

RESPONSE TO CRITICS THE AUTOCRATIC ACADEMY: RECONSTITUTING RULE WITHIN AMERICA'S UNIVERSITIES

Timothy Kaufman-Osborn, *Whitman College, USA*

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“What,” asks Professor Dias, “is higher education truly about?” I propose that we reframe this question by recalling the title of Stefan Collini’s 2012 book, *What Are Universities*

For? Only after answering that question can we identify what now ails American universities, as well as how those maladies might be remedied.

The academy’s distinctive purpose was intimated by Socrates when he urged his interlocutors in *The Republic* to “follow the argument wherever, like a wind, it may lead us” (Plato 2007, 394d). Collini (2012, 55) reframes Socrates’ point as follows:

It is sometimes said that in universities knowledge is pursued “for its own sake,” but that may mis-describe the variety of purposes for which different kinds of understanding may be sought. A better way to characterize the intellectual life of the university may be to say that the drive towards understanding can never accept an arbitrary stopping-point, and critique may always in principle reveal that any currently accepted stopping point is ultimately arbitrary.

On this account, the academy will fail to accomplish its purpose if any epistemic conclusion, no matter how well substantiated today, is considered immune to criticism, reformulation, or even rejection tomorrow. To forget or deny this is to allow common-sense, orthodoxy, or ideology to displace the inherently provisional fruits of inquiry.

Florida’s Stop WOKE Act is rightly condemned, therefore, because its ban on classroom consideration of concepts drawn from the scholarship of Critical Race Theory contravenes an indispensable condition of academic inquiry, thereby rendering the Sunshine State’s public institutions of postsecondary “education” something other than universities. If that is so, we might then want to ask whether the American academy’s organization of the capacity to govern its affairs is, in fact, well suited to its end. That we do not often pose this question testifies to the cumulative weight of what John Dewey (1922) once called the “crust of convention.” This acquiescence, especially when exhibited by political scientists who should know better, represents a failure to fulfill the imperatives of the scholarly vocation.

How this organization of power frustrates rather than fosters the project of free inquiry is indicated by Professor Kamola’s account of recent events at Trinity College. Emerging from a controversy the particulars of which he elaborates, Trinity’s Academic Freedom Committee cited the college’s faculty manual in finding that several administrators had violated the investigative powers guaranteed to faculty members by that document. Trinity’s board chair and president responded by declaring that the college’s 1823 charter trumps the manual and therefore that any

provisions in the latter that contradict the former are null and void.

First published in 1966, Kamola explains, Trinity’s faculty manual was composed as part of a larger “effort to democratize the institution.” However commendable in principle, this struggle was destined to fail because Trinity College, like most American universities—whether public or private—is legally constituted as a specific type of corporation and that type is structurally rather than contingently autocratic. According to the 1823 charter, the sole members of this corporation are its trustees. Identified as the college’s “supreme governing power” (Trinity College 1972), to this “body politic and corporate” is granted “full power and authority” to rule the college as it sees fit (Trinity College 2012). Trinity’s constitution thereby excludes all others from any legitimate title to participate in governing the college or any enforceable means to hold their rulers accountable.

The badge that identifies the ruled as subjects of Trinity’s self-perpetuating board is their classification as the college’s employees, and that status stipulates but also reinforces the terms of their subjection. To be an employee is to be a subordinate who, according to common law, has a legal obligation to do what an employer commands or face termination. True, tenure policies at Trinity and elsewhere may temper the harsh reality that is at-will employment. However, those who enjoy this exemption from capitalism’s default are now a privileged few; and, for those denied membership in this club—as Dias reminds us—the daily demands of doing one’s job sabotage the possibility of inquiry that qualifies as free.

Once again, it is in Florida that we best see what it means to be a subject in the guise of an employee retained by its public universities. The attorneys tasked with defending Stop WOKE have argued that these institutions are “subordinate organs of the State.” From this, it follows that their faculty employees—akin to clerks in the Department of Highway Safety and Motor Vehicles—are underlings who are required by law to communicate whatever message their employer enjoins:

State-employed teachers may not espouse in the classroom the concepts prohibited by the Act, while they are on the State clock, in exchange for a State paycheck....The in-class instruction offered by state-employed educators is also pure government speech, not the speech of the educators themselves. (Defendants’ Response, *Pernell v. Florida Board of Governors of the State University System* 2022)

If this conflation of Florida’s institutions of higher education with state administrative agencies prevails, as one day it may, the purpose that renders the academy a unique institutional formation will be dead on arrival.

Free inquiry will never flourish as long as its conduct is located within an incorporated body politic whose authoritarian constitution is buttressed by capitalist employment contracts and the law that enforces both. If that is so, then any appeal to the American Association of University Professors’ (AAUP) gospel of shared governance will ultimately go for naught. The AAUP was surely correct when in 1994 it declared that “a sound system of institutional governance is a necessary condition for the protection of faculty rights and thereby for the most productive exercise of essential faculty freedoms” (American Association of University Professors 1994). In its canonical “1915 Declaration of Principles on Academic Freedom and Academic Tenure” and its 1966

Timothy Kaufman-Osborn is the Baker Ferguson Professor of Politics and Leadership Emeritus at Whitman College. He can be reached at kaufmatv@whitman.edu.

“Statement on Government of Colleges and Universities,” however, the AAUP conceded that governing boards hold “final institutional authority” over the incorporated entities that they rule (American Association of University Professors 1966). Giving the game away, it also admitted that this authority extends to

members of an incorporated body politic whose common purpose is free inquiry as well as preservation of its necessary conditions.

Although I appreciate the concerns raised by Professor Dias, there is no reason in principle why this model cannot be extended to each of the institutional types enumerated in the Carnegie

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determination of “the measure of academic freedom” that is (or is not) to prevail within any given university. That done, the AAUP can do little more than petition the academy’s rulers to refrain from exercising the plenary powers they never surrender.

As Professor Novkov correctly notes, I do not respond to free inquiry’s impossibility within the American academy by invoking the all-purpose epithet called “corporatization.” Instead, I argue for the university’s constitution as a different type of corporation—and here, too, the controversy at Trinity provides a clue as to what that might look like. “The *Faculty Manual*,” states this document’s preface, “defines the instruments by which the Faculty conducts its own business, participates in College-wide governance, and defends its rights, prerogatives, and interests” (Trinity College 2023). Among these rights, the manual gives pride of place to academic freedom understood as the *sine qua non* of scholarly inquiry.

In a bold move, the manual proceeds to declare that its content as well as future amendment are the “exclusive responsibility” of Trinity’s faculty (Trinity College 2023). Yet the college’s statutes expressly state that “the Faculty may make rules and by-laws for their own guidance and the administration of matters committed to their charge: provided such rules and by-laws do not conflict with the Charter or Statutes” (Trinity College 1972). Here we see a stark indication of the contradiction between, on the one hand, the faculty’s recognition that the integrity of its inquiry demands its constitution as a self-governing body and, on the other, a legal form that vests prerogative power in the hands of those who do not engage in that inquiry and are unaccountable to those who do.

To remedy this contradiction does not require a rejection of the academy’s corporate form but rather its reconstruction as what in many state statutory codes is called a “member corporation.” Unlike its autocratic variant, the power of rule within member corporations is organized on the basis of two familiar principles: (1) members establish rules for their collective self-governance by means of debate followed by voting; and (2) rule is exercised either immediately by this corporation’s members or, alternatively, by elected officers chosen by a majority in accordance with the egalitarian principle of one-member/one-vote.

The status of membership within a corporation so organized is no longer restricted to those exclusively authorized to rule—which is now the case within the American academy—but rather is extended to all who do the academy’s work. Instead of exploitative employment relations predicated on wage labor, as these are inflected by racialized and gendered inequalities, this model anticipates the constitution of an academy whose members are not employed by the university but instead are co-constitutive

Classification of Institutions of Higher Education. Indeed, this reconstruction is perhaps most urgently needed by those who teach in the “trenches” of higher education precisely because their faculty members—unlike those at elite liberal arts colleges such as Trinity—are exposed more fully to the intersecting forms of domination constitutive of the American academy. To claim that this model is singularly appropriate to private colleges with established tenure policies is to argue on behalf of restricting to those who least require them the forms of collective self-governance that everyone deserves.

Is this call to reconstruct the academy in the form of a member corporation an ungrounded fantasy, as several of my interlocutors appear to imply? It appears considerably less so when we recall that the contemporary for-profit corporation represents only one of this juridical person’s possible forms, and also that provision for the creation of nonprofit member corporations is readily available in state incorporation statutes. Within the American university, gestures toward the academy’s reconstitution as a member corporation are already implicit in the conduct of peer review, the existence of faculty senates, and the ideal of shared governance—however flawed it may be. Within US higher education, in short, we find intimations of a radical challenge to the autocratic academy. I merely propose that we transform these clues into the cornerstone of an incorporated university built on the principles of republican self-rule.

To contend that this proposal is something other than a pipe dream does not, however, quite do justice to Professor McCann, who asks whether the surprising uptick of union organizing among faculty members, graduate students, and others employed by the American academy in recent years perhaps provides more fertile ground for democratizing the university. This, I admit, is a question that I do not adequately address in *The Autocratic Academy* (Kaufman-Osborn 2023). Were I to do so now, I would begin by acknowledging that unionization provides a foundation for collective action that challenges the individualizing thrust inherent in capitalist and especially at-will employment contracts. I also would celebrate the deployment of solidarity’s power to secure higher pay, better benefits, and less oppressive working conditions, especially for those faculty members who are on contingent appointment and therefore most fully exposed to the grim logic of austerity. Finally, I would acknowledge that unionization offers an overdue critique of the “professional” representation of academic work as a selfless vocation whose achievement of unique universal goods lifts it above and beyond the mundane realm of ordinary labor. The recent affiliation of the American Federation of Teachers and the AAUP, therefore, is a belated but

salutary recognition of the wisdom of the latter's first president, John Dewey, who was a founding member of both.

The formation of unions, however, does not adequately challenge the autocratic academy or the construction of the labor it purchases as a commodity exchanged for a wage. True, in recent years, some collective-bargaining agreements have incorporated certain principles of workplace democracy, thereby moving beyond the AAUP's constricted conception of shared governance. Nevertheless, the unionized university remains a hierarchically organized body politic in which some monopolize the power of rule while others are either structurally disenfranchised or, at best, granted delegated powers that can always be reappropriated (or, as the COVID-19 pandemic demonstrated, revoked via the *force majeure* clauses in collective-bargaining agreements). I am not persuaded, therefore, that unionization alone is sufficient if our aim is to imagine the form of governance best suited to free inquiry.

Whereas McCann invites us to think about the potential contribution of unions to the university's democratization, Professor Heberle asks us to consider the academy's role in educating democracy's citizens: "[D]emocracy requires independent and institutionalized spaces of free inquiry to generate the questions and tensions necessary to challenge power." Especially for those on the left, it always is tempting to justify the academy's freedom on the grounds that this is a necessary condition of its capacity to teach citizens how to think for themselves. So, too—and especially since the initial election of Donald Trump, the murder of George Floyd, and, most recently, the violent crack-down on pro-Palestinian protests at Columbia University and elsewhere—many have argued that universities must become self-consciously engaged in emancipatory struggles, thereby resisting the radical right's campaign to consolidate its power even at the cost of destroying American democracy.

From this vantage point, the claim of free inquiry to immunity from external encroachment is justified on the grounds that it is necessary to the accomplishment of specifically political ends, whether framed in terms of the vitality of democracy and/or the achievement of justice. Although I have made this argument in the past, I now want to suggest that, in fact, it may compromise the cause of free inquiry by defending the academy's autonomy on heteronomous grounds.

The academy's politicization is a dangerous game because it is one that two can play. Governor Ron DeSantis, for example, declared that Florida's public universities in their current form do not in fact contribute to democracy because their instructors teach the "divisive" beliefs enjoined by Stop WOKE, thereby fomenting the Republic's fragmentation into so many identity-based tribes. This argument relies on a disingenuous move that justifies the academy's subjection to centralized political control on the grounds that only this subordination will enable "the people" to regain control over schools now in the grip of "tenured radicals" immunized from the labor market's harsh discipline. That, in turn, is the premise of DeSantis's contention that Florida's faculty members, rightly construed, are so many government employees who consent to serve as the state's "mouthpieces" when they agree to receive taxpayer dollars in the form of paychecks.

With my colleagues on the left, I agree that the very possibility of democratic self-governance turns on the education of citizens who are capable of calling into question received wisdom, whether in the form of commonsense, ideological indoctrination, or mere

bunk. Indeed, were the university to be reconstituted as a member corporation, I believe it would then harbor the potential to animate struggles against the creeping authoritarianism that now defines American politics. It would do so because inquiry's conduct within a democratically reconfigured university would not be organized in accordance with the pricing mechanisms of the capitalist market, the managerial principles that inform bureaucratic hierarchies, or the coercive rule of law based in the state's monopolization of the means of legitimate violence. Grounded instead in the self-rule of its members, the university reincorporated would provide a standing critique of the relations of domination and subordination that prevail wherever forms of collective practice are ordered by these other methods.

That said, perhaps we should be circumspect before we endorse the claim that the cause of free inquiry is best justified by pointing to its service as a means to ends that are not its own. My purpose here is not to show how the academy should be institutionalized if it is to promote democracy. Instead—and recalling Collini's (2012) response to the question about the university's unique purpose—my aim is to suggest how its powers of rule might best be organized if it is to safeguard the project of free inquiry. To defend the academy's autonomy by affirming its instrumental contribution to any extrinsic end—even if that end is the cause of democracy—is to render it a servant of another; and that is to invite attacks by those whose power is threatened by free inquiry's inherently antidogmatic and therefore antiauthoritarian character. Better, perhaps, to declare that the academy must stand or fall on the merits of a purpose that is specifically its own. The unhappy end of Socrates may foreshadow the fate of an academy that does so, but that is perhaps a risk the university must accept if its inquiry is to remain free.

CONFLICTS OF INTEREST

The author declares that there are no ethical issues or conflicts of interest in this research. ■

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