



Academic Freedom and Narratives of Transgender Identity

Peter Ives

Several of the other contributors to this round-table — Lara Rae, Jarvis Brownlie, Noah Schulz – have noted that Professor Joanne Boucher’s talk, “The Commodification of the Human Body: The Case of Transgender Identities,” raises issues of free speech and academic freedom. The media coverage of the event and the statement issued by the University of Winnipeg presented the question in a standard framework that pits the support of a “healthy and inclusive society” and respect and support of the members of our 2SLGBTQ+ community against free speech and academic freedom.¹ In this case, the University of Winnipeg seems to have ‘balanced’ those competing ideals by siding with the latter, with many feeling the former was sacrificed.

My comments here hope to show how this opposition of the health, safety, and inclusion of trans people on one hand, against academic freedom on the other, is problematic, limiting, and undermining of both the targets of transphobia and the core principle and purpose of the university. First off, this typical framing of such controversies depends on conflating academic freedom and free expression weakening the power of both. Moreover, I argue, it construes academic freedom as a shield behind which harmful ignorance concerning trans identities and healthcare can flourish.² We must resist such understandings of academic freedom. It creates a version of blaming the victims by encouraging negligence in academic processes that should prevent such situations.

After students and others raised concern about the advertised public talk in the Political Science Department’s Speakers Series, the President’s Office issued a Statement on behalf of the University of Winnipeg that ostensibly explained why it is not “intervening” despite calls to “stop” this talk. The rest of the Statement reads much like similar proclamations issued by universities concerning commitments to freedom in the open pursuit of knowledge while respecting diversity and inclusion.

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It goes a little further declaring these “values are informed by the Canadian Charter of Rights and Freedoms.” This is example of the common conflation of academic freedom and the Charter right to free expression.³ It obscures the fact that the Supreme Court of Canada ruled that the Charter does not apply to universities, as they are autonomous institutions not part of the government (see *McKinney v. University of Guelph*, 1990).⁴ More importantly, both the Charter protections of individuals’ free expression from government infringement, as well as more general ideals of free speech are quite distinct from academic freedom. The values that “inform” academic freedom, that is the pursuit of knowledge by academics adjudicated by academics would diminish the type of openness that the Charter free expression requires.

Of course, Joanne Boucher, like any other individual, must be allowed to express themselves in public as long as it does not harm others. This is the right that the Charter provides us and is central to a free democratic society. The political point of the Charter is that the government should not be discerning whether such speech is valuable, or silly, ridiculous, or incoherent. If others are not harmed, such expression must be allowed. Laws such as those against defamation, copyright, and hate speech are the only limitations on individual expression.

A university, however, is not and cannot abide such an inability to pass judgements on the quality of ideas. As historian Joan Wallach Scott argues in the American context, “[a]cademic freedom is highly specific to institutions of scholarly research and teaching; it is not, like liberty or equality, a universal human right. It is not a general right to free speech, although the two are often confused.”⁵ Stanley Fish, a literary theorist and prominent American intellectual, explains that competence, accuracy, and relevancy are the core academic values that need to guide academic freedom. For any university to abandon the ideals of competence, accuracy and relevancy, Fish argues, is a “colossal failure.”⁶ As professors and authors Michael Bérubé and Jennifer Ruth insist, “some ideas don’t deserve a hearing, and one of the primary roles of the university is to distinguish between those that do—and should continue to be explored and built upon—and those that should not be seriously entertained by any legitimate institution of higher education. Conflating free speech with academic freedom obscures this basic truth.”⁷

Unlike free expression granted by the Charter, Professor Boucher has academic freedom based on her position as a faculty member and due to the Collective Agreement between that Association and the University administration for Regular Academic Staff (2016-2020). It may sound similar to free expression in that it states, “Academic freedom includes the right, without restriction by prescribed doctrine, to learn; freedom to teach and discuss; freedom to carry out research and

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disseminate and publish the results thereof...” However, academic freedom includes a key ingredient that if applied to our Charter right to free expression would be politically dangerous. That is, again as described in the Collective Agreement: “The credibility and acceptability of the principle of academic freedom depends in part upon the freedom being used in a manner consistent with the scholarly obligation to base research and teaching on an honest search for knowledge. Academic freedom implies a respect for the rights of others, a tolerance of other points of view and a duty to use that freedom in a responsible manner.”⁸

Unlike free expression, academic freedom is a central principle within an academic system of knowledge production and teaching that includes peer-review, where other scholars evaluate work based on their expertise in the fields involved, ethics reviews, and other assessments such as University Senate curriculum committees, to judge the quality, appropriateness, and validity of the ideas being expressed. Such processes increasingly require that the communities being studied are consulted in the research, in this case people in the trans community. While in the case of public talks like this one, presented by a university department under the logo of the University often do not involve as clear an adjudication processes as academic publications or course proposals, academic freedom does not give any faculty member a right to expound about whatever they wish from a university platform. To my knowledge, Professor Boucher does not have any peer-reviewed publications or research grants concerning issues of transgender health. Her talk did not engage with the academic peer-reviewed research on trans gender identities. Moreover, she was not invited by nor approved to give this talk by the Political Science Department’s Speakers Series Committee that would usually be responsible to make such judgements. Rather, the Department Chair decided that Professor Boucher should be given this platform, against the considerations of the Speakers Series Committee. These may seem like minor details; however, they show how once the controversy erupted with media coverage, a petition launched, and counter-events planned, the University President’s Office was faced with problematic options; remaining silent, issuing a statement, or cancelling the talk. Ideally, the President’s Office would have gone some way towards educating the community about how such decisions should be made. However, much of the damage had already been done as students and others explained in the media. Moreover, the Statement made matters worse conflating the principles of academic freedom and free expression.

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This resulted in the university providing a venue that legitimated ideas that are misguided and harmful, as many of my co-contributors here have discussed. It did very little to contribute to serious investigation of the commodification of healthcare for trans people. It did not draw

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on the relevant academic scholarship in the field, nor engage the trans community. These are more than criticisms of an academic talk, but as my other contributors have noted, they feed into harmful narratives of trans gender identity as an identity to be questioned and doubted. The University of Winnipeg as an academic community needs to do better than this, not by asking the President's Office to adjudicate whether a given talk should be permitted to occur or not, but by taking greater responsibility in the pursuit of knowledge.

About the Author



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- [4] See *McKinney v. University of Guelph*, 1990, <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/687/index.do>
- [5] Joan Wallach Scott, *Knowledge, Power, and Academic Freedom* (New York: Columbia University Press, 2019), 95.
- [6] Stanley Fish, *The First* (New York: Atria, 2020), 67-68.
- [7] Michael Bérubé and Jennifer Ruth, "When Professors' Speech is Disqualifying," *The New Republic*, 21 March 2022, <https://newrepublic.com/article/165649/professors-speech-disqualifying>, accessed 23 April 2022. See also Michael Bérubé and Jennifer Ruth, *It's Not Free Speech: Race, Democracy, and the Future of Academic Freedom* (Baltimore: Johns Hopkins University Press, 2022).
- [8] *Collective Agreement Between the University of Winnipeg and the University of Winnipeg Faculty Association, 2016-2020*, <https://uwfa.ca/wp-content/uploads/2021/01/WebFinalUWFFARAS2016-2020.pdf>