

Moody-Adams M.M. (2015). "What's So Special about Academic Freedom?" in Who's Afraid of Academic Freedom? Bilgrami and Cole (editors). Columbia UP: New York.

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WHAT'S SO SPECIAL ABOUT ACADEMIC FREEDOM?

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INTRODUCTION: THE UNIVERSITY AS "INTELLECTUAL EXPERIMENT STATION"

IN THE AUTUMN of 1999, Princeton University's appointment of Peter Singer to a chair in bioethics generated protest from national disability-rights groups and critics of abortion, as well as from a small but vocal group of Princeton undergraduates and alumni. Singer had long been the subject of controversy for claiming that the lives of some severely disabled people are not worth living, and therefore that it can be justifiable to euthanize them. A different kind of controversy emerged when an influential member of Princeton's board of trustees publicly linked Singer's views on euthanasia of severely disabled infants to Nazism, and declared that he would make no further contributions to the university until Singer's appointment was rescinded—even though he had initially voted, as a trustee, in favor of the appointment.¹

Ultimately, the Princeton board refused to rescind the appointment, insisting it would not apply "any ideological litmus test to the appointment of distinguished scholars and teachers" and "unequivocally and unanimously" reasserting its commitment to academic freedom.² The board thus affirmed the notion that in order to further the university's defining purposes—of producing knowledge, preserving traditions of inquiry and argument, educating undergraduates, and training scholars and researchers in the

disciplines—academics and the institutions in which they work must be protected from demands to conform to convictions and orthodoxies external to the academic enterprise. To the question “What’s so special about academic freedom?” Princeton’s trustees answered that it is essential to the proper functioning of the university.

In virtue of its role in the university, moreover, academic freedom is indispensable to the creation of goods essential to modern society at large: the extension of basic knowledge; the growth of translational research; and the education of students who are capable of participating constructively in political life and responding creatively to social diversity and global economic complexity. In the “1915 Declaration of Principles” that became the charter for the American Association of University Professors (AAUP), philosopher Arthur Lovejoy and economist Edwin Seligman emphasized the connection between academic freedom and human achievement. Academic freedom, they argued, is necessary to protect the university as “an intellectual experiment station, where new ideas may germinate and where their fruit, though still distasteful to the community as a whole, may be allowed to ripen,” and they urged that the self-regulating university is essential to the realization of fundamental human goods.³ Lovejoy and Seligman thus understood that academic freedom is a good that any stable political society will rationally choose to protect.⁴

Yet if academic freedom is really a fundamental social good, why do some critics remain resistant to, and even fearful of, the very idea of academic freedom? Contemporary challenges to academic freedom have four main sources. First, academics have become complacent about explaining and defending academic freedom in the public arena, often assuming that what justifies academic freedom is too obvious to need restating and that challenges to particular claims of academic freedom can only be politically motivated attacks on the academy. But while unsympathetic critics do sometimes dominate public discussion of academic freedom, the dearth of careful reflection on the topic can leave even sympathetic critics confused about what constitutes a legitimate exercise of academic freedom.⁵ In late 2011, for example, when New York University professor Andrew Ross expressed solidarity with students in the “Occupy Wall Street” movement by calling for mass defaults on student loans, a critic accused Ross of “academic malpractice” for urging action that she urged (not unreasonably) could actually harm the students and called (I believe unjustifiably) for the university to “silence”

him on the issue of student debt.⁶ Ross responded by linking the criticism to “neo-McCarthyist” attacks on the academy and suggested the author just did not appreciate the “niceties of academic freedom.”⁷ But the reply would have been more effective had it spelled out these “niceties” and articulated plausible grounds for protecting an instructor who makes controversial public pronouncements from university reprisals. In the absence of such a reply, any appeal to academic freedom can suggest professional arrogance and intellectual arbitrariness.

Second, though few academics will ever have such prominence as Singer or Ross, most nonetheless have extensive influence and authority in the classroom. Even the simplest exercise of academic freedom by the most junior instructor can have a profound effect on students at a formative stage in their intellectual lives. Many commentators appreciate how seriously most academics take the responsibilities that come with this authority. But even a sympathetic critic may wonder whether a self-regulating academy can respond effectively and fairly to credible allegations of professorial misconduct. It does not inspire confidence to learn of an episode involving an instructor at a midwestern university who supplemented his human sexuality course with a live “demonstration” of female sexual response.⁸ Attendance at the demonstration was apparently optional. But might some students have felt subtle pressure to attend an event described as “valuable” by the professor?⁹ It was eventually revealed that the event was hastily arranged. But can a demonstration involving human subjects conform to reasonable regulations on research involving human subjects when the decision to allow it is made in haste?¹⁰ The course was ultimately eliminated from the university’s curriculum. But the episode raises serious concern that the autonomy granted to professional academics in virtue of academic freedom means that student complaints about possible misuses of that freedom will be taken seriously only when alleged misconduct generates public uproar.¹¹

But third, the protections bound up with academic freedom include a robust right to exclude certain kinds of disagreement. A biology professor who lectures on evolution cannot be required to give equal time to creationism, and a World War II historian cannot be forced to give equal time to Holocaust denials. Yet even if we support these choices, we may still wonder about the grounds of the authority to exclude creationism or Holocaust denials from certain academic contexts. How can we show that these exclusions are not intellectually arbitrary or politically suspect? Still further, why do the rights

of citizens to express their differences about "the facts of the matter" not carry the same weight in academic contexts as they do in nonacademic contexts? Are the principles that define academic freedom really so different from those practices that define freedom of speech?

I will argue that freedom of speech and academic freedom must, indeed, be justified on very different grounds. Yet the two kinds of freedom raise similar questions about how to distinguish offensive expression that deserves protection from harmful expression that might not. This challenge generates a fourth important questioning of academic freedom. Even those who defend academic freedom may wonder how far the bounds of tolerance must extend. Critics of Singer's views on euthanasia or of Ross's call for student loan defaults are not unreasonable to be concerned about other goods that must be weighed in the balance, and possibly sacrificed, in order to protect academic freedom. There can be serious conflicts, for instance, between Singer's view that some lives are not worth living and the commitment to the equal worth of persons that is fundamental to democratic institutions. Even a sympathetic critic can reasonably ask why a democratic society should protect the freedom to defend views that appear to conflict with basic democratic values.

Academic freedom thus underwrites policies and practices that, as Jonathan R. Cole has urged, are "designed to be unsettling."¹² My account addresses the concerns that lead to criticisms of these policies and practices in order to show that the benefits of protecting academic freedom outweigh its potential dangers. Section 1 discusses the basic elements of academic freedom to inform the consideration, addressed in section 2, of how to determine when academic freedom has actually been abused. I show in section 3 that the practices of exclusion that are central to academic freedom must be understood as the defining practices of a professional guild, and I consider the conditions under which it is reasonable to invest public trust in the authority of the guild. Section 4 offers a detailed account of the legitimate exercise of academic freedom; and in section 5, I explore one of the social goods that academic freedom underwrites: the opportunity for inquiry that enhances one's capacity to respond constructively to human diversity. The paper concludes, in section 6, by showing that contemporary attacks on academic freedom endanger a precious social good on the strength of a mistaken and impoverished view of human possibility.

THE FUNDAMENTAL ELEMENTS OF ACADEMIC FREEDOM

In affirming the value of academic freedom, we defend a notion that marks the convergence of three historical developments: (1) the evolution of the idea of faculty self-governance that emerged in medieval English universities; (2) the ascendancy of the nineteenth-century German concept of *Lehrfreiheit*, which emphasized the role of research in university life; and (3) the modernizing impulses of early twentieth-century America that encouraged the professionalization of scholarly activity.¹³ In the "1915 Declaration of Principles" on which the AAUP was founded, Arthur Lovejoy and Edwin Seligman articulated the emerging consensus about what academic freedom should achieve:

The proper fulfillment of the work of the professoriate requires that our universities shall be so free that no fair-minded person shall find any excuse for even a suspicion that the utterances of university teachers are shaped or restricted by the judgment, not of professional scholars, but of inexpert and possibly not wholly disinterested persons outside of their ranks.¹⁴

The "1915 Declaration" has been superseded in some respects by other AAUP documents, most notably by the "1940 Statement of Principles on Academic Freedom and Tenure" and various supplements from later decades.¹⁵ Yet Lovejoy and Seligman's founding idea, that the university must be "an inviolable refuge" from the "tyranny" of public opinion, helped to determine the legal outcomes, institutional structures, and cultural conventions that define academic freedom in America, and thus their stance continues to shape debate about the nature and justification of that freedom.

Over time, the founding principle gave rise to a basic norm of academic practice according to which persons, groups, and institutions constituting "the academy" may justly expect society to protect them in the exercise of a robust right of self-regulation. That robust right is actually a *set* of rights through which professional academics may dictate, within reasonable limits, the terms of their work: (1) the right to determine the fundamental content of research and publication; (2) the right to make important decisions about the content and terms of teaching; and (3) the right to "speak or write as citizens

free from institutional censorship or discipline."¹⁶ Implicit in all three of these rights of self-regulation is the notion of a right to determine content. I show in section 5, the right to determine content is essentially a right of nonneutrality, comprising (1) a right to exclude, (2) a right to advocate, and (3) a right to risk offending one's audience.

Taking the broadest view, the academic freedom rights of individuals are inextricably linked to the processes through which academics become accredited professionals.¹⁷ Stanley Fish's provocative claim that academic freedom originated, and indeed continues, as a "guild practice" is thus an apt analysis of the processes by which academic freedom came into existence in America.¹⁸ The AAUP has cautioned that the guild must set limits on the reasonable exercise of academic freedom and that the secure enjoyment of its rights and privileges demands professional commitment to those limits on the part of every academic. In particular, research must conform to disciplinary standards of argument and inquiry; teaching must respect the freedom of students to learn; and extramural expression must be carefully distinguished from official university positions. To be sure, academic freedom rights are secure only when guild practices are underwritten by certain enabling conditions, particular by material resources sufficient to run a college or university, and by social conventions and legal structures that protect faculty governance and, especially, permanent or continuous tenure.¹⁹ But when the material resources and legal structures are in place and there is confidence in the academy's principles and policies, professional academics are granted a degree of autonomy enjoyed by few nonacademic professionals.

At the start of the twenty-first century, however, confidence in the academy's practices is at an especially low point. Many critics argue that far from being a defense against the coercive force of *external* orthodoxies, academic freedom more often insulates the academy's *internal* orthodoxies from critical scrutiny. Academic orthodoxies, they continue, are unjustifiably hostile to many ideas and assumptions that should at least be contemplated as part of proper education. Some of the most influential charges of this kind originate in the work of twentieth-century political conservatives in America. Perhaps the best known example is William F. Buckley's *God and Man at Yale*, which challenges what Buckley deemed the overwhelming "secularism" and "collectivism" of his alma mater.²⁰ But no political ideology has a monopoly on challenges to academic freedom. Less than twenty years after publication of *God and Man at Yale* feminist thinkers and ethnic studies

scholars, who would mostly have rejected Buckley's politics, challenged the guild structures that underwrite academic freedom on the basis of their tendency to exclude new kinds of scholarship from the university or at a minimum to hinder their reception.

Over the last two decades, critics have been increasingly likely to charge that academic freedom is too often a license for overtly *coercive* activity in the classroom. These critics claim that many faculty members are allowed to actively silence students who disagree with prevailing academic orthodoxies. They also charge that departments and institutions design curricula that ignore the diversity of moral and political conceptions in their student constituencies, thereby creating courses that are either barely indistinguishable from indoctrination or that involve concerted efforts to offend rather than to enlighten. The charge of insensitivity to diversity is most often made with regard to religious convictions, but the academy has also been criticized for marginalizing or deriding conservative political views that may be underrepresented among the faculty.

Recent challenges to academic freedom have also involved a fundamental change in proposed remedies to presumed offenses. Especially noteworthy are efforts to subject all substantive academic decision making to regulation by state and federal legislation.²¹ Such measures could license direct government intervention in decisions about hiring and firing, promotion and tenure, and standards for determining the limits of acceptable academic expression in teaching, research, and public debate. This intervention would obviously produce profound changes in the functioning of colleges and universities.²² Academics who hope to protect academic freedom must therefore confront the question of whether a self-regulating academy can and will respond appropriately when academic freedom may have been abused. To that end, we must also address the more basic question of how to determine when some policy or practice really constitutes an abuse of academic freedom in the first place.

HOW CAN WE DETERMINE WHEN ACADEMIC FREEDOM HAS ACTUALLY BEEN ABUSED?

Public mistrust of academic freedom, and academic self-regulation in the broadest sense, is often based on fundamental misunderstandings of the academic enterprise. Most academics believe a good education will encourage students to contemplate at least some ideas and practices that they not only find unfamiliar but that they might initially resist or even find offensive. Such

encounters may well be crucial to the development of critical intelligence. Yet vocal critics charge that academic presentations of ideas and beliefs students resist or find offensive are too often indistinguishable from indoctrination or "thought control." Some critics even seem to believe that the very fact of discomfort and feelings of offense constitutes proof the encounter that caused those feelings is academically illegitimate.

But the legitimacy of an educational experience cannot be determined by how controversial or unsettling the ideas might seem to the public. As I argue more fully in section 5, the educational legitimacy of an academic encounter is a function of the extent to which the ideas and practices under consideration are connected to recognized disciplinary standards, along with how reasonably the instructor has balanced the risks and benefits of possible offense. For instance, discussing nonvoluntary euthanasia of disabled infants can be a reasonable exercise of academic freedom in a college course on bioethics, even if the idea unsettles or offends students in the course. The philosophical community accepts that discussions of euthanasia invite sophisticated critical reflection on the nature of personhood and the moral weight of human suffering, and if the instructor presents such material in a manner that leaves students free to question and dissent, its presentation can be a fully legitimate and justifiable exercise of academic freedom.²³

Why, then, do vocal critics of academic freedom continue to argue that offense or discomfort might be a measure of academic inappropriateness? Part of the difficulty is the inevitable asymmetry between the instructor's academic freedom and the students' freedom to disagree with what the instructor presents. It is sometimes suggested that the student who disagrees deserves "equal time" in the classroom—or something close to equal time—to articulate the full measure of her disagreement. But academic freedom is not an extension of free speech rights. As Louis Menand has argued, although the content of what is protected by academic freedom frequently overlaps with the content of what is protected by the laws and conventions protecting free speech, the two freedoms have profoundly different conceptual origins and are rooted in quite different purposes and goals.²⁴ Freedom of speech protects the equal rights of citizens to express their convictions in private exchanges and in many written and oral contexts in the "public square," subject to the proviso that the exercise of the right is compatible with an equal opportunity for others to exercise the right. But academic freedom protects the rights of the accredited

scholar to (respectfully) limit the expression of dissent in academic contexts. Students must be free to learn, free to speak about what they learn, and free to disagree with their instructors in appropriate ways and contexts. But there is neither a moral nor a legal imperative to extend the full range of rights and privileges of academic freedom to all who may want it.

Academic freedom, especially as it concerns the classroom, is sometimes discussed in the same context as the notion of "a fair and balanced forum" for the discussion of conflicting opinions. But as I show in section 4, one of the central academic freedom rights is the instructor's right to exclude certain ideas, points of view, or methods of argument from a course on the basis of expert judgment. In this regard, the expertise and authority of professional academics is analogous to the expertise and authority of other professionals, such as medical doctors. Just as it is unreasonable to demand that medical patients should be able to write their own prescriptions and determine their own treatment, it is not reasonable to demand that the content of the curriculum be determined by reference to what students want to discuss. As Supreme Court Justice David Souter wrote in the concurring opinion in *Regents of Univ. of Wisconsin v. Southworth*, a case about the use of student fees on college and university campuses, "Some fraction of students' tuition payments may be used for course offerings that are ideologically offensive to some students, and for paying professors who say things in the university forum that are ideologically offensive to some particular students."²⁵ A responsible instructor will provide opportunities for reasonable expression of student disagreement with course material, and responsible institutions will devise fair and effective means for responding to credible concerns about possible abuses of academic freedom. But when students register for classes, they implicitly consent to be exposed to at least some ideas and concepts that may trouble or offend them and also to be less free to express disagreement than they would be in a public, nonacademic context.

This shows that there can be fundamental tensions between important liberal democratic values—in this case, the value attached to free speech rights—and many of the values embodied in defensible academic practice. Of course, there are also important connections between some central aims of liberal democracy and certain exercises of academic freedom, as I will show in section 6. But the fact remains that democratic values and the values of academic life are sometimes in conflict. Defenders of academic freedom have

sometimes been unwilling to acknowledge these conflicts, because it may seem to concede too much to the academy's critics. Yet the potential for conflict between the values of academic life and democratic values that underwrite the protection of free speech is unmistakable. Stanley Fish reminds us that when academic historians deny that the work of Holocaust deniers is serious history, the deniers will predictably (and plausibly) complain that academic intolerance shuts them out of the life of the academy. But as Fish rightly argues, this intolerance can be defended, because the principles that justify academic freedom in higher education are not rooted in democratic values but in the authority of the disciplines in which academics are trained and accredited.²⁶

AUTHORITY, EXCLUSION, AND THE VIRTUES OF ACADEMIC PRACTICE

Practices of exclusion play a fundamental role in the structures that underwrite academic freedom. Communities of academic inquiry are constituted by exclusionary practices governing membership, and standards of argument and inquiry evolve as shared understandings that are internal to these exclusive "communities of the competent."²⁷ These shared understandings involve the notion that some ways of arguing, and some points of view, are simply not worthy of recognition within the community of inquiry. A responsible academic is thus *by definition* committed to certain orthodoxies—in particular, to the orthodoxies that define communities of competent inquirers and underwrite standards for inquiry carried out in those communities. Judith Jarvis Thomson has convincingly defended this feature of academic disciplines, particularly as it shapes the practice of faculty selection.²⁸ Stanley Fish notes further that in addition to governing faculty selection, practices of exclusion are fundamental to determining the content of the curriculum and the nature and function of various forums for scholarly research.²⁹ Indeed, he insists that "inclusion" is not "an attainable goal" in the university, and that

it is not even a worthy one, for to attain it would be to legitimize all points of view and directions of inquiry and thereby to default on the responsibility of the university to produce knowledge and to refine judgment. The debate is never between the inclusive university and a university marked by exclusions; the debate is always between competing structures of exclusion.³⁰

But can we not reasonably ask whether some structures of exclusion are more defensible than others? Fish sometimes writes as though all the exclusionary practices of the academy are merely manifestations of interest-group "politics" and even what appear to be thoughtful exclusionary practices are never more than "politics":

The assertion of interest is always what's going on even when, and especially when, interest wraps itself in high-sounding abstractions. This is not an indictment of anyone, certainly not an indictment of anyone for having forsaken principles for politics; politics is all there is, and it's a good thing too. Principles and abstractions don't exist except as the rhetorical accompaniments of practices in search of good public relations.³¹

Yet there is one context in which Fish claims to find nonarbitrary uses of the academy's exclusionary practices. In his account of the resistance of academic history to Holocaust deniers, for example, he vehemently rejects the idea that this resistance is just a "naked exercise of power":

Shutting Holocaust deniers out would be a naked exercise of power if it were arbitrary, if there were nothing behind it except the desire wholly to own the franchise and prevent anyone else from claiming a part of it. But standing behind the exclusion of deniers is the massive record of rigorous research by superbly credentialed men and women whose conclusions have met every reasonable test put to them.³²

Standing behind the actions of the historians who exclude Holocaust deniers, then, is not just "politics" but the eminently reasonable authority of the "guild."³³

Fish rightly traces the legitimacy of academic freedom to the guild authority of the academy. But, like many contemporary academics, he fails to acknowledge that what is under attack in most challenges to academic freedom is precisely the academy's *claim* to authority—its claim to be engaged in the rightful, nonarbitrary exercise of intellectual power and influence in classrooms, in research, and in the public forum. Bernard Williams once observed that some disciplinary authority is in greater danger of attack than others, most obviously in the humanities and social sciences.³⁴ Yet attacks on academic freedom in the humanities and social sciences endanger all

the disciplines. Challenges to academic freedom in the sciences have so far mainly affected elementary and secondary schools on such topics as evolution and climate change. But these challenges should be taken as a sign that even on the university, the authority of science could someday be subject to broad popular challenge. The responsibility to defend academic freedom therefore must be shared across the disciplines, and an appropriate defense must articulate the circumstances under which academics, in general, *rightfully* exercise control over the functions of the university.³⁵ Both the influence and the authority of academics will be in jeopardy unless academics themselves become more rigorous in defending the grounds of academic freedom. But is it really possible to provide a compelling counterweight to unsympathetic critics who treat the academy's claims to authority as the mere monopoly of an arrogant and self-righteous professional guild? I believe that a compelling reply must start from an idea that informed the 1915 founding of the AAUP: the idea that academic freedom must be seen as a *public trust*, rooted in the belief that those to whom its rights and privileges are granted can be safely accorded a wide-ranging freedom to regulate themselves.³⁶ This idea gets very little attention even in some of the most thoughtful contemporary treatments of academic freedom. Yet even in ostensibly private institutions, and quite obviously in public institutions, practices such as tenure are underwritten by legal customs and cultural conventions that depend for their continuance on public trust. It is thus essential to consider what might be the basis of that public trust.

Bernard Williams's account, in *Truth and Truthfulness*, of how to think about the problem of authority in the academy offers a helpful start.³⁷ Following Williams, I contend that public trust in the academy and its disciplines depends upon the public's confidence that accredited academics can be counted on to embody certain virtues. By "virtues," here, I mean intellectual virtues: habits of mind and practice that are conducive to excellence in an intellectual discipline. One of the most important of the relevant virtues is what I call seriousness, by which I mean the agent's readiness to engage in careful inquiry and to translate the outcomes of that inquiry into responsible teaching, research, and (in some cases) extramural pronouncements. Because serious inquiry is ideally disinterested inquiry that aims at truth, the protection of public trust in the academy also requires two additional virtues under the umbrella of what Williams calls "truthfulness"—particularly the virtues of sincerity and accuracy.³⁸ By "sincerity," here, Williams means "a disposition

to make sure that one's assertion expresses what one actually believes," and I think he is right to assume that this disposition is a central component of scholarly trustworthiness.³⁹ Taken together, the virtues of seriousness, accuracy, and sincerity can provide a foundation of the trustworthiness capable of grounding the authority of the academy and its disciplines.

Fish seems to recognize that intellectual virtues (like seriousness, sincerity, and accuracy) can ultimately distinguish the attitudes and practices of academic historians who reject Holocaust deniers from interest-group politics.⁴⁰ But he fails to explore the possibility that possessing and displaying those virtues is what makes it reasonable for society to trust in the nonarbitrariness of excluding Holocaust deniers from ordinary academic life. Academic freedom is secure and the self-regulated academy operates properly only when it is reasonable for the public to believe that academic practice embodies recognizable intellectual virtues.

UNDERSTANDING AND RESPONSIBLY APPLYING THE RIGHT OF NONNEUTRALITY

Yet it can be difficult, in practice, to know precisely how to provide the assurance on which public trust depends. As I noted at the outset, the right to determine content that is a central right of academic freedom is a right of nonneutrality, understood as a set of more specific rights (1) to exclude, (2) to advocate, and (3) to risk giving offense. The challenge is to combine seriousness, sincerity, and accuracy with the robust exercise of the right of nonneutrality. But how is it possible to effectively combine a commitment to accuracy, for instance, with exercise of a robust right to exclude certain claims from the realm of academic discourse? More generally, is there any compelling answer to the charge that academic life has become an extended exercise in shielding academic orthodoxies from critical scrutiny?

But consider the academic historian who insists that Holocaust denials are not serious history. Surely we can say this stance is justifiable if it conforms to reasonable principles, and we can say what makes the relevant principles reasonable. What constitutes a reasonable principle will follow, in large measure, from disciplinary expertise—which, properly exercised, can be the source of sincere and discerning judgment. The most fundamental principle of reasonableness, here, is that it must be possible to establish clear connections between the relevant exclusions and the disciplinary expertise from which

the exclusions flow. That is, any decision to exclude must either have a clear relation to standards of argument and inquiry sanctioned by the discipline (or disciplines) in which a course is rooted or must embody standards that can be convincingly shown more reasonable than current disciplinary practices. In this context, “compelling” means susceptible of articulation to knowledgeable colleagues and secondarily (though no less seriously) to students and other concerned stakeholders. Thus one might demonstrate the relevant academic virtues by being willing to explain the link between particular curricular decisions and relevant disciplinary standards.

Intellectually virtuous and responsible uses of the right to exclude will tend to be intellectually “conservative,” most often deferring to disciplinary standards (or working hard to say why it is not necessary to do so). This conservatism will be especially pronounced in the natural sciences, where, as Thomas Kuhn has argued, “mature” communities of inquiry exercise extraordinary control not only over modes of argument and inquiry but also over the problem-defining processes that shape research activity and, ultimately, the teaching that presupposes it.⁴ By virtue of the subject matter, standards of exclusion that shape problem-defining processes in the social sciences and the humanities are far less insulated from the concerns of everyday life and hence less tightly controlled by the relevant communities of inquiry. But even in the social sciences and the humanities, it is an unavoidable fact that some “orthodoxies” cannot be relinquished without destroying the fabric of the communities of inquiry that constitute the disciplines. If protecting such orthodoxies serves to exclude Holocaust deniers, astrologists, and would-be inventors of perpetual motion machines, this is surely a price worth paying.

“Outsiders” are not the only ones constrained by such orthodoxies. They sometimes constrain the scholar’s ability to mount constructive criticism to a discipline from within communities of inquiry. I have certainly worried about the intellectually conservative tendencies of my own discipline of philosophy, particularly in its initial hostility to the feminist thinkers and critical race theorists who have influenced some of my own work in the discipline. Yet such hostility generates an unavoidable irony of academic life: structures that might impede the entry of feminists or critical race theorists into the philosophical profession, for instance, ultimately protect their rights and privileges as philosophers, when (and if) they make their way into the academy. To be sure, defenders of academic orthodoxies tend to respond slowly even to the most plausible challenges to their authority. But instructors can prevent unduly

coercive consequences of this tendency in the classroom if they respectfully articulate the reasons for exclusions and, where possible, provide possibilities for students to opt out of unsettling demands.

Academic freedom is not exhausted by the right to exclude, however. If teaching and research are to have valuable content, the right of academic nonneutrality must include a right to positive advocacy. It is impossible to teach, for instance, unless one advocates *something*. Still further, some forms of advocacy that are most fundamental to pedagogical practice may actually be the most controversial of all. For instance, merely by walking into most university classrooms as an instructor, one advocates for the value of inquiry rooted in reason, something that may not be valued by everyone on the other side of the lectern. Further, a statement on a course syllabus announcing that plagiarism will not be tolerated is an advocacy of academic integrity—a stance that far too many of our students will reject. Still further, when certain *kinds* of people enter a university classroom as teachers—say, members of social groups that produce relatively few academics or few academics in particular disciplines—their very presence in the classroom endorses their status as authorities, even if some students (and some colleagues) resist their presence. Those who say that advocacy “has no place” in the classroom, then, simply fail to appreciate the extent to which controversial messages can be embodied in the very act of entering a classroom. A general right to engage in advocacy in a course is thus the second right that defines pedagogically appropriate nonneutrality.

When forms of advocacy must go beyond this kind of expressive conduct, say, to the mention of examples or positions with politically controversial content, the exercise of the advocacy right is (as before) justified only when governed by plausible principles. Here, the main governing principle once again requires that the instructor be able to establish clear and strong connections between the controversial example or position and the subject matter of the course, competencies and habits of mind appropriate to the course, or success elsewhere in the university. Moreover, as in the case of the right to exclude, responsible and intellectually virtuous uses of the right to advocate must be rooted not only in the *fact* of such connections but in the instructor’s ability and willingness to articulate them.

Given the moral and political content of so many basic pedagogical decisions—particularly in courses directly concerned with moral and political ideas—the right to advocate must sometimes extend to positions with

substantive political or moral content. A philosophy professor asked to defend the inclusion of King's "Letter from Birmingham Jail" in a discussion of civil disobedience can plausibly argue that King's role in the American civil rights movement—and his subsequent influence on philosophical theories of civil disobedience—gives the "Letter" a special place in the canon of ethical reflection. But this seemingly simple, and eminently plausible, pedagogical choice may trouble the student who has been taught that King was a dangerous and politically subversive force. The instructor must be ready to show that the choice is likely to produce a deeper understanding of course subject matter or further the development of relevant skills and that it draws on understandings shared by the relevant community of competent inquirers. Again, a careful instructor will, whenever possible, allow reasonable dissent in class discussions and assignments.

The third and final right of academic nonneutrality—what I call the right to risk offense—follows quite naturally from the right to advocacy. But how does one combine a commitment to seriousness and care in the conduct of inquiry with the exercise of the right to risk offense? As before, there are conditions dictating the reasonable exercise of this right, and a responsible use of academic freedom always requires an instructor to consider these conditions with great care. In this case, there are four governing principles to observe. The first general principle is that one must aim for "truth in advertising." That is, a responsible instructor will take every appropriate opportunity (a course syllabus, the first day of class, informal discussions with students) to be explicit about the main assumptions shaping the class, as well as about potentially controversial methods or claims important to the class. The second governing principle prescribes care in choosing potentially offensive materials. This means that the responsible exercise of the right presupposes efforts to reflect in advance on which materials or claims might prove upsetting or offensive and to consider carefully the emotional and intellectual strengths and limitations of the intended audience. The third principle promotes demands that the instructor make every effort to present potentially offensive or upsetting material that respects the conditions of civility and respect in the classroom and in the institution as a whole. Indeed, in ignoring regulations governing human subjects and insufficiently explaining why an event he deemed "valuable" could also be optional, the instructor who offered an optional live "demonstration" of female sexual response gave insufficient attention to these conditions of civility and respect for his students and for the institution. The

fourth governing principle demands that the instructor consider carefully whether the potential pedagogical benefits of expressing the potentially offensive idea or argument can genuinely outweigh any of the three most likely kinds of risks: (1) risks for the well-being of individual students, (2) risks for classroom relations between students who disagree, and (3) risks for classroom relations between students, as a whole, and the instructor.

These four principles governing the right to risk (and give) offense sometimes require an instructor to consider self-censorship—at least with regard to certain very controversial topics expressed or discussed in certain contexts. This is the point, of course, of my analysis of the human sexual response case. But it must be observed, first, that self-censorship is not intrinsically a bad thing; a disposition to thoughtful self-censorship has long been recognized as a fundamental support of a civil society. A broad commitment to civility in certain academic contexts might have as much value for our students as a dogged insistence on exercising the right to offend at every turn. Second, I am not urging that civility should trump the deep and engaged exploration of difficult ideas in appropriate forums. Rather, as I have urged, the reasonable and responsible exercise of the right to offend must be attentive to the strengths and limitations of its audience. An undergraduate classroom does not provide the same kind of audience as a graduate seminar, and even a graduate seminar may not contain as sophisticated and discerning an audience as a professional association conference or the readership of a scholarly journal.

But perhaps most important, I also maintain that when principled constraints and relevant considerations have been weighed in the balance with what the subject matter demands, the responsible instructor should be prepared to carry the exercise of academic freedom as far as course material requires. Academic nonneutrality is sometimes a duty as much as a right; moreover, the virtue of sincerity should make an instructor ready to meet the demands of nonneutrality even if a course must then include some ideas and arguments that a student finds offensive. Those who are prepared to exercise academic freedom in this way must be prepared for unsettling results. I have had a disgruntled student storm out of an ethics class during a discussion of readings that challenged his beliefs about the moral status of homosexuality; in another setting, class discussion of Singer's views on euthanasia brought a student to tears on realizing the implications of those views for a sibling born with spina bifida. The responsible exercise of academic freedom thus requires the instructor to prepare intellectually respectful and emotionally

sensitive ways to respond to student disagreement or distress. Such preparation is a central component of what it means to demonstrate respect for our students' freedom to learn. But although the exercise of rights of nonneutrality and exclusion sometimes will have intellectually distressing or emotionally poignant results for those we teach, having the courage of one's sincere scholarly convictions is the only means of adequately acknowledging the truth that nonneutrality is both a right and a duty of academic freedom.

WHY LEARNING TO UNDERSTAND THE "UNFAMILIAR" DOES NOT COUNT AS "INDOCTRINATION"

But how can it be reasonable to expect the (nonacademic) public to defend this robust nonneutrality if courses taught in accordance with it and research and public comment relying on it may conflict with some of their deeply held personal beliefs or with certain public values on which political stability depends? The answer crucially depends on the fact that the institutional contexts of reflection protected by academic freedom have the potential to further important public purposes. Of course, the opportunity to extend basic knowledge and enlarge translational research is important in this regard, as are the disciplines that provide this opportunity. But so, too, is the opportunity for students and scholars to have serious engagement with the moral and cultural diversity that characterizes contemporary life. This opportunity is particularly important for democratic societies. The political stability of democratic institutions may well depend upon citizen appreciation of diversity in belief; indeed sustained and careful engagement with the nature and sources of moral and cultural diversity seems to be essential preparation for responsible democratic citizenship. Institutions of higher education are uniquely prepared to encourage this kind of engagement, and the disciplines that are central to this task—literature, language study, religious studies, anthropology, sociology, history, government, and philosophy, for instance—can play an important role in helping to promote political stability, even when they do not directly aim at it. The relevant disciplines can be valuable supports of liberal democracy, even though their governing principles may have little to do with the fundamental aims of democracy.

I have argued that academic nonneutrality can be justifiably embodied in classroom practices that sometimes offend their participant audiences.

Consider the "freshman reading projects" first adopted by many American colleges and universities in the late 1990s and that continue at many institutions to this day. These programs were meant to create a common intellectual experience for incoming students before they encountered a diverse and increasingly bewildering array of academic choices and possibilities across a broad array of disciplines. But the reading projects also have sometimes been regarded as vehicles for introducing students to difficult or unfamiliar ideas and cultures, particularly in response to world events or influential cultural movements. The introductory common intellectual experience, proponents argue, encourages the kind of open-mindedness that helps to prepare new students for the intellectual, social, and cultural challenges of the full undergraduate experience. In the summer of 2002, for instance, a reading project at the University of North Carolina at Chapel Hill required incoming students to read and discuss a book about the Koran as part of a campus-wide response to the tragic events of September 11, 2001.⁴²

Like many such efforts, the Chapel Hill program quickly became a lightning rod for critics of the academy. The North Carolina chapter of the American Civil Liberties Union wondered whether the project would allow professors to "proselytize" and thus violate the separation of church and state that is required at a public university.⁴³ Some conservative Christian groups contended the project was an attempt at "forced Islamic indoctrination" and filed a federal lawsuit against the university.⁴⁴ The general secretary of the AAUP responded by characterizing the critics' challenges as evidence of "growing threats to academic freedom that can occur in times of economic and political turmoil" and traced the threats to fear of the university's capacity for "going to the source of the ideas that threaten us."⁴⁵ When the courts eventually denied all requests for an injunction to stop the project, the chief counsel for the plaintiffs charged that "post-September 11 . . . the academic police are falling all over themselves to uphold Islam in a favorable light" and dismissed the decision to allow the project to continue as "a political correctness ruling."⁴⁶

Yet how could the mere idea of reading a book about the Koran involve an abuse of academic freedom? A particular faculty member's attempt to put the idea into practice might overstep the bounds of academic propriety. But the critics of the Chapel Hill project were reacting not to the implementation but to the very idea of requiring students to read a book about the Koran. Further, why should simply being asked to read a book about the Koran seem to violate

the First Amendment protection of freedom of religion? This charge makes sense only if we assume that coming to understand an unfamiliar religion or way of life through critical reflection on its tenets might be the same thing as coming to believe in those tenets. But of course, understanding and approving are two very different phenomena. I might understand why a hungry child steals food despite my disapproval of the act of theft. Charges that the Chapel Hill program was a project of indoctrination thus rest on a fundamental confusion.

Yet, ironically, these charges embody a conception of moral understanding that is potentially more compelling than the unreflective moral relativism that is far too common both outside and inside the academy. What critics of freshman book projects have realized is that it is possible for an “outsider” to develop a genuine understanding of even the most unfamiliar moral view, even if that view initially seems entirely alien or even repugnant. The book projects’ critics appreciate that such a stance is accessible only to the outsider who comes to understand the unfamiliar view “from the inside” and that an important aim of the projects under attack is to encourage just this kind of understanding. The critics recognize that “controversial” books chosen for freshman reading programs with the aim of encouraging the understanding of diversity have the potential to make various unfamiliar “others” more perspicuous to outsiders.

But what happens when one comes to understand an unfamiliar view or way of life? One result is that practices of which one does not approve or which one even vehemently condemns come to be understood as an alternative means of expressing concern for some of the “familiar” things one actually values.⁴⁷ A critic of polygamous societies, for instance, might come to view such societies as very good at caring for children.⁴⁸ The attempt to produce just such an understanding—an understanding of how a way of life of which one is generally critical might embody at least some admirable values—is central, in my view, to any effort to take moral and cultural diversity seriously. When such efforts succeed, they enhance one’s appreciation of the fact that serious moral disagreement with a way of life need not keep one from finding morally admirable dimensions of the practices one resists. But it is precisely this tendency of sustained moral engagement with unfamiliar, alien, or even “repugnant” moral ideas—its tendency to make those ideas seem familiar or even no longer repugnant—that generates the most vehement criticisms of the book projects in question. Some of the criticisms may be rooted primarily in a simple fear of “threatening” ideas. But the more fundamental fear

informing many protests is that as a consequence of the reading, the objects of the critics’ animus may no longer seem threatening enough.

Yet these critics fail to appreciate that even for a college freshman, there is a fundamental difference between understanding an unfamiliar moral view—even from the inside—and being actively committed to the values entailed by that view. That is, there is a fundamental difference between understanding and approving, and in virtue of this difference, being put in a position to understand an unfamiliar view is not the same thing as being indoctrinated into it. If there were no difference between understanding and approving, it would be impossible for any serious scholar of another way of life ever to avoid indoctrination and conversion. Of course, some people who contemplate an unfamiliar conception or an alien way of life will make the “evaluative leap” from understanding to approval. But most of the time that evaluative leap is possible only because the person making the leap was already prepared to make it. The relevant preparation typically includes lengthy patterns of experience with a way of life and a long history of exposure to local social meanings that are seldom accessible to the neophyte. Indeed, in general, what we call conversion experiences are usually the culmination of processes that began long before the “experience” itself.

To be sure, some critics who recognize the difference between understanding and approving may remain troubled by instruction that encourages understanding of unfamiliar views. These may realize that understanding an unfamiliar moral view can produce sympathy with that view and that such sympathy can be corrosive of orthodoxies that demand internal intolerance of dissent. Because participating in a mandatory first-year project is not entirely akin to taking an ordinary class (even a “required” class), universities should try to provide those who accept such orthodoxies with intellectual space to express disagreement with the project if this can be done without encouraging active intolerance.

INTELLECTUAL DIVERSITY AND ACADEMIC FREEDOM IN CONTEMPORARY ACADEMIC LIFE

I submit that most students will not object to considering the diversity of convictions that is so central to contemporary life. But even if there are more dissenters than I imagine likely, their resistance should not stop colleges and

universities from promoting understanding of diversity. A cross-disciplinary reading project for incoming students can provide a valuable initiation into academic life. Further, when the consideration of diversity grows out of inquiry within an academic discipline, it is an invitation to deepen one's moral education and social understanding in subtle and complex ways. John Stuart Mill reminds us in chapter 2 of *On Liberty* not only that none of us is infallible but also that we are sometimes most aware of our fallibility when we are confronted with ideas with which we disagree.⁴⁹ Even if we are right in some particular instance, Mill continues, the quality of the arguments we offer to support our views can be strengthened by serious engagement with opposing positions. This is why providing opportunities to encounter a diversity of convictions can be a means of promoting scholarly excellence in the university.⁵⁰

Determining how best to preserve diversity of convictions in the university without endangering the university's proper functioning has become a vexing problem for American higher education. Some observers charge that, at present, colleges and universities lack appropriate "scholarly balance" and that this reflects an unacceptable dearth of contemporary academics with conservative religious and political convictions.⁵¹ Of course, nonacademic commitments sometimes shape a scholar's academic interests and pursuits. Yet political labels are coarse and often misleading indicators of an individual's habits of mind that tell us very little about the complex intellectual choices one might make over the course of an academic career. A "conservative" Catholic might be convinced by Pope John Paul II, writing in the encyclical *Evangelium Vitae*, that respect for the dignity of human life demands limiting or even abolishing the death penalty and preserving a robust social welfare system that responds to human needs. A political "liberal" might hold an uncompromising conception of personal responsibility, challenging a view held by many conservatives according to which we cannot hold someone like Thomas Jefferson responsible for moral wrongs of slavery that "simply conformed" to the conventions of Jefferson's time. The intellectual commitments of reflective people of any political alignment will be realized in complex and often unpredictably subtle ways.

Thus, while it is important to have a broad range of scholarly perspectives and interests in the academy, the facile identification of political affiliation and intellectual commitments rests on a fundamentally mistaken and deeply impoverished view of human possibility. Still further, diversity—of any kind—is just one of many values that can have a role in shaping academic life, and as thoughtful commentators remind us, it must not be allowed to trump the

fundamentally important value of academic excellence. We must not allow any pursuit of "scholarly balance," whatever its political or religious origins, to substitute intellectually arbitrary processes of interest-group politics for the sincere and discerning judgment of competent academic inquirers. Robust protections for academic freedom ensure the quality of that judgment; they also preserve institutions in which intellectual experimentation can reliably produce knowledge, encourage critical inquiry and argument, and prepare young people to become responsible citizens. Academic freedom is thus a precious social good, and however unsettling or unpopular some instance of its exercise might be, we cannot afford to dismantle the structures that protect it.

NOTES

1. Debra Galant, "Peter Singer Settles in, and Princeton Looks Deeper," *New York Times*, March 5, 2000.
The Board member was Steve Forbes, also a former candidate for the American presidency.
2. "Trustees Reaffirm Commitment to Academic Freedom," *Princeton Weekly Bulletin*, 89, no. 6 (October 18, 1999).
3. American Association of University Professors, "1915 Declaration of Principles," in *Policy Documents and Reports* (Washington, D.C.: American Association of University Professors, 2006), 10: 297.
4. An especially compelling recent statement of this view appears in Jonathan R. Cole, "Academic Freedom Under Fire," *Daedalus* 135 (2005): 2.
5. Cole rightly insists that the tenured faculty of great universities and other academic leaders must respond to critics to show that "a threat to academic freedom poses a threat as well to the welfare and prosperity of the nation." Cole, "Academic Freedom Under Fire," 5–6.
6. The details of this exchange appear in an online blog published by the *Chronicle of Higher Education*. See Diane Auer Jones, "Academic Freedom or Educational Malpractice?," *Chronicle of Higher Education* (blog), December 1, 2011, <http://chronicle.com/blogs/brainstorm/academic-freedom-or-educational-malpractice/41815>; and Andrew Ross, "Andrew Ross Responds," *Chronicle of Higher Education* (blog), December 5, 2011, <http://chronicle.com/blogs/brainstorm/dr-andrew-ross-responds/41861>.
7. Ross, "Andrew Ross Responds."
8. This episode is detailed in a series of articles that appeared in the *Chicago Tribune* in spring 2011: Jodi Cohen and Lisa Black, "Live Sex Toy Demonstration Held on Northwestern Campus," *Chicago Tribune*, March 3, 2011; Cohen and Black, "NU President 'Troubled' by Sex Toy Demonstration on Campus," *Chicago Tribune*, March 3, 2011; Cohen, "Northwestern Cancels Human Sexuality Class," *Chicago Tribune*, May 9, 2011.

9. In a prepared statement, the professor described the event as valuable because it offered "examples and extensions of concepts students learn about in traditional academic ways." Cohen and Black, "Live Sex Toy Demonstration Held on Northwestern Campus."
10. The professor responsible for the course was quoted describing the demonstration as "unplanned": it was the result of "a quick decision to allow it." See Staff Report, "NU Professor Issues New Statement on Sex Controversy," *Chicago Tribune*, March 5, 2011. This account also revealed that the episode involved a device that looked like "a machine-powered saw with a phallic object instead of a blade." Might the episode therefore have (unintentionally) encouraged violence against women? If so, this surely provides another reason to reject the instructor's claims that the episode was an entirely reasonable, if challenging, exercise of academic freedom.
11. According to the authors of the "1915 Declaration of Principles," "the classroom utterances" of college and university teachers "ought always to be considered as privileged communications"; they are often "designed to provoke opposition or arouse debate" and can thus be the subject of "garbled," "unauthorized," and "misleading" publication. Though rarely discussed explicitly, this assumption seems implicit in the conception of academic freedom held by many academics. Yet what might the idea of classroom utterances as "privileged communications" mean for faculty accountability?
12. Cole, "Academic Freedom Under Fire," 13.
13. Thomas Haskell, "Justifying the Rights of Academic Freedom in the Era of 'Power/Knowledge,'" in *The Future of Academic Freedom* (Chicago: University of Chicago Press, 1996), 43–90. See also Robert K. Poch, "Academic Freedom in American Higher Education: Rights, Responsibilities and Limitations," *ASHE-ERIC Higher Education Report No. 4* (Washington, D.C.: George Washington University School of Education and Human Development), 3–8; and William Van Alstyne, "Academic Freedom and the First Amendment in the Supreme Court of the United States: An Unhurried Historical Review," *Law and Contemporary Problems* 79 (1990): 79–154.
14. "1915 Declaration of Principles," 294. See also Haskell, "Justifying the Rights of Academic Freedom," 58–59.
15. AAUP, "1940 Statement of Principles on Academic Freedom and Tenure with 1970 Interpretive Comments," in *Policy Documents and Reports* (Washington, D.C.: AAUP, 2006), 3–11.
16. *Ibid.*
17. This means that in contrast to the individual rights of free speech protected by the Constitution, academic freedom rights are actually professional rights. Robert Post has rightly rejected the effort to treat them as akin to individual constitutionally protected rights. See Post, "The Structure of Academic Freedom," in *Academic Freedom After September 11* (New York: Zone, 2006), 61–106. It is important that unlike the academic freedom of individuals, *institutional* academic freedom has been determined primarily by the courts. A series of twentieth-century Supreme Court cases about loyalty oaths and subversive speech define institutional academic freedom in terms of the rights of universities to decide faculty appointments and tenure, curriculum,

- pedagogy, and student admissions. See Van Alstyne, "Academic Freedom and the First Amendment in the Supreme Court of the United States."
18. Stanley Fish, "Academic Freedom: When Sauce for the Goose Isn't Sauce for the Gander," *Chronicle of Higher Education*, November 26, 1999.
19. Academic freedom rights have very little substance without tenure.
20. William F. Buckley, *God and Man at Yale: The Superstitions of Academic Freedom*, 50th anniversary ed. (Washington, D.C.: Regnery, 1986).
21. See the measures put forward in the SAF "Academic Bill of Rights," www.students-foracademicfreedom.org/documents/1925/abor.html.
22. For AAUP replies concerning longer-term implications of the proposal, see "Academic Bill of Rights & Intellectual Diversity," www.aaup.org/our-work/government-relations/GRarchive/ABOR; and "The Academic Bill of Rights," www.aaup.org/issues/academic-bill-rights.
23. Though his critics were not mollified, Singer insisted that his undergraduate classroom was always an open forum for discussion and debate. See *Princeton Alumni Weekly*, January 26, 2000.
24. Louis Menand, "The Limits of Academic Freedom," in *The Future of Academic Freedom*, ed. Louis Menand (Chicago: University of Chicago Press, 1996), 6–7.
25. *Regents of Univ. of Wisconsin v. Southworth*, 529 US 217 (2000).
26. Stanley Fish, "Holocaust Denial and Academic Freedom," *Valparaiso University Law Review* 35, no. 3 (2001): 499.
27. Haskell cites Francis Abbott, a member of the "Metaphysical Club" from which American pragmatism emerged, as the author of the phrase "community of the competent." Haskell, "Justifying the Rights of Academic Freedom," 84.
28. Judith Jarvis Thomson, "Ideology and Faculty Selection," *Law and Contemporary Problems* 53 (1990): 155–76.
29. Stanley Fish, "Sauce for the Goose," in *The Trouble with Principle* (Cambridge: Harvard University Press, 2011), 34–45.
30. *Ibid.*, 44.
31. *Ibid.*, 45.
32. Fish, "Holocaust Denial and Academic Freedom," 6.
33. *Ibid.*
34. Bernard Williams, *Truth and Truthfulness* (Princeton: Princeton University Press, 2002), 2–4.
35. See also, Cole, "Academic Freedom Under Fire."
36. The authors of the "1915 Declaration of Principles" viewed the notion of a public trust as central to the university, although they focused primarily on the public trust "reposed in the governing boards" (even of private institutions). They argued that college and university trustees have no right to "bind the reason or conscience" of any professor or to treat their relation to professors as one of private employer to private employees, because even a private institution is not a board's "private proprietorship" (293–94). My claim is that the authority of the professoriate must be more explicitly linked to the upholding of a public trust.

37. Williams, "The Problem," 12.
38. Williams, "The Problem," 11–12; "Sincerity: Lying and Other Styles of Deceit," 5; "Accuracy: A Sense of Reality," 6.
39. Williams, 96–100. In a provocative challenge to Williams's long-standing views about the differences between science and other forms of inquiry, Richard Rorty considers the possibility of a "psycho-historical" account that would rely on the notion that people drawn to science are just more likely to possess certain "moral virtues" than others, including "incorruptibility," patience, reasonableness, and a preference for persuasion over force. Rorty insists, however, that these are moral and not intellectual virtues. See "Is Natural Science a Natural Kind?," in *Objectivity, Relativism and Truth* (Cambridge: Cambridge University Press, 1991), 61–62.
40. Fish, "Academic Freedom and Holocaust Denial," 7.
41. Thomas Kuhn, *The Structure of Scientific Revolutions*, 2d ed. (Chicago: University of Chicago Press, 1970), 164–65; Michele Moody-Adams, *Fieldwork in Familiar Places: Morality, Culture and Philosophy* (Cambridge: Harvard University Press, 1997), 134–135.
42. Richard Morgan, "Three Freshmen Sue U. of North Carolina Over Assigned Reading About Koran," *New York Times*, July 26, 2002.
43. Richard Morgan, "Beach-Blanket Bookworms," *New York Times*, July 19, 2002.
44. Kate Zernike, "Talk, and Debate, on Koran as Chapel Hill Classes Open," *New York Times*, August 20, 2002.
45. Mary Burgan, "Academic Freedom in a World of Moral Crises," *Chronicle of Higher Education*, September 6, 2002.
46. Zernike, "Talk, and Debate, on Koran as Chapel Hill Classes Open."
47. Moody-Adams, *Fieldwork in Familiar Places*, 57–58.
48. Moody-Adams, *Fieldwork in Familiar Places*, 58–60.
49. John Stuart Mill, *On Liberty* (London, 1869).
50. Fish believes that intellectual diversity is "not an academic value." See his "Intellectual Diversity: the Trojan Horse of a Dark Design," *Chronicle of Higher Education*, February 13, 2004. But if exposure to different opinions does, as Mill says, better enable us to recognize our mistakes, intellectual diversity is clearly one intellectual value among others.
51. There is a range of views on the causes and consequences of the current distribution of political and religious convictions in the academy. A brief but helpful survey of the issues is contained in John Tierney, "The Left Leaning Tower," *New York Times*, July 22, 2011.