

# Academic freedom: can history be our guide?

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Over the years, academic freedom has been both recognized and constrained, based on the particular historical context.

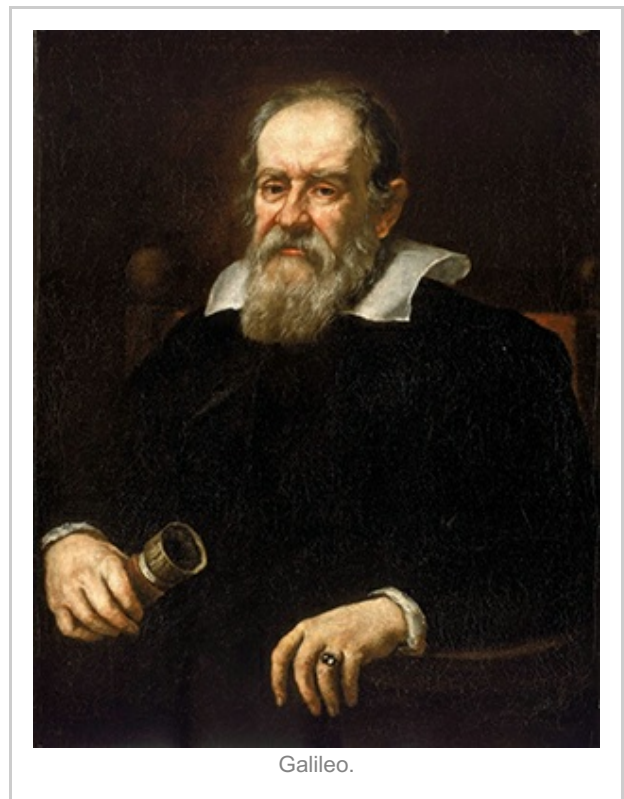
Academic freedom, like freedom itself, is not absolute. There are conditions and qualifications around both the theory and exercise of this pivotal university concept. Some of these constraints pertain to particular historical circumstances and are no longer germane or legitimate. Other limitations are understandable and defensible. How do we know which is which? History, I think, can be our guide.

The contemporary western university has its origins in Europe of the Middle Ages. By the 15th century the *universitas* – literally, a “community of scholars” – had been established throughout Europe and functioned under papal authority. A form of academic freedom existed, in practice if not in theory. There were deep debates over theology and philosophy that consumed the intellectual energies of medieval scholars. Faith in God was a given and the learning of received religious texts was essential.

Inspired by classical Greek thought, some Renaissance writers and artists sought to free scholarship from conventional restraints in order to explore the full range of human beliefs and actions. However, universities remained, for the most part, unreceptive to such pleas, as the conviction of Galileo for heresy demonstrated. The Protestant Reformation broadened the parameters of acceptable religious inquiry but still imposed strict theological limits on academic teaching and writing.

Doors opened considerably to scientific thought and critical inquiry during the Enlightenment. Scottish universities were especially receptive to newer philosophical perspectives by such scholars as David Hume, whose skeptical thinking challenged both theological and recent materialist ideas about the nature of reality. But such tolerance was not universal and not all Enlightenment intellectuals, or their ideas, were welcomed in the halls of higher learning.

The 19th century witnessed extensive change in the development of higher education. Church-led universities endured, especially in North America, but state-funded, non-denominational



Galileo.

colleges spread rapidly throughout Europe and the United States, and to a lesser extent in England.

In the early 20th century, as industrialization fueled the expansion of universities' economic and social roles, they depended increasingly on private and public funding sources – the latter were especially important in Canada. Could academics openly criticize their institutions' leaders, patrons or sponsors? Most university presidents said no, an attitude that led to considerable conflict and, in the U.S., to the formation of the American Association of University Professors in 1915. The Canadian Association of University Teachers, or CAUT, came to life in 1951.

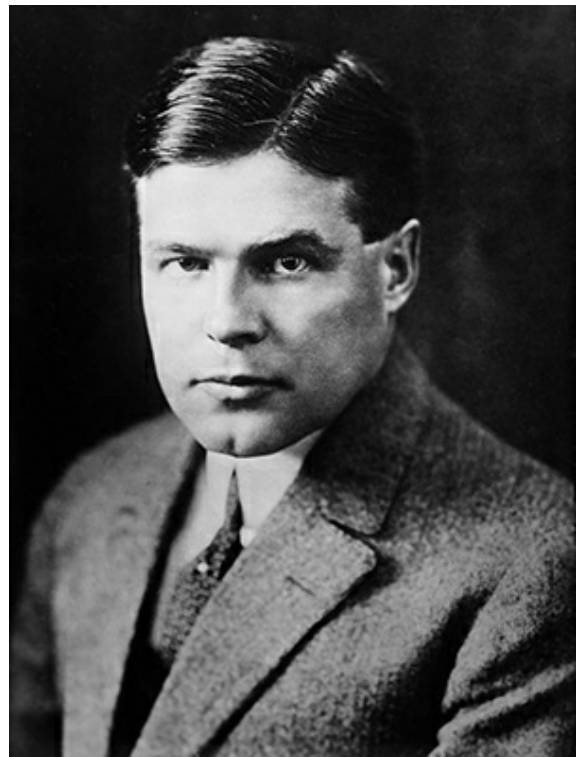
## Order and stability

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The concern for moral and intellectual order informed the purposes and regulations of Canadian universities in the first half of the 20th century. University of Toronto historian George Wrong claimed in 1931 that, “in the main the universities of the western world are strongholds of conservative thought and a steadying influence on our society.” While this era produced some extraordinary university scholars, qualifications on academic expression were palpable. Sir Edward Beatty, chancellor of McGill University, wrote a lengthy, thoughtful and logically tenuous article on academic freedom that, on the one hand, defended freedom of thought as “sacred,” and on the other claimed that there were “limits within which these liberties may be exercised and that to exceed [them] was not only foolish but wrong.”

Provoking political authorities or donors was one academic sin; promoting the cause of socialism in a world worried about the prospects of insurgent Bolshevism was another. Two McGill professors, including future senator and constitutional expert Eugene Forsey, were let go for these reasons, and U of T historian Frank Underhill, who criticized Canadian foreign policy before and during the Second World War, barely held on to his position at the university.

Academic voices were contained and excluded in other ways. Reflecting and perpetuating dominant social prejudices, Canadian universities almost never hired Jews, and several imposed quotas on the admission of Jewish students during the 1930s and 40s. People of colour were virtually absent, and women, if hired at all, were paid little and rarely promoted. Canadian



Sir Edward Beatty.

universities, including the non-denominational ones, were culturally, religiously, ideologically and demographically homogenous before the 1960s. Academic freedom was both recognized and constrained.

## Social justice and the '60s

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Such constraints were successfully challenged in the wake of the social and cultural changes that swept through higher education in the 1960s. Student activists insisted on the full right to free expression, greater curricular choice, deeper involvement in university governance, and the responsibility of universities themselves to promote social justice both inside and outside their walls. Faculty obtained more authority through university senates, stronger academic freedom provisions, and clearer protocols with respect to hiring, tenure and promotion. Human rights legislation, including eventually the Canadian Charter of Rights and Freedoms, prohibited discrimination on the basis of gender, race and religion.

The CAUT's updated definition of academic freedom was largely embraced by faculty and administrators alike across the country. It includes, among other things, "the right, without restriction by prescribed doctrine, to freedom to teach and discuss," and the "freedom to express one's opinion about the institution, its administration, and the system in which one works."

Had scholarly nirvana finally arrived? Was academic freedom now genuinely unconditional? Not really. While much of Universities Canada's conception of academic freedom closely resembles that of CAUT's, it includes a section on the "Responsibilities of Academic Freedom." Key to that section is the caveat that academic freedom "is constrained by the professional standards of the relevant discipline and the responsibility of the institution to organize its academic mission."

This means that professors are not free to teach anything they want. Courses must be vetted and approved by departmental committees composed of one's colleagues, and to get one's course on the books a professor may have to alter that content. Consider as well that faculty cannot publish anything and everything they research and write. They are subject to peer review, and their voices could well be muted by assessors and journal editors who, theoretically, are the gatekeepers of scholarly standards. What's more, their status as knowledge arbiters is increasingly in question in the internet age, where bogus journals abound and authors are charged exorbitant fees to publish their work.

## Individual versus group rights

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The post-1960s pursuit of social justice and equality for historically marginalized populations, to which many in universities were and remain committed, required the consideration of group as well as individual interests – a tension that is continuously addressed outside universities (by law and regulation) in liberal democratic societies. In the past, collective rights – the privileging of men and Christians over women and non-Christians in universities – protected the social advantage of dominant groups; in the contemporary period, collective or group rights

are intended to enhance the equal and just treatment of all.

Philosophers Will Kymlicka, Charles Taylor and Martha Nussbaum have provided influential explanations and justifications for the use of such policy instruments, as did the 1984 Royal Commission Report, *Equality in Employment* (PDF), by Justice Rosalie Abella. Individual and group rights in liberal democratic societies, they have argued, can be reconciled. Affirmative action and employment equity programs in universities and elsewhere became legitimate legal tools in the pursuit of equality for individuals, and for the identified groups of which they are members. This is a critically important context in which academic freedom debates are conducted and, often uncomfortably, played out. The numerous conflicts on North American campuses since the 1980s, over what has unfortunately come to be called “political correctness,” indicates how fraught the academic freedom debates can still be.

## Threats from both ends of the spectrum

The main threats to academic freedom, tolerance and civil discourse today come primarily from two forces on opposite ends of the ideological spectrum. On the left are those, a minority I believe, who seek to silence individuals considered enemies of equity, which is increasingly deemed to be a core value of higher education. Take the confrontations, for example, that occurred last year at University of California, Berkeley, involving conservatives Milo Yiannopoulos and Ann Coulter, whose scheduled speeches were cancelled because of violence and threats of further violence if the events went ahead. A planned speech by Ms. Coulter at the University of Ottawa in 2010 was similarly cancelled due to security concerns. Campus activism in the 1960s justifiably removed most restraints on campus speech, but some militant students sought to limit the voices of those who did not share their social change or social justice agendas, something we are again witnessing.



Coercive actions intended to silence speakers on a university campus – whatever the cause – were wrong in the past and, in my view, are wrong now. Even if universities, for security reasons, do cancel such planned addresses, they should publicly reproach and seek to discipline the silencers. They should resolutely maintain the principle that the forced suppression of legal speech is unacceptable.

The other threat to the university's core values comes from the far right by advocates – including Mr. Yiannopoulos and others – who, in the name of freedom of speech, oppose all restraints on expression. By this logic, racist and sexist language should be permitted on campus and any effort to control such speech is nothing more than political correctness gone awry.

Then there are right-wing activists, through such vehicles as Campus Reform and Professor Watchlist, who actually do want to regulate thought and speech on campus and rid universities of those who “advance leftist propaganda in the classroom.” One Texas journalism professor (of some 200 on the Watchlist) was included for arguing in an essay “that deep-seated patriarchal attributes such as aggression and control have contributed to rape culture.” Such dogmatism and public shaming is reminiscent of McCarthyism, and it has led to threats and vile email campaigns against targeted faculty.

Canadian universities, in consultation with campus and/or provincial human rights offices, have sought to delineate inappropriate or unacceptable forms of expression through such tools as student or faculty codes of behaviour. Student councils, too, often less prudently, have proscribed “offensive” campus events. None of this has prevented, and some of it has caused, the kind of controversy that keeps provosts awake, and possibly at their offices, in the middle of the night.

## The battle over pronouns

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No one will soon forget the episode this past fall at Wilfrid Laurier University, where Lindsay Shepherd, a teaching assistant in communications, was rebuked by the course director, the program chair and the manager of the university's gendered and sexual violence prevention and support office, for showing a clip from a televised debate between U of T professors Jordan Peterson and Nicolas Matte on the topic of non-gendered pronouns. The tape of Ms. Shepherd's dressing down, on the grounds that the subject really wasn't debatable, exposed Laurier to a flurry of media censure. The incident, which led to the university formally apologizing to Ms. Shepherd, was fodder for *Globe and Mail* columnist Margaret Wente, who claimed that universities have become venues “where free speech goes to die.” If such exaggerated perceptions become the perceived norm, higher education is in deep trouble.

Few cultural warriors are as visible as Dr. Peterson, who has refused to use unconventional gender-neutral pronouns in his presentations and publications. He especially objects to interpretations of the Ontario Human Rights Code which would deem him guilty of gender-based discrimination, and to the terms of the federal Bill C-16, which “proposes to outlaw harassment and discrimination based on gender identity and gender expression under the Canadian Human Rights Act and the Criminal Code.”

Language evolves – the terms Ms. and Chair (for chairman), for example, were unknown in my youth; they are now in common usage. It is conceivable that in the near future gender-neutral pronouns will be in everyday use. Notwithstanding Dr. Peterson's scholarly and political claims, if university senates believe that the cause of equity is served by the use of such pronouns,

they and their equity offices, their faculty, even their presidents and vice-presidents, are entitled to say so. But I would stop short of legislating such a change. Let this matter be addressed educationally, through continuous, vigorous dialogue, not coercion. This, in the end, is the central principle that I believe must be upheld.

## The spread of white supremacy

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Let me reference one final campus confrontation which erupted last August: the frightening and violent episode in Charlottesville at the University of Virginia, where white supremacists marched and chanted fascist slogans and where a counter-demonstrator was killed by a Nazi sympathizer. It raises the troubling question that universities will undoubtedly face if they haven't already: should white supremacist meetings and demonstrations be allowed on Canadian campuses?

Canada has hate speech laws (sections 318 and 319 of the Criminal Code) which ban speech that promotes genocide, and which "incites hatred against any identifiable group where such incitement is likely to lead to a breach of the peace." This law, conceivably, could be used to prevent Charlottesville-like demonstrations in Canada.

If such marches and speeches must be permitted, university leaders, in my view, should strongly denounce the intolerance and racism that these groups promote as inimical to the core values of their universities. To keep the peace, if at all possible, discussions with the speakers and counter protesters should be held in advance of the events, and police should probably be involved in such negotiations.

Although Canadian law gives authorities more latitude than their American counterparts to contain the public expression of hate, these restraints will certainly be tested by opponents of multiculturalism and other equity-driven practices. These ugly politics may prove to be historically cyclical and fade with the eventual ex-presidency of Donald Trump. But, for now, vigilance against overt expressions of hate directed at racial, religious and gender-identified groups, on and off our campuses, is essential. Teaching and learning cannot carry on in the absence of civil discourse and political tolerance, or amid raging prejudice. Universities should work together in crafting appropriate language and policies on these matters because, as we have seen, mistakes are made when institutions attempt to do this in the midst of a free speech "crisis."

Academic freedom and freedom of speech are not absolute and do not exist in a social vacuum. They are shaped by and adapt to particular historical contexts. Their fundamental purpose is to facilitate the widest possible scope for expression by professors and students. The recent and entirely defensible commitment to equity and cultural diversity on campuses can affect, to some degree, the conduct of university relationships, including the use of language. Prohibitions on racism, sexism and harassment are wholly justifiable.

But behavioural regulations can be too wide-ranging, ineptly applied, or taken to the extreme by zealous advocates who seek to silence rather than intellectually engage their adversaries. In such a polarized age, universities should uphold the fundamental values of liberal education by asserting, through their policies and practices, the reasonable, rational and arguably radical middle ground. The future of our institutions, and possibly of civil society itself, requires it.

*Parts of this article were drawn from an address in October 2017 to the National Vice-Presidents Academic Council, and from articles published previously in [Policy Options](#) and the [Toronto Star](#). Paul Axelrod, an educational historian, is a retired York University professor and the author or editor of nine books on schooling and postsecondary education.*