physics and chemistry doctorates, 39 percent of the mathematics doctorates, 36 percent of the computer science doctorates, 22 percent of the biological science doctorates and 43 percent of the agricultural sciences doctorates (US Census Bureau 2001: 517). As one journalist frankly put it, “America does not produce enough doctoral candidates in the sciences and related fields to meet its own needs” (Freedman 2004).

But with the increasing scrutiny of student visas, the mass arrest and indefinite detention of foreigners (including students and intellectuals), the increased existential irritations of politically-sanctioned racism and xenophobia, the threat of tuition funds being confiscated because of purported connection with terrorism, and all the other allied anxieties stirred up by the war on terrorism's legal and political environment, students are no longer flocking to US global universities. For example, after three decades of uninterrupted growth, total enrollment of foreign students in US colleges and universities fell in 2003 by 2.4 percent. The graduate schools have been especially affected and faced a 28 percent drop of foreign applications and a 6 percent drop in foreign student enrollments during 2004 followed by a 5 percent enrollment drop in 2005 [(Dillon 2004b), (New York Times 2005b)].

Moreover, those foreign students who have studied in scientific and technical fields are increasingly refusing to remain in the US and are returning to their "homes" partly because of the fears the war on terrorism has inspired. These phenomena will have an important, though diffuse, negative impact on the US corporations' role as the centers of scientific, technological and cultural innovation for the planet as well as on the US balance of payments (since one of the largest exports is the sale of "intellectual property" leases and licenses on these innovations). This development has even evoked cries of concern from

establishment voices like columnist Thomas Friedman (who titled a column “Losing our Edge?”) and the New York Times editors (“Sanity on Visas for Students) [(Friedman 2004), (New York Times 2005a)].

The war on terrorism has also involved an increasing surveillance of US-based academics and the restriction of knowledge exchange is leading to a situation reminiscent of the national security state organization at the height of the Cold War. Many scientists in the 1950s and early 1960s were caught in a “cross-fire” since they were convinced both that “free exchange of information was the lifeblood of scientific progress and that restrictions of this flow were either foolish or destructive” and that secrecy was justified since “threats to national security overshadowed concerns for openness in science” (Bok 1983: 156). There was a widespread concern that knowledge production would be harmed by the ethos of secrecy imposed by the state (Bok 1983: 154-155). Indeed, Thomas Kuhn, in his immensely successful typology of the history of scientific communities (in *The Structure of Scientific Revolutions*, addressed this tension in an indirect but powerful way (cf. (Fuller 2000) for the Cold War context of Kuhn’s work).

Kuhn pointed out that it was perfectly possible to have scientific advances in periods of what he called Normal science (Kuhn 1996: 35-42). These periods do not need to have open communications and free movements of scientists for these advances to occur since they involve “puzzle solving” activity, i.e., the rules of solution of the puzzle and its role in the accepted paradigm are already known. Consequently, puzzle-solving activities could take place independently of each other and their results could be accumulated at a higher level without horizontal communication in the way that much of the research and production of the Manhattan Project was carried out. However, periods of revolutionary science required a publicly acknowledged crisis, an increasing set of recognized anomalies, and the widespread presentation of alternative theories that could become

the core of a new paradigm. Thus at the very moment of crisis in a scientific community, the greatest openness is required for its resolution. Although Kuhn's theory of the structure of scientific revolutions has been justly criticized on a number of counts, this contrast between normal and revolutionary periods of science and the different impacts censorship, political repression, and secrecy has on them, I believe, is still relevant to our thinking about knowledge as it was in the 1950s and early 1960s when it was the center of a major national debate on secrecy (Dickson 1988: 134-139). This rekindled debate undoubtedly is just another aspect of the increasing conflict between the war on terrorism and neoliberalism, because the latter is dependent upon and is legitimized by the increasing pace of knowledge production and the institution of a state of permanent scientific revolution (Caffentzis 2005).

Of course, this surprising falling out of allies does not deny the fact that the War on Terrorism has had an enormous impact on the commonist politics of knowledge and the academic freedom to access knowledge. The attack on knowledge workers' freedom to move across borders has created a significant hiatus in the flow of embodied knowledge and skill that has been denied to students and academic researchers and anti-capitalist thinking in the US. The human common in the US has been significantly reduced. This might not easily be measured by the movement of actual "tourists" into the US, but the anxiety anti-capitalist intellectuals and academics feel when they step up to the immigration officers' booths has had a documented effect in dissuading them from making the trip to join comrades in creating knowledge in the US. Similarly, the government's contraction of information publicly available is another problem for commonist demand for making the largest amount of information available to knowledge workers at the lowest cost while the openly advertised government surveillance of academic libraries and the Internet is clearly an additional fetter on the free use of knowledge for its production. Consequently, the War on Terrorism has not only put a halt to the

struggle between neoliberal and commonist views of knowledge, it has also provided them with motives for forming an alliance to eliminate or reduce the governmental controls on the movement of knowledge workers and access to knowledge. This conjuncture is a moment of great concern. It can easily lead to a political confusion of monumental proportions. This is not the first time that an alliance between neoliberals and commonist politics united. A good example is in the “second independence” movements of the 1990s in Africa when, in order to rid themselves of a local tyrant that was both hindering both the flow of capital into “his” country and expropriating common lands and resources, tactical alliances were formed between neoliberals and commonist political movements. The problems of such alliances, however, quickly become apparent once the tyrant (e.g., Moi) is removed the forces of globalization immediately take the upper hand in the new regime. A similar fate can result in the realm of the politics of academic freedom.

Conclusion

As a result of these considerations, we should distinguish two kinds of attacks on academic freedom *qua* the commons of knowledge. The first is the neoliberal “enclosure” of the knowledge commons and of education as a public good; the second is the US government’s “war on terrorism” attack on the academic freedom of producing and distributing knowledge in both its neoliberal and commonist forms. The urgency of the latter attack is new, whereas the former “enclosure” has become a chronic feature of contemporary reality in universities around the world and is increasingly losing its salience because of its prevalence. These are two quite different attacks and struggles, however, with different political antagonists and interests. If we confuse them, we might well discover that we will be defending a notion of academic freedom that we abhor.

The very fact that the US government is increasingly restricting the movement of ideas, academics and students within

and across its borders and hence is becoming antagonistic to the neoliberal notion of academic freedom should make us allies neither of the "war on terrorism" nor of the neoliberal knowledge regime. The enemy of my enemy is definitely not a friend in this conjuncture. Consequently, the academic freedom struggles of the immediate future will be ideologically murky. They will require the defenders of the commons and opponents to the war on terrorism to be measured in their words and strategically decisive in their actions (Caffentzis 2005).

Let's not forget the Lobster tale.

Notes

(1) We should note that there are quite different views as to whether students or teachers have the same academic freedom to express their beliefs and opinions. In the German tradition the freedom to learn (*Lernfreiheit*) was quite different from the freedom to teach (*Lehrfreiheit*) (Pritchard 1998).

(2) For a discussion of the impact of the War on Terrorism on the US working class and vice versa see (Caffentzis 2007).

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