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Versions of Academic Freedom, by Stanley Fish


Stanley Fish is in many ways a nonconforming academic; he defies stereotypes of the typical scholar and his work escapes conventional categorisations. Thus, starting out and quickly gaining a name for himself as a renowned Milton scholar, his disciplinary contributions span English literature, law, interpretive studies as well as commentary on the role of academics and the academy more generally. His ability to simultaneously criticise and irritate the Left and the Right in the American culture wars is both impressive and frustrating. Those despairing of his work (and there are quite a few) varyingy criticise him for perfecting ‘cynicism as a principle’...[and for promoting] a philosophy made safe for yuppies’¹ and for being a ‘loudmouth [and] a show-off’.² To members of the UK academy he is perhaps best known for his 1993 Clarendon Lectures,³ described by one commentator as ‘morally disgusting’ and ‘intellectually sullying’⁴ and for having, so the rumour goes, inspired the maverick protagonist Morris Zapp of David Lodge’s academic satire novels Trading Places and Small World, in which Zapp informs the reader that his primary ambition is to ‘become the best-paid English professor in the world’, while dispensing the following advice to a younger colleague: ‘never go to [conference] lectures...unless you’re giving one yourself.... or I’m giving one’.⁵ Despite having retired from full-time academic life several years ago, Fish maintains a steady record of publication (although one commentator criticises him for ‘having written the same book several times over’).⁶ Recent books include The Fugitive in Flight⁷ (about the 1960s US TV series The Fugitive), How to Write a Sentence,⁸ (an excellent

exposition on the art of crafting sentences) and, the title under review here, *Versions of Academic Freedom*.

In *Versions of Academic Freedom*, Fish, with his usual vigour and bravado (Fish proclaims that he is ‘announcing the inauguration of a new field – Academic Freedom Studies’), tackles the thorny issue of what academics are allowed to do and how they are allowed to do it as part of their professional practice. Fish does this by taxonomising what he terms the five different schools of academic freedom, while acknowledging that ‘academic freedom is rhetorically strong but legally weak’. This is likely to be familiar to academics based in the UK, where the protection of academic freedom offered by the law is often seen as feeble. The statutory framework in England and Wales, as well as in Scotland, does not provide for an absolute right of academic freedom but merely an obligation on various statutory agencies to have regard to academic freedom (although the principle is enshrined in the EU’s Charter for Fundamental Rights). However, s. 6 of the Defamation Act 2013 provides for an ‘academic’ defence, by privileging statements which have been published in a peer-reviewed outlet. Thus, the principle of academic freedom is one rarely engaged with by the UK courts (though one suspects the principle is every so often invoked before employment tribunals to which the public has little access) unlike in the USA, where the courts have from time to time weighed in on the meaning of the principle.

Perhaps as a result of this, academic freedom remains a highly illusive and often controversial concept, operating simultaneously as a liberty and a restriction, although it can usefully be defined as falling either along institutional lines (where freedom is afforded to each higher education institution from undue government interference) and/or individual lines (where freedom is afforded the individual academic employee from unreasonable employer interference). In this context, one UK academic (who was himself subjected to disciplinary proceedings by his employer) recently, and perhaps rather belligerently, proclaimed that ‘the

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9 *Versions of Academic Freedom* at 6-7.
10 Ibid., at x.
14 See *Urofsky v Gilmore* 216 F.3d 401 (4th Cir. 2000), in which the Fourth Circuit upheld a law preventing state employees in Virginia from accessing explicit sexual materials on state-owned PCs without authorisation from a superior.
modern university is, in some ways, always at war; and one contemporary battle in that war is for the maintenance of academic freedom’. For those reasons, and notwithstanding that Fish focuses exclusively on US practices, *Versions of Academic Freedom* offers a highly enlightening and entertaining starting point for anyone wanting to explore the subject matter in detail, although many will likely find little to agree with in the version of academic freedom which Fish ultimately endorses.

The five schools of academic freedom, plotted along a continuum from right to left, identified by Fish are: (1) the ‘It’s just a job school’; (2) the ‘For common good school’; (3) the ‘Academic exceptionalism or uncommon beings school’; (4) the ‘Academic freedom as critique school’ and (5) the ‘Academic freedom as revolution school’. The school which Fish ultimately endorses is the ‘It’s just a job school’ but before examining it in detail we ought to briefly focus on the remaining four.

The ‘For common good school’ is closely aligned with the ‘It’s just a job school’ but distinguishes itself therefrom by relying on a factor external to the academy for its ultimate justification; that of democracy. That is, the ‘For common good school’, as Fish sees it, identifies the role of the academic as one grounded in the need for a well-functioning democracy; for the academic is, by virtue of being a member of the profession, under an obligation to counter populism and to offer critical input in public discourses. The ‘Academic exceptionalism or uncommon beings school’ follows closely from this but goes a step further by arguing that if the purpose of the academy is to somehow offer a counterpoise to non-academic voices in the public sphere, then this means that academics are a special breed. A kind of breed which deserves a level of exceptional protection not afforded, say, to other employees. An example of this would be the claim that criminal prosecutions ought not to be taken against academics for actions that form part of academic research but nevertheless constitute a criminal offence. One such example is the case recently brought against Dr Bradley Garrett, a geographer now employed at Southampton University, who was charged with (and pleaded guilty to) conspiracy to commit criminal damage when he, as part of his ethnography research into urban explorers, took part in the scaling of several buildings.\(^{17}\)


\(^{17}\) ‘Oxford University Academic who Scaled Shard is Spared Jail Sentence’, The Guardian, May 22, 2014 available at
The ‘Academic freedom as critique school’ posits instead that the real focus of academics ought to be one of critique – critique of everything. This notion of academic freedom is in part based on the notion that the purpose of higher education is itself that of critique. On this understanding, academic freedom is a response to the inherent conservatism of the academy and its way of privileging certain protocols and methods, so that critique becomes a tool to constantly scrutinise these existing practices and forms of knowledge, all in the name of social progress. The ‘Academic freedom as revolution school’ is, as the name indicates, the most radical incarnation of the principle of academic freedom. It has as its focus a need for eliminating from the academy its ‘neo-liberal’ and corrupt practices and bestows upon students an ability to identify and act upon such unjust practices where they may be encountered outside the academy. As an example of this Fish cites the on-going dispute between Professor Denis Rancourt (now suspended) and the University of Ottawa, following from Professor Rancourt’s teaching methods in accordance with what he terms ‘academic squatting’, i.e. the practice of ignoring the content of existing modules and courses, instead focusing instead on political activism.

Finally, the ‘It’s just a job school’ takes a much more minimalist focus on the definition of academic freedom. It is anchored in a professional definition of education which at heart focuses on the acquisition of skills and knowledge through the medium of disinterested inquiry – the very product which academics are trained in and expected to use. That is why students come to the university in the first place; to acquire the skills which the academy is uniquely placed to offer on account of having done so for years. The same professional anchoring applies to the carrying out of academic research: the enterprise of scholarship rests in practices defined by scholars within disciplines and sub-disciplines as these have developed over time. Thus, unlike the ‘For common good school’, the ‘It’s just a job school’ is not based on a higher, external good; instead it rests on the narrow vocation and professionalism embedded in the academy itself.

In taking this narrow, non-instrumental approach to the academy, Fish picks up from where he left off in his Save the World on Your Own Time in which he defines the core purpose of the academy as being that of ‘academicizing’. To Fish this entails two things: (1) introducing students to bodies of knowledge and tradition of inquiry; and (2) equipping


S Fish, Save the World on Your Own Time (New York: Oxford University Press, 2008).
students with analytical skills, enabling them to engage confidently with those traditions in order to probe the contours of disciplines and to critique positions within fields. In doing this, no external factors such as ethical, social or democratic concerns are of relevance; nor ought they exert any pressure on the enterprise of ‘academicizing’. To Fish, such values might well of course flow from the activity of ‘academicizing’, but where this happens it is merely a by-product, not the end-product. This gives rise to Fish admonishing those who, either through teaching or research, seek to impart on their audiences (be it students or other academics) a particular value, such as social justice or democracy. Fish’s reason for disregarding such attempts is two-fold. First, when academics seek to include whatever laudable values they might hold into their academic work, it leaves the academic profession open to criticism from outsiders, such as politicians, who will then be able to discredit the profession. Second, when the academic enterprise gives way to any outside influences, it ceases to be academic for it has lost what sets it apart from every other activity. The upshot of this is that where academics engage in such activities these are, to Fish, neither relevant to nor protected by academic freedom. Or, in other words, they are not speaking the academic language game.

This does not mean, however, that politics is off the table entirely. For academics are, according to Fish, allowed to be political about the things that are appropriate to the academic enterprise. These include arguing about curriculum development, direction of research and the content of teaching. Neither is politics off the table when it comes to teaching – as long as it treated as a topic of inquiry subject to interrogation with the view to establishing the truth (which would inevitably be a rather local one), as opposed to a candidate for allegiance. The question to bear in mind for academics is thus ‘am I asking my students to produce or assess an account of a vexed political issue, or am I asking my students to pronounce on the issue?’ Thus, in the classroom, Fish’s approach insists that any matter is open to scrutiny and no matter ought to be excluded as long as it is the subject of analysis. Importantly, however, this is not an invitation to try and balance the content of what is ‘academicized’ by seeking to include a diverse range of political viewpoints. In doing so, Fish argues that such balancing ends up mandating politics rather than eliminating it.

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19 Ibid., 12-13.
20 Ibid., at 20.
21 Ibid., at 30.
22 Versions of Academic Freedom at 34-35.
To many UK-based academics this might seem straightforward and the context in which Fish’s defence of a deflationary and professional definition of what it means to be an academic arises may well be seen as a peculiarly American one; one which is notably different from that endorsed by prominent academics like Noam Chomsky and Richard Rorty.\(^\text{23}\) At least in so far as Rorty the political activist goes; for there is a significant amount of common ground between Fish and Rorty the philosopher, when Rorty declares that, in line with his general scepticism towards metaphysical propositions, academic freedom rests not on philosophical presuppositions and epistemological justifications but on social practices.\(^\text{24}\)

There is, however, one reason why Fish’s arguments resonate more deeply and ought to be considered more widely. Fish’s defence of academic virtues hinges exclusively on the internal commitment to a ‘guild’ which is committed to its very own practice, or job, which is that of the advancement of knowledge and search for truth. Again, this is what academics do in each of their separate disciplines; they strive to deliver ‘first-rate literary criticism’ or, from the lawyer’s point of view, legal analysis.\(^\text{25}\) For the lawyer, the commitment is thus one to the ‘inquiry into the intellectual coherence of rules and doctrines’, not one to higher goals such as ‘justice’, ‘political desirability’ or ‘cost-effectiveness’, even where these might be identified as aspirations for the law itself.\(^\text{26}\) This justification is thus entirely internal, and the academy can only do this if it is left to its own devises and practices. Fish argues:

Higher education is not valuable because of the benefit some nonacademics might see in it; that’s like valuing the theatre or art because they bring people into the inner city. Higher education is valuable (if it is) because of the particular pleasures it offers to those who are drawn to it...\(^\text{27}\)

This is noteworthy if for no other reason that it is exactly to such external pressures that the UK academic’s work is gradually being subjected. This is most noteworthy when it comes to the need for having to show socially or economically beneficial impacts associated with academic research under the Research Excellence Framework (REF). Increasingly, value is being attached to academic research on account of its societal benefit as opposed to the intrinsic account put forward by Fish; in some extreme cases to the extent that the


\(^{25}\) Versions of Academic Freedom at 132.

\(^{26}\) Ibid. at 134.

\(^{27}\) Ibid at 130.
academic research enterprise is shaped with the object of impact in mind, thereby detracting from the core purpose of inquiry. As Fish, rather bluntly, puts it elsewhere: ‘If you want to send a message that will be heard beyond the academy, get out of it.’ This of course is not to say that academic work never has or should not have any impact outside its own practice. But where this does happen, it ought to take place as an unintended consequence rather than a deliberate attempt to influence matters external to the academy. Specifically aiming at generating impact from academic research simply serves the purpose of instrumentalising the academic. In this context, it is worth noting that Fish’s critique of attempts to justify academic activities by reference to external factors stands aside from the often advanced critique of the ‘impact agenda’ on grounds that this is varyingly ‘neo-liberal’ or that it is urging academics to become door-to-door salesmen and women. While Fish would be equally despairing of attempts to link academic activities with commercial benefits, he does not single out commercial objectives for specific scorn, as a majority of the literature does, but is critical of external justifications end off; irrespective of whether these might be commercial, social or democratic.

A similar yet equally misunderstood pressure on the academic enterprise is felt when universities explicitly strive to reach beyond their immediate ‘users’ on account of being ‘civic universities’ or, from the point of view of a law school, a ‘liberal law school’. To Fish, and this reviewer is inclined to agree, these are ‘political rather than academic goals’. In seeking to explicitly engage in such activities, universities ‘are guilty both of practicing without a license and of defaulting on our professional responsibilities’. A particularly strong reason for paying attention to Fish’s arguments is that these are not shots fired from a characteristically disgruntled ivory tower academic (although Fish would likely wear this characterization as a badge of honour) who is frustrated by the trespassing on his time committed by administrative duties and longing for the time when academic influence was gained concurringly with and in the same manner as gout; simply by ‘sit[ting] tight and

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28 Professional Correctness above n. 3 at 2.
29 Rorty likewise agrees when he argues that ‘accumulated experience has taught us [...] that universities are unlikely to remain healthy and free once people outside the universities take a hand in redrawing [its] line[s].’ above n. 23 at 28.
32 Save the World on Your Own Time above n. 17 at 67.
33 Ibid.
drink[ing] port wine’.  

Instead, Fish’s criticism comes from someone who has served as an academic administrator for several years.  

Perhaps ironically, a further justification for Fish’s minimalist ‘It’s just a job school’ can be found in the so-called ‘commodification’ of higher education now firmly established in the UK. In a situation where the primary burden of financing the ‘goods’ falls on the student, who thereby funds the acquisition of whatever skills each academic discipline is dispensing, it might well be more reasonable for the academic institution to focus exclusively on developing and supporting those skills rather than focusing on external matters such as engagement and impact.

Having said that, many readers will likely find something to disagree with in Fish’s account of academic freedom. If nothing else, Fish’s self-assuredness will likely be off-putting to some, and several of his opinions on other aspects of the academic enterprise remain highly controversial, to say the least. These views include an opposition to blind journal submission on the following reasoning: ‘I am against blind submission because the fact that my name is attached to an article greatly increases its chances of getting accepted.’

Similarly, Fish’s honest and forthright criticism of the extensive use of student evaluation on account of the practical inability of students (for good reasons) to ‘defer judgement’ is, while likely to fall on deaf ears, refreshing.

At times, one gets the impression that Fish’s portrayal of the schools of thought and academic freedom with which he disagrees accords with the oppositional strategy of ‘simplifying and exaggerating’ any disagreeable characteristics. Similarly, Fish’s argument for an academy anchored in a seemingly neutral disposition of ‘academicizing’ may seem at odds with much of what Fish has spent most of his career in arguing, for he has famously sought to dispel the myth of neutral procedures and principles as these are varyingly put forward and incorporated in, for example, liberalism and pragmatism, on account of there

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35 Fish was dean of the College of Liberal Arts and Sciences at the University of Illinois at Chicago from 1999-2004 and before that chairman of the English department at Duke University. At Duke, Fish’s tenure has, however, varyingly been described as transforming the department into ‘the professional powerhouse of the day’ and for resting on the ‘hiring [of] celebrity couples’. See D Yaffe, ‘The Department that Fell to Earth: The Deflation of Duke English’ Lingua Franca: The Review of Academic Life, vol. 9(1) Feb 1999 24-31 and ‘The Indefensible Stanley Fish’, Slate Magazine December 27, 1999 available at http://www.slate.com/articles/news_and_politics/culturebox/1999/12/the_indefensible_stanley_fish.single.html (accessed 14 January, 2015).


being no neutral ground from which one can gain a vantage point over specific matters. Thus, Fish has in the past alerted us to what he calls the intolerance of liberalism by asking ‘where does reason come from?’ The answer to the question is, to Fish (and this reviewer is inclined to agree), that reason ‘will always be a matter of faith’; in other words, ‘every church is orthodox to itself’ and in trying to strike a balance between competing ‘reasons’ there is no impartial and inherently tolerant process for deciding. For ‘procedural rules always have content and…specifying them will always be a matter of substantive judgement’. Importantly, this argument is increasingly being accentuated by a wealth of empirical evidence from disciplines such as social psychology and behavioural economics, supporting the claim that seemingly innocuous pieces of information are interpreted and processed in accordance with pre-conceived cognitive biases.

Notwithstanding this, *Versions of Academic Freedom* is a highly enlightening and engaging read written with the typical contrarian penchant and tongue-in-cheek vigour that are Fish’s trademark. More importantly, it exerts a pressure on the thoughtful reader, forcing her/him to reflect on where she/he stands on this rather important matter. In doing so, Fish pays homage to what can be described as the most important role of the modern public intellectual: ‘to question over and over again what is postulated as self-evident, to disturb people’s mental habits, the way they do and think things, to dissipate what is familiar and accepted’ and ‘to be opinionated, judgmental, sometimes condescending, and often waspish’; qualities which are all the more important when, on one analysis, universities cease being centres of critique. So, even if for no other reason, Fish’s account of academic freedom is worth reading because it is thought-provoking, engaging and humorous. After all, who else might get away with writing, with an equal measure of self-aggrandisement and self-debasement, that academics want to be downtrodden and oppressed; for ‘in the psychic

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38 See e.g. ‘Liberalism Doesn’t Exist’ in *There’s no Such thing as Free Speech* (New York: Oxford University Press, 1994) 134-138.
40 Ibid., at 136
41 Fish ‘Mission Impossible’ above n. 38 at 180.
42 Ibid., at 168 anglicised.
economy of the academy, oppression is the sign of virtue [... making academics] indistinguishable from the faces of medieval martyrs. 46

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46 ‘The Unbearable Ugliness of Volvos’ in There’s No Such Thing as Free Speech above n. 37, 273-279 at 276.