

# Israel/Palestine and the paradoxes of academic freedom

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In the last few years, two separate debates on academic freedom have emerged in the United States, and both of them have Israel/Palestine at their centre. The first has to do with arguments against the academic boycott of Israeli institutions on grounds of academic freedom, and the second has to do with the new Academic Bill of Rights, sponsored by David Horowitz, which maintains that the classroom should present balancing points of view on political issues and that the faculty should represent a balanced spectrum of such points of view.<sup>1</sup>

I shall consider both of these debates. In the case of the boycott, a clear paradox emerged in which 'academic freedom' became the principle under which many people opposed the boycott, arguing that academic freedom involves the free circulation of ideas and scholars across national boundaries and without discriminating on the basis of nationality. The fear that some Israelis who strongly oppose the Occupation might be exempted from the boycott produced the response that there would be 'lists' distinguishing good and bad Israelis. These conjectured 'lists' clearly constituted, in the minds of some, discrimination on the basis of political viewpoints. The American Association of University Professors (AAUP) published their objection in the spring of this year, arguing that the resolutions originally passed by the British Association of University Teachers (AUT) 'damage academic freedom'. As will be remembered, those resolutions called for a boycott against two specific institutions of higher learning, Haifa University and Bar Ilan University. The AAUP noted that the boycott excluded 'conscientious Israeli academics and intellectuals opposed to their state's colonial and racist policies', and on the basis of what appeared to be an ideological litmus test the AAUP concluded that the exclusion, and the standard of judgement it implied, 'deepens the injury to academic freedom rather than mitigates it'.

We can see in the AAUP's first point that boycotts based on an ideological or political viewpoint are considered abrogations of academic freedom, and that the positive principle at stake is that academic exchange ought to be freely conducted without instituting standards of inclusion and exclusion on the basis of political viewpoints. Yet the AAUP, in a second paragraph, makes another point, and this is one that underwrites First Amendment jurisprudence in the United States. They write,

since its founding in 1915, the AAUP has been committed to preserving and advancing the free exchange of ideas among academics irrespective of governmental policies and however unpalatable those policies may be viewed. We reject proposals that curtail the freedom of teachers and researchers to engage in work with academic colleagues, and we reaffirm the paramount importance of the freest possible international movement of scholars and ideas. The AAUP urges the AUT to support the right of all in the academic community to communicate freely with other academics on matters of professional interest.

Here we find a substantive notion of freedom at work, one in which academics are (a) free to exchange ideas, (b) free to move across national boundaries or, at least, have ideas that are free to move across national borders, and, finally, (c) free to communicate with other academics on shared matters of professional concern.

Whether the AAUP was right to oppose the boycott is not my concern here. There are intelligent positions on both sides, and I am less interested in settling the question than in thinking about the different conceptions of academic freedom at work in the debate itself. I will begin with two relatively narrow questions and then move in the course of my reflections to the broader politics involved. First, then, what version of academic freedom is at stake here and, more particularly, how are freedom of movement and communication cir-

cumscribed and defined by a particular conception of academic freedom? Second, do debates on academic freedom constitute something of a displacement of political analysis away from both focus on the devastation of Palestinian educational institutions and, in the US and UK, the heightened regulatory powers of the state as well as non-state institutions, such as the Ford and Rockefeller foundations.

## Lists

One of the arguments against those who opposed the boycott on grounds of academic freedom was that there is no effective academic freedom for Palestinian students in the occupied territories: students and faculty at institutions on the West Bank are regularly stopped at checkpoints and fail to get to class; they are often without fundamental material support for schooling, even lacking classrooms and basic supplies, and are subject to sudden closures that make the idea of a completed ‘semester’ almost unthinkable. Indeed, substantive notions of freedom of ‘movement’ and freedom of ‘communication’ are systematically undermined under such conditions.

Now this counter-argument does not precisely rebuff the opposition to the boycott based on academic freedom, since it does not address the first principle articulated by the AAUP regarding an ideological litmus test separating those who will be boycotted and those who will not. The argument that the conditions of Occupation more seriously hamper the educational life of Palestinians than any boycott of Israeli academics possibly could seems true enough. But that argument does not answer the criticism that the boycott would be applied differentially on Israelis depending on what viewpoints they hold. It is this last point that provokes defenders of academic freedom, since, in their view, suspending academic rights on the basis of political viewpoint is unacceptable. In fact, the language of the boycott recommends an exemption from the boycott for those who actively oppose the Occupation. Actively opposing the boycott indicates not just a set of beliefs, but an active and ongoing set of practices against the Occupation. Still, the question of who would judge which academics actively (enough) oppose the Occupation, and then distinguish them from those who only occasionally oppose or fail to oppose at all, left open a void into which the fears of a renewed McCarthyism proceeded to gather and foment.

My sense is that the boycott drafters sought to keep the question of how such distinctions would be made and enforced deliberately open, leaving it to the discretion of those who implemented the boycott. The effort

not to be overly prescriptive, however, gave way to grave concern over how such distinguishing lists would be drawn up and enforced. Since the boycott language in its most recent version was aimed at institutions, and not individuals or nationalities, the provision that anti-Occupation Israelis would be exempt immediately reintroduced the problem of discrimination on the basis of political viewpoints. This is perhaps ironic since many of the Israelis most vocal in their opposition to the Occupation, such as Ilan Pappé, were also those who were saying ‘boycott me!’ But many anti-Occupation Israelis were not of that persuasion. Is there, then, ground for bringing together these various positions that oppose the Occupation and that clearly oppose as well the devastation of Palestinian institutions of higher learning? The question remains: how can we now help to formulate a framework in which competing concerns for academic freedom might be rejoined in a set of mutually supportive political projects?

One stumbling block surely centres on the question of whether academic freedom should, like the first amendment of the US Constitution, be understood as one right among several that has to be adjudicated. Omar Barghouti, who, along with Lisa Taraki, helped to formulate the terms of the boycott and is a founding member of the Palestinian Campaign for the Academic and Cultural Boycott of Israel, makes clear that academic freedom is sometimes in conflict with basic human rights, and that when such conflicts occur it must be that basic human rights are the more important good to defend. He writes in response to the repeal of the vote in favour of the boycott at the British AUT:

Freedom to produce and exchange knowledge and ideas was deemed sacrosanct regardless of the prevailing conditions. There are two key faults in this argument. It is inherently biased – regarding as worthy only the academic freedom of Israelis. The fact that Palestinians are denied basic rights as well as academic freedom due to Israel’s military occupation is lost on those parroting it. And its privileging of academic freedom as a value above all other freedoms is antithetical to the very foundation of human rights. The right to live, and freedom from subjugation and colonial rule, to name a few, must be of more import than academic freedom. If the latter contributes in any way to suppression of the former, more fundamental rights, it must give way. If the struggle to attain the former necessitates a level of restraint on the latter, then so be it.

Barghouti makes two separate claims here: the first is a call to revise and expand our operative notions of academic freedom; the second is to consider that academic freedom is not, as some First Amendment absolutists might claim, a social good that is always

more important than most, and so should not be pre-empted by other goods, such as human rights. He makes the first claim when he argues that the anti-boycott movement addresses only the academic freedom of Israelis, but not those of Palestinians. According to this argument, we would expect that he would be in favour of extending the protections of academic freedom to Palestinians as well, and so favour a more inclusive version of the doctrine across national borders and along egalitarian lines. Such a move would address the accusation of ‘hypocrisy’ that both he and Lisa Taraki have noted characterize the Israeli response to the boycott where the academic freedom of Israelis under the terms of the boycott appears to be more important than the abrogations of academic freedom within the Palestinian territories.

In his second point, however, we are asked to understand the place and relative importance of academic freedom in light of more fundamental rights and, indeed, within a broader set of freedoms understood as basic human rights. It is this last that interests me, not only because it asks us to consider the relative place of academic freedom in light of all other human freedoms in need of protection, but because it implicitly suggests that academic freedom only gains its meaning within a broader conception of freedom on the condition that other basic political entitlements are first secured. This latter suggests that academic freedom is essentially linked to other kinds of freedoms and entitlements and comes to make sense as a doctrine only in the context where these other broader freedoms are actively articulated and secured. Whereas Barghouti ends up arguing against academic freedom as the highest good, maintaining that the freedom to produce and exchange knowledge and ideas should sometimes be considered secondary to other, more fundamental human rights, it seems to me that there emerge several other conclusions to his analysis as well.

(1) The new formulation of an academic-freedom argument that insists that academic freedom requires and consists in the workable material infrastructure of educational institutions and the ability to travel without impediment and without harassment to educational sites; by linking academic freedom to the right to be free from violent threats and arbitrary detentions and delays, one would effectively be saying that the very idea of academic freedom makes no sense and its exercise is foreclosed by the conditions of Occupation. This would be a way of affirming that academic freedom is essentially linked with other kinds of protections and rights and cannot be separated out from them.<sup>2</sup>

(2) When academic freedom becomes a question of abstract right alone, we miss the opportunity to consider how academic freedom debates more generally – and here I would include both pro- and anti-boycott debates – deflect from the broader political problem of how to address the destruction of infrastructure, civil society, cultural and intellectual life under the conditions of the Occupation. As much as rights, considered as universal, have to be imagined transculturally and transpolitically, they also bring with their assertion certain geopolitical presuppositions, if not geopolitical imaginaries, that may not be at all appropriate for the situation at hand.

After all, if Palestinians cannot assume that Birzeit University will remain open, that books can be ordered and arrive, that a class can meet, and if they cannot assume this because of the enormous delays and harassment that takes place at the checkpoints and because the economic conditions of Palestine and Palestinian universities are abysmal, then clearly there are no means through which to exercise academic freedom, no means by which to secure mobility, and no abiding material conditions that would make possible the expression and communication of ideas either between faculty and students or between colleagues who teach at different institutions within the occupied territories. Witness the enormous difficulty that Faculty For Israeli Palestinian Peace has had in trying, with MIFTAH, to secure visas for Palestinian academics to come to these events in London, much less in Jerusalem. According to the website [right2edu](http://right2edu.org) maintained by Birzeit,

between 1973 and 1992, Birzeit University was closed on fifteen separate occasions, a time period amounting to over seven years when aggregated. Hebron University had suffered a similar length of closure up until the Israeli army reoccupied the West Bank cities as part its ‘operation defensive shield’ in 2002. Soon after, in January 2003, Hebron University and Palestine Polytechnic University (PPU) in al-Khalil were both summarily closed down by military order (initially for fourteen days). These closures lasted for months – well beyond any plausible security motivation – until in June 2003 Hebron University students invaded and occupied their campus, demanding its reopening. Classes resumed on part of the campus until soldiers reinforced the embargo with an extended military order, closing both institutions for a second time on 30 July 2003. The Universities resumed teaching in August.

The reopenings, however, have not proceeded without continued harassment. Some other facts seem relevant here:

New students enrolling at Birzeit University from the Jenin governorate in the northern West Bank, for example, had declined by 100% by 2004 – that is, ceased entirely.... For the academic year 2002–3, An-Najah University reported that 1574 students were unable to register (over 15% of the University's student population) due largely to the hazards of and costs incurred from military occupation. From September 2000 to July 2004, a total of 196 university and college students and 38 school teachers and university employees had died.<sup>3</sup>

Students from Gaza are currently denied access to West Bank universities, establishing a very deleterious situation for thousands of Gazans who have been able in the past to study in the West Bank. The shut-down of travel between Gaza and the West Bank has for many students left only the Islamic University, run by Hamas, as the sole option for education.

Can contemporary formulations of academic freedom address these conditions of occupation, and should they? After all, we could say that these are terrible circumstances and ought to be addressed by other means, but that, strictly speaking, these are not matters of academic freedom. If the very capacity to exercise rights of academic freedom, however, is undermined by these conditions, then the inability to exercise a right constitutes a negation of the right in advance; in other words, these rights are, we might say, abrogated through foreclosure and pre-emption. They are not asserted and then restrained: rather, they have from the start no opportunity to be asserted. Or if they begin to be asserted, they are violently denied. If the discourse of academic freedom cannot rise to this occasion, able to condemn widespread abrogation of rights, then to what extent is the discourse and practice of academic freedom involved in shielding such conditions, deflecting attention from them, and thus perpetuating them?

So it may seem that I am simply arguing for abstract rights to be reconsidered as *material* ones, or, rather, that I am demonstrating that the exercise of abstract rights of exchange, production and movement, of both persons and ideas, requires that certain material conditions first be secured. That is, indeed, part of what I am maintaining – but only part. The problem with that kind of analysis is that it continues to think of 'freedom' as something exercised on the *basis of* material conditions; it is not yet a material conception of freedom. If someone is unable to travel to the university because of checkpoints, sudden closures, harassment and acts of reckless violence by the Israeli military forces, then it is not possible to say that such a person is free, but under the present circumstances

not actually able to exercise that freedom. The freedom whereof we speak consists in its exercise and maintains no other abstract or metaphysical status apart from the acts and practices by which it is exercised again and again. By this, I do not mean to say that we cannot invoke academic freedom in the abstract to show its absence in certain political conditions: we can and we must. But it makes no sense to value the doctrine in the abstract if we cannot call for its implementation. As an abstraction, it makes sense only in reference to the possibility of its implementation. If the exercise of academic freedom ceases or is actively thwarted, that freedom is lost, which is why checkpoints are and should be an issue for anyone who defends a notion of academic freedom.

### 'Balance'

So let me shift focus for a moment in order to consider how the prevailing discourse on academic freedom circumscribes itself, and what kinds of politics it ushers into public discussion and what kinds it shuts out. Of course, in the United States, the conception of academic freedom defended by the American Association of University Professors differs considerably from that version formulated by Daniel Horowitz and those who would heighten political surveillance of the academy. To the extent that, with the AAUP, we consider academic freedom as an entitlement that professional faculty have to engage in self-governance and the free exchange of ideas, then we are already articulating a set of rights and obligations that presuppose a certain geopolitical organization of time and space. We imagine, as it were, an upright and mobile set of individuals equipped with necessary visas bound by their employment relations to exercise certain kinds of prerogatives. Those prerogatives are in place on the condition that institutions exist, endure through time, exist within territories or state boundaries that are governed by open and free exchange, and that all of these supports for entitlement are intact over time. In the same way that rights exist to the extent that they can be exercised, they can be said to exist only to the extent that they can be enforced and institutionally enabled. The question of whether rights *can* be exercised brings up the problem not only of the capacity, but of the 'power' to exercise these rights (a doubleness preserved by the French *pouvoir*). In this sense, institutional authorities have to persist and abide – and be recognized – in precisely those ways that would allow for the exercise and protection of such rights. If the institutional apparatus is destroyed or attacked or shut down, then the exercise of the right cannot take

place. This means, quite literally, the right is abrogated through a pre-emptive foreclosure of that exercise. For this reason, the debates on academic freedom make a mistake by thinking that the material devastation of a university or, indeed, the systematic blockage of routes of passage to and from the university are outside the purview of their rights discourse.

Similarly, if too little institutional structure makes the exercise of such rights impossible, so too do heightened forms of state surveillance that, in the name of national security, subject various political points of view to excessive scrutiny and fault the perceived proliferation of certain viewpoints with being corrosive of democracy. On the right wing of the political spectrum in the US, academic freedom is linked directly to the ideal of a democracy in which a balance of opinions is desired and regulated. The Campus Watch operation of Daniel Pipes and the new legislative initiatives proposed by David Horowitz define democratic ideals restrictively in order to emphasize not only the need for 'balanced' viewpoints, but the power of state legislatures to regulate and enforce that 'balance'. As a result, the democratic ideal they formulate leads directly to anti-democratic forms of surveillance and regulation. Thus, under the name of academic freedom, this conservative seizure of academic freedom explicitly calls for increased surveillance of faculty viewpoints and activities. If the pro-boycott position tends to demean academic freedom as something that is not as worthy as some other basic human rights, such as the right to an education, to travel freely, to live free of harassment by the Israeli military forces, to attain citizenship and rights of recognition, then the right wing in the US redefines academic freedom in order to support its methods of heightened scrutiny and regulation of intellectual positions. Interestingly enough, the drafters of the boycott proposal issued no lists, even as they were accused of requiring lists to implement their rules regarding who should be exempted from the boycott; David Horowitz, with Daniel Pipes, Campus Watch, and the online journal *Frontpage*, were the most productive of lists, posting them on the Internet, and trying to cast doubt on the scholarly integrity of scholars on the Left. They especially targeted scholars critical of Israeli policy or those raising questions about the current basis on which Israel claims its legitimacy.

I think that we can see in both of these instances a truism about academic freedom debates that exceeds the ones outlined in this brief essay. When we turn to academic freedom arguments as they are currently formulated, we invariably turn away from two related

political problems: the first is the material devastation of institutional life, and the second is the heightened regulatory and disciplinary apparatus on political or politicized points of view that has become characteristic of the 'Academic Bill of Rights' in the United States. I understand that Home Secretary Charles Clarke has issued guidelines from the UK government to higher education institutions on matters of extrem-



ism and intolerance, where what constitutes evidence of 'intolerance' and 'suspicious activity' is extremely unclear. That Blair targets viewpoints as incendiary in his own public remarks on the issue seems to echo, if not cite, the Campus Watch approach in the United States.

The AAUP clearly took issue with the new 'Academic Bill of Rights', and one can see now how the term 'academic freedom' has become a central term of debate between liberals and neoconservatives within a politically liberal paradigm for the thinking of academic freedom. But if one is to be able to argue against the restrictive concept of 'balance of viewpoints' as the salient feature of democracy within the academy at the same time that one broadens the concept of academic freedom outside the classically liberal paradigm, one needs to include as essential to these debates considerations of institutional devastation and heightened regulation, two effects of contemporary power that undermine any substantive claims to democracy and

to academic freedom in these debates. According to Horowitz and company, 'academic freedom' involves making sure that students have exposure to a balanced set of viewpoints, and that the faculty is hired, in part, on the basis of producing this balance and diversity of viewpoints. Horowitz also argues against considering the political views of faculty as part of any determination of merit. At the same time, though, there is no way not to consider such views if institutions and, indeed, state legislatures are to be charged with the task of maintaining political balance. The Academic Bill of Rights thus seeks to restore political balance to the faculty at large and to the classroom. So though the Academic Bill of Rights argues against scrutinizing politics as part of merit, it mandates precisely this scrutiny, especially on controversial issues such as reproductive freedom, Israeli state policy, Palestinian self-determination. One cannot guarantee a balance of viewpoints unless one scrutinizes viewpoints for the purpose of achieving that balance. Of course, some versions of 'academic freedom' are designed precisely to protect those viewpoints from scrutiny, since they were understood either to be extracurricular (part of a faculty member's private political views or even public political activism). The claim made on behalf of Horowitz et al. is that the US academy is biased towards the left of the political spectrum, and that this bias needs correction in the name of pluralism and objectivity.

Although academic freedom can be a means by which to protect individuals against unfair treatment on the basis of their political beliefs, it is now becoming a way to produce a certain conception of a political environment, thus politicizing the classroom more than ever. If the Israeli Left by and large opposed the boycotts because it differentiated between Israelis on the basis of their political viewpoint (i.e. those who actively oppose the Occupation and those who do not), and left unclear what standard would be used and who would be applying it, something of the inverse is at work in the US context. The conservative version of academic freedom in the US is mandating something called 'balance' as a way of compelling change in an academy ostensibly suffused with leftists who produce a skewed notion of objective reality. Whereas the first point of view opposes distinctions among scholars on the basis of political viewpoints in the name of democratic freedoms, the second, despite its commitment to meritocracy, insists upon a tallying of viewpoints as a way of fulfilling its idea of democracy.

The conservative view of intellectual pluralism that demands that all perspectives be made available

within a given classroom would prove problematic if not impossible to impose. It would certainly heighten administrative and state control over what gets taught in the classroom. A university would become responsible for making sure that a balance of political opinions is represented by the faculty, at which point political opinions would become a legitimate and obligatory consideration at the time of hire. In the same breath, though, the Academic Bill of Rights seeks rigorously to distinguish between academic merit and political belief, and holds that the latter has no bearing on the former. I am not sure the crafters of this bill can have it both ways. If one were to accept their idea of political balance, would it mean that courses in biology should include creationism as well as evolution? Would it mean that courses on the Holocaust should include the views of Holocaust deniers, and give them equal time? And does it mean that courses in lesbian and gay studies should include homophobic views? Would it mean that courses in conservative political philosophy should include Marx and the Frankfurt School? Indeed, the standards that the government imposes on the media in an effort to establish fair and balanced political reporting seem to provide the model according to which Horowitz and others think perspectives within the classroom ought to be represented. The classroom, however, is not the public sphere, and the faculty member is not the owner of a media corporation whose political interests might need to be checked in the name of public access to information. Moreover, the idea of balance that we see in the media ends up caricaturing political opposition and producing exceedingly reductive notions of what kinds of political viewpoints actually exist. In the classroom, what is clearly required is a pedagogical openness to all points of view that happen to emerge there, but also a critical perspective on how those views get framed, and what forms our contemporary political debates tend to take.

Interestingly, the campaign for the Academic Bill of Rights does ask us to consider how censorship functions within the academy. The Bill is not concerned with any form of censorship other than that imposed by what it calls 'left totalitarians'. The defenders of this bill do not draw attention to new forms of effective censorship at work through funding organizations, like Ford and Rockefeller – which now include the influence of private donors, another area of pressing concern which will have to be addressed another time. When funding organizations or private donors effectively require that academic work take on a certain form, ask only certain kinds of questions, and refrain from certain kinds of politically normative judgements

about existing states, then no less than the restriction of intellectual and political innovation is at stake. There is a threat to academic freedom from donors and funding organizations from the Higher Education Act in the US as it seeks to monitor all work done on the Middle East to make sure there is no trace of a collaboration with what someone has chosen to call 'terrorism'.<sup>4</sup>

On 19 October 2004, the American Civil Liberties Union (ACLU) declined a \$1.15 million grant from the Ford Foundation, claiming that Ford's new restrictions on the political activities of grant recipients were a threat to existing civil liberties. Earlier, the Ford Foundation voluntarily adopted language that would exclude certain grants from consideration on the basis of the political content of scholarly research projects as well as the extramural political activities of applicants. We are witnessing a private funding institution impose restrictions on the field of applications that parallel those recently imposed upon recipients of federal grants; whereas the latter proposes to monitor the activities of researchers in area studies, the former does not make clear how it will ascertain whether applicants have ever or presently do participate in the proscribed activities that they list. As a private institution, the Ford Foundation nevertheless elected to propose Title VI restrictions under other kinds of pressures, and in doing so illustrated the effect that governmental norms on legitimate scholarship have on private considerations of the same. Ford apparently formulated these new restrictions in response to the charge that the Foundation funded some Palestinian groups that attended the Human Rights conference in Durban, South Africa, in the summer of 2003.<sup>5</sup> As a result, the Ford Foundation now states among its criteria for grant allocation that grant recipients may not engage in any activity that 'promotes violence, terrorism, bigotry, or the destruction of any state'. The Rockefeller Foundation adopted slightly different language, stating that recipients of its funds may not 'directly or indirectly engage in, promote, or support other organizations or individuals who engage in or promote terrorist activity'.<sup>6</sup>

There are at least two features to be noted about these new restrictions. The first has to do with the ambiguity of the terms themselves and the overreaching interpretations to which they could give rise. The second has to do with the matter of whether this policy is enforceable and what means these foundations would use to enforce these new stipulations. Indeed, if universities agree to provide the resources to administer these grants and become co-beneficiaries in

that sense, will universities have to monitor the speech of their faculty? Will these private funding organizations now engage in information-gathering about the political activities of grant recipients, or rely on federal agencies to do so? Although it may seem reasonable that the Ford Foundation does not want its own funds to be used in support of bigotry, violence, terrorism, it is unclear what is meant by those terms, and whose definitions will prevail when judgements have to be made. The question of whether or not a given research project involves a normative claim about whether an existing state should continue in its present form raises yet another set of issues that I will consider below. The term 'bigotry', as the ACLU ably pointed out, refers to discriminatory attitudes, statements and actions; it is also a term that is sometimes invoked inappropriately to quell open disagreement on policy issues. There are those who say, for instance, that any criticism of Israel is itself, or effectively, anti-Semitic, assuming that Jewishness and Israel are one. But one might wish a different state for the Jews on the basis of Jewish values. Does a dissenting opinion on the state of Israel, its current boundaries, its constitutional basis, its military and economic policy towards the Palestinians become equated with 'bigotry'? Could one level such criticisms within research, or extramurally, and still be eligible for a Ford Foundation grant? What measure would one use to adjudicate the claim that some or all of these points of view constituted bigotry or discrimination?

Even if the terms 'bigotry', 'violence', 'terror', could be rendered *unambiguous* and invoked in ways that were clearly not intended to quell political expression, and elaborated according to refined criteria of application, the formulation of the final restriction stipulated by Ford is untenable on other grounds, the one that currently maintains that grant recipients may not engage in any activity that calls for 'the destruction of any state'. Let us consider that a grant recipient, either as part of his or her research, or in political activity conducted to the side of his or her research, maintains the view that only through regime change in Iran will rights of free expression ever become universally guaranteed in that country. If that person understands by 'regime change' that one state is to be supplanted by another state, then that person is effectively calling for the destruction of one form of the state in the hopes of bringing about a new and more democratic state. What if, under former conditions of apartheid in South Africa, a grant recipient either in the context of research or in extra-mural activity had called for the replacement of the South African constitution by

another in which equal rights of political participation were guaranteed to all citizens regardless of race? That person would have been calling for the destruction of one state with the hopes of seeing another more radically egalitarian state established in its place. Similarly, if someone were to make an argument for a binational state where Israel and the Palestinian territories now exist, and were to argue, either in research or in extra-mural expression, that the one-state solution has advantages over either the two-state solution or the continuation of the Occupation, that person would be arguing for a new form of statehood for those lands. Indeed, some now claim that such a person with such views is effectively calling for the 'destruction' of the State of Israel. It would be, minimally, a 'destruction' of the current law governing rights of citizenship and political participation, and it would be as well the 'destruction' of the most recently established borders in an effort to make a more encompassing border for a binational state or a new border that would be more effective in securing peace for the region. This



ambiguity plagues public discussion on the Middle East, since even nonviolent political solutions that suggest that the conditions of citizenship in Israel are in need of revision to include entitled Palestinians are accused of 'destroying' the State of Israel even when their means are decidedly nonviolent. These positions are regularly confused with those that do call for violent attacks on Israeli property and citizens, but in some important ways the former is a serious nonviolent

alternative to the latter, and is regularly stigmatized as 'violent' nevertheless. It is perhaps ironic in this context to note that the boycott is understood by many of its supporters as precisely an alternative to violence, an effort to make use of established international institutions and precedents to demand action on behalf of those whose suffering under the Occupation has yet to be adequately addressed.

### **A broader concept**

Though this last point may well seem polemical, I want to suggest that we have yet to develop a broad enough understanding of what academic freedom is and what concrete threats to its existence are at work in the political present. If those who sought the boycott sought a nonviolent way to make a demand on those institutions that have shown criminal neglect towards the conditions of Palestinian educational institutions under the Occupation, and those who oppose the boycott sought to maintain a view of academic freedom that would maximize the exchange of ideas and oppose

forms of discrimination against those who might participate, then both stand a chance of getting their ends met through a renewed movement. This movement would have to consider the threats to academic freedom that emerge not only from discriminatory action on the basis of political viewpoints or facts of institutional membership, but from those infrastructural devastations that make the exercise of academic freedom nearly impossible, and those new regulatory mechanisms that would deform the very meaning of the term in order to regulate political viewpoints in the name of academic freedom itself.

It seems to me that in order to make the case in favour of assisting Palestinian universities and showing how the Occupation itself abrogates academic freedom, we have to be able to say that there the freedom of academics to move, to arrive at academic institutions, convene and teach a class, and complete a course of instruction is radically undermined by the Occupation. If being able to move to the university to teach and to transmit ideas is itself thwarted by the Occupation, then surely the Occupation constitutes an abrogation of academic freedom.

When we say, as we surely should, that academics should be free to exchange ideas, we tacitly imagine an academic who is free to secure a visa and attend a conference in another country. Do theories of academic freedom maintain, as it were, tacit conceptions or, indeed, overt theories of the border? Do they presume



national territorialities, and if so how do they function in those cases where the presumption does not exist or, indeed, a settler colonialism pervades the institutional and legal apparatus which governs a shifting and highly politicized border? Do we really want a theory that permits us only to say that academics should be free to engage in international exchange and, so, be able to cross national boundaries to do so, but that academics who do not live in territories recognized as nation-states, as is the case under the Occupation, do not have rights, under the theory of academic freedom, to know that they can, with regularity, arrive at the university to teach a class to which students also are equally entitled to arrive?

Although the road from Ramallah is now open to Birzeit, the access from the north is repeatedly blocked, and some universities stand little chance of recovery or assuming the capacity for full-time operations. It is probably important to note that, according to Sari Nusseibeh, who, incidentally, opposed the boycott, nearly seven hundred teachers this year employed by Arab schools in East Jerusalem will be unable to reach their classrooms. With the 'security' wall around Jerusalem now reaching completion, cutting off East Jerusalem from its traditional Arab surroundings, and entry restrictions becoming more stringent, teachers who have neither Israeli IDs nor special permits will no longer be able to reach their places of work. Even with permits, the wall – and the heightened regulatory apparatus surrounding the wall – will make such delays routine, undermining the possibility that teachers and students can actually arrive at the educational sites. With extreme travel restrictions intact between the West Bank and Gaza, the rights of mobility are so severely abrogated that they constitute the main concern of academic freedom itself. Indeed, where one idea of academic freedom objects to the boycott because it would undermine the rights of mobility of those within nation-states, it is very clear that under current conditions Palestinian teachers, researchers and students lack the basic entitlements to travel without which the idea of the university itself cannot be sustained.

I have tried here to lay out three different ways of seeking recourse to the doctrine of academic freedom and suggested that these positions do not always broker the differences among them. My point is not to argue in favour of or against the boycott, but to discern the various invocations of academic freedom by both sides of that debate, and to see whether a new possibility for extending the domain of academic freedom claims can emerge from such a consideration. By indexing

the Academic Bill of Rights, I hope also to have shown the stakes in coming up with a more robust conception of academic freedom, one that considers the material and institutional foreclosures that make it impossible for certain historical subjects to lay claim to the discourse of rights itself. If the defenders of academic freedom attend only to its abrogations, they will not see the ways it is foreclosed. And if rights of mobility for members of nation-states are to be protected above all else, then academic freedom advocates will not be able to attend to the fate of educational institutions that exist within contested borders, where those contestations actually call into question the viability of the university itself. The right-wing seizure of academic freedom also poses new problems, mobilizing a restrictive idea of pluralistic objectivity as the aim of democracy, thereby aiding and abetting those heightened surveillance powers that work against academic freedom, and freedom of expression more generally. By staying internal to academic freedom debates as they are currently staged, we risk becoming blind to questions of material devastation and to the anti-democratic effects of heightened regulatory surveillance – that is, forms of economic destitution, brutal coercion at checkpoints, and new forms of disciplinary power meant to quell forms of active political dissent. If to enter the debate on academic freedom is precisely to bracket out both the material devastations characteristic of the Occupation and the heightened forms of disciplinary power, both governmental and non-governmental, then what form of political constriction is performed through restricting the discourse of academic freedom to a narrow liberal conception? Either academic freedom has to be rethought so that we can see how the freedom of academics is linked with the broader struggles for substantive freedom during this time, or we will have to ask whether it has become the instrument for modes of state and economic power that seek the erosion of a collective life for some who might otherwise be free to teach and to learn, to think, travel and communicate and, hence, enjoy the benefits and rights of a life that might plausibly be called 'free'.

If academic freedom remains restrictively liberal, it will not be able to see that the subject who would exercise the rights of such a freedom must first be given rights to travel, be able to pass over borders unobstructed and unharassed. This means that to exercise such rights, we must presuppose an opposition to the security wall, to the heightened military harassment at the borders, and to the Occupation itself. Similarly, if the conservative seizure of aca-

democratic freedom is to fail, there must be more robust and substantive ways to relate academic freedom to ideals of democracy that include not only right of free expression but opposition to forms of surveillance that target political viewpoints. Finally, if there is to be a widespread opposition to the Occupation, then perhaps it will require a full-scale boycott. But when and if it does, it will have to make sure to show that the systematic undermining of Palestinian institutions of higher learning is itself an abrogation of academic freedom as well as the ideals of democracy to which it is invariably linked. We will have to leave the scrutiny of political viewpoints outside the formulation, since we have seen how the right wing seizes upon this tactic. Once that is done, it may be possible to radicalize the classically liberal conception of academic freedom with a view that grasps the political realities at stake, and see that our struggles for academic freedom must work in concert with the opposition to state violence, ideological surveillance, and the systematic devastation of everyday life.

## Notes

1. Horowitz, a former Marxist, is a neo-conservative working on a variety of fronts to combat what he perceives as totalitarian leftism within the US academy: promoting an 'Academic Bill of Rights'; writing books, a database on 'leftists' and 'jihadists', and the *FrontPage* 'magazine'. *FrontPage* is primarily a platform for a strong Zionist attack on leftists and especially on academics who may be critical of Israel or the current US war efforts, and to hurl ritual abuse against 'jihadists', who seem to comprise any and all people of Arab descent with whom the author disagrees. His websites regularly smear the progressive broadcaster Al Franken's photo as well as disparaging Rachel Corrie, the 23-year-old volunteer from the International Solidarity Movement who was killed by the Caterpillar trucks belonging to the Israeli army.
2. Neve Gordon points out in correspondence with me that 'this was the conclusion of the World Conference on Human Rights (the Vienna conference) in 1993, where human rights practitioners from all over the world gathered. It was basically the representatives of Third World NGOs that led to the formulation of Article 5 in the Vienna Declaration: 'All human rights are universal, indivisible and interdependent and interrelated.' The Third World practitioners argued that one cannot, for example, have freedom of speech without education. <http://www.unhcr.ch/huridocda/huridoca.nsf/>.
3. In an appeal formulated in 2002 by faculty and students at Birzeit, the following situation was graphically described: 'the working life of the University has been severely disrupted by an intimidating Israeli military checkpoint on the Ramallah-Birzeit road, which is part of the expanded network of roadblocks preventing communication between all Palestinian towns and villages in the West Bank. Even when open the checkpoint allows only pedestrian traffic to pass; Israeli soldiers

posted there arbitrarily deny passage to students and other civilians, as well as regularly engage in various forms of harassment which at times have resulted in the physical injury of students and faculty. When closed the checkpoint effectively brings the working life of the university to a halt. Since March 2002, the situation at the checkpoint has deteriorated further and access to the University has on the majority of days been totally impeded. Following Israel's military reoccupation of West Bank towns (including Ramallah) in mid-June 2002, all Palestinian educational life within the reoccupation zones has been brought to a grinding halt by a blanket curfew imposed on the civilian population. The majority of Birzeit students and faculty are confined to their homes with dwindling hope of returning to their academic lives in the foreseeable future. The cumulative effects of these measures over the past 18 months have put the future of Birzeit University at grave risk.'

4. For a longer version of the discussion that follows, see my contribution to Beshara Doumani, ed., *Academic Freedom Post 9/11*, Zone, New York, 2006.
5. See JTA, The Global News Service of the Jewish People, [www.jta.org](http://www.jta.org), for one of many attacks on the Ford Foundation for ostensibly supporting 'Palestinian causes'.
6. See for Ford Foundation [www.fordfoundation.org/about/guideline.cfm](http://www.fordfoundation.org/about/guideline.cfm); and for Rockefeller Foundation [www.rockfound.org/grantmaking/FundingPrograms](http://www.rockfound.org/grantmaking/FundingPrograms).

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