Academic Freedom as an Essentially Contested Concept

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Abstract

The paper applies the essentially contested concept (ECC) framework to build on previous efforts to systematize different understandings of academic freedom. It outlines some benefits and drawbacks of using the ECC framework, and then considers whether academic freedom satisfies Gallie's seven criteria for an ECC.

The paper illustrates the essentially contested nature of the concept by outlining three approaches to academic freedom which have characterized much of the conversation about the subject in the United States. The *occupational approach* takes academic freedom to be a corollary of faculty's purpose-driven practices. Those purposes are to be found in the internal understandings of the respective disciplines. The *epistemic approach* sees academic freedom as part of a social contract between the professoriate and society, with faculty earning their autonomy by delivering knowledge and contributing to democratic processes. The *critical approach* to academic freedom focuses on preserving faculty's right and obligation to speak truth to power, both inside and outside the university. We consider the implications of each of these approaches for research and publication, teaching, intramural expression, and extramural expression.

Finally, we situate the three approaches in the context of democratic backsliding, suggesting their different strengths and weaknesses in addressing ongoing threats to academic freedom. We argue that the epistemic approach provides a more robust foundation for the defense of academic freedom than either the occupational or critical schools. We close the paper with some observations about directions for current and future work, including promising new comparative research on the topic.

Keywords: academic freedom, essentially contested concepts, democratic backsliding, faculty governance, intramural speech, extramural speech

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Introduction

Recent attacks on academic freedom by both federal and state government have received widespread public coverage, and sparked vigorous responses from faculty (Levy 2026, 2; Norris 2025, 12-14; Keck 2025, 10-11).[1] While particularly striking, recent assaults are the latest chapter in a story that stretches back to the end of the nineteenth century. During that time, scholars have debated the meaning and content of academic freedom, and discussed its application to particular episodes and cases (Hermanowicz 2021, 6-7). The considerable literature they developed has the potential to be a rich resource for understanding and responding to recent events. Scholars must, however, first decide how to approach the several different meanings attributed to academic freedom in this very substantial canon. As Adam Sitze (2023, 432) observes, the concept "is shot through with tensions, paradoxes, and ambiguities that allow it to authorize claims so very different from one another that, at times, they are diametrically opposed."[2]

In this paper we build on previous efforts to systematize this difference (Fish 2014, Gordon 2023), and investigate whether academic freedom might be viewed as what Gallie (1956a) termed an essentially contested concept (ECC). As Gallie (1956a, 168) observed, such concepts lack a single "clearly definable general use … which can be set up as the correct or standard use. Different uses of the term … subserve different though of course not altogether unrelated functions for different schools or movements." While academic freedom has been previously described as an ECC, Howard Doughty's (1995) short article did not present a methodical application of Gallie's framework.[3] In this article, we make the case that such an application would be fruitful.

In the next section, we outline some benefits and drawbacks of using the ECC framework, and then consider whether academic freedom satisfies Gallie's seven criteria for being considered an ECC. We proceed to illustrate the essentially contested nature of the concept by outlining three approaches to academic freedom which have characterized much of the conversation about the subject in the United States.[4] The *occupational approach* takes academic freedom to be a

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[1] For example, in 2025 the *New York Times* published about 260 articles mentioning academic freedom, compared to roughly 100 in each of 2023 and 2024. Data from Google Trends shows a similar steady increase in searches on the topic in the last five years (Google Trends, n.d.). On responses from the scholarly community, see also Fernandez and Hutchens 2025 and Enos and Levitsky 2025.

[2] Similarly, Daniel Gordon (2023, 2) notes that the "meaning of academic freedom is not to be found in one abstract definition."

[3] See also Doughty 2010.

[4] While the paper's point of departure is how US scholars have developed different understandings, we of course recognize that academic freedom is challenged and discussed across the world. We return to this comparative theme in the penultimate section of the paper, but here we would note that recent attacks, press coverage and faculty responses have also been occurring in other states (Boncourt and Sapiro 2025, 2), and that scholars in these other contexts have also noted the concept's multiple meanings (e.g., Boncourt 2025 and Eyal 2025).

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corollary of faculty's purpose-driven practices. Those purposes are to be found in the internal understandings of the respective disciplines. The *epistemic approach* sees academic freedom as part of a social contract between the professoriate and society, with faculty earning their autonomy by delivering knowledge and contributing to democratic processes. The *critical approach* to academic freedom focuses on preserving faculty's right and obligation to speak truth to power, both inside and outside the university.

We then proceed to consider the implications of the occupational, epistemic and critical narratives for research and publication, teaching, intramural expression, and extramural expression.[5] Finally, we situate the three approaches in the current US context, suggesting their different strengths and weaknesses in addressing ongoing threats to academic freedom. We close with some suggestions for future research, including adopting a more comparative view of the topic.

Benefits and Drawbacks of Using the ECC Framework

The ECC framework has been the subject of considerable discussion and development since Gallie's (1956a) seminal essay (Collier, Hidalgo and Maciuceanu 2006), and has been used to analyze several concepts employed in a variety of research traditions.[6] These concepts include art (Gallie 1956b), corporate social responsibility (Okoye 2009), democracy (Skaaning 2021), freedom (Day 1986), home (Meers 2023), liberalism (Abbey 2005), love (Hamilton 2006), philanthropy (Daly 2012), power (Dowding 2011, Lukes 1977), the rule of law (Waldron 2002, 2021), stakeholder (Miles 2012), sustainable development (Connelly 2007, Jacobs 1999), and sustainable finance (Boiral et al 2025, Dimmelmeier 2023).

The ECC framework helps scholars identify and analyze disagreements about centrally important concepts. As Gallie (1956a, 169) notes, their employment "inevitably involves endless disputes about their proper uses on the part of their users." Those disagreements are not the results of mistakes or misunderstandings, and they were likely present in varying degrees from the earliest uses of the concept (Waldron 2021, 10). Accordingly, rather than try to ignore or resolve contestation, the analysis of ECCs instead acknowledges the inherent diversity, and considers the implications of the different meanings. This suggests several benefits of using the ECC framework.

First, the framework can provide order and structure to disagreements about a concept's meaning (Collier et al 2006, 221), so it can be properly understood as "complex rather than confused" (Daly 2012, 552). Acknowledging contestation is unlikely to end arguments about the meaning of a concept, but it has the potential to improve the debate (Garver 1990, 253).

[5] In this essay we follow the widely applied distinction between general free speech protections and academic freedom (Keck 2025, 4). While free speech on campus is an important topic in its own right, this essay focuses on academic freedom, and the different meanings applied to that particular concept. For discussions of campus free speech more generally, see for example Chemerinsky and Gillman 2017, and Whittington 2019.

[6] In this article, we follow previous applications in treating Gallie's approach as a framework rather than as a hypothesis (Daly 2012, 537).

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Second, accepting that a particular discourse uses a concept that is essentially contested clarifies what constitutes reasonable goals for the participants in that conversation. It should, in particular, prevent them from perseverating about the concept's single "true" meaning (Collier et al 2006, 234; Meers 2023, 600). This requires acknowledging that contestation is a feature, not a bug, an acceptance that Garver (1990, 254) suggests "requires intellectual and moral maturity to overcome self-righteousness."

Third, the ECC framework helps scholars using different definitions of a concept to analyze where their understandings overlap and diverge. With respect to academic freedom, some actions would be considered egregious incursions by every definition. By contrast, some activities would fall outside the protective area delineated by some definitions but not by others. Gordon (2023, 126) for example, observes that "some conceptions of academic freedom serve as a defense of boycott practices, but others serve as a means to reject boycotts. It is ultimately a question of choosing one version of the concept or another and recognizing the kinds of arguments one can make with each and the kind of arguments one cannot make."[7]

Fourth, by identifying which of the candidate meanings is being used, the ECC framework can make social science more cumulative. It encourages scholars to be more transparent about the particular meaning they are using in their research, improving cumulation among scholars using the same version of the definition. At the same time, it avoids needless confusion when their work is juxtaposed with scholarship that uses different understandings of the concept.[8]

Fifth, the ECC framework can help scholars recognize diversity within what might otherwise appear to be a hegemonic discourse that seems overly dominated by a single theoretical approach. For example, Abbey (2005, 463) suggests that liberal approaches appear to have dominated political theory at the expense of Marxism and communitarianism. If, however, liberalism is an ECC then, notwithstanding the widespread use of the single term, the divergent understandings of liberalism can provide room for progressive movement.

While the benefits seem persuasive, we also note that several scholars have questioned the coherence and use of Gallie's ECC framework. Clarke (1979, 125-126), for example, contends that the "notion of an essentially contested concept is radically mistaken" and that while it may be possible to clarify its definition, it still entails a radical level of relativism, which only undermines meaningful discourse. Similarly, Gray (1978, 390, 392) cautions that emphasis on norm-invoking functions may render these concepts immune to rational debate. Gray (1983, 77-78, 99) also argues that an ECC approach tends to function as a catch-all term, obscuring rather than clarifying theoretical disagreements. Finally, Collier et al (2006, 217) note the difficulties that can arise when scholars confuse an ECC with an over-aggregated concept: one that "brings together elements that are only loosely related to one another." In these instances, rather than

[7] See also Reichman 2019, 20.

[8] Notably, this approach will also make it transparent where users of different meanings arrive at the same interpretation of cases, despite those differences. All definitions of democracy would agree that Sweden is one, and that North Korea is not. There would likely be less agreement about Turkey and Hungary.

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continue as if the concept were contested, a better solution might be disaggregation. Accordingly, deciding whether a concept is contested or over-aggregated is complex and deserves careful consideration.

While acknowledging these concerns, we nevertheless believe the potential benefits warrant investigating an application of the ECC framework to the concept of academic freedom. In the next section we outline the criteria that Gallie established for such an application, and ask whether academic freedom satisfies them.

Gallie's Seven Criteria of Essential Contestability

Essential contestedness means more than vibrant disagreement about a concept (Abbey 2005, 462; Waldron 2002, 149). Gallie suggested concepts need to satisfy seven criteria in order to qualify. In this section we briefly describe each of the criteria, which are summarized in Table One, and discuss whether the concept of academic freedom meets them.

The first criterion is that the concept has to be *appraisive*, indicating positive or negative valence. While Gallie (1956a, 171) initially suggested the term must indicate a valued achievement, subsequent theorists have argued that an ECC can also have a negative valence (Collier et al 2006, 216). This distinction is moot for academic freedom, since there is a widespread consensus among scholars writing about the term that it has positive valence. Reichman (2021a, 3-4) for example, suggests "it is an aspirational value, like equality or liberty," one that serves "the common good in a democratic society."

The second and third criteria, *internal complexity* and *diverse describability*, are closely linked. Internal complexity means that characterization of the achievement invokes several dimensions (Connolly 1983, 10, 13-14). That multiplicity then "makes it plausible that different users may view, or describe, its meaning in different ways" (Collier et al 2006, 216). Academic freedom satisfies both of these criteria. It has a number of different facets, for example, the activity (e.g. research, teaching, intramural speech, extramural speech), the protected 'person' (e.g. faculty, students, the university), and so on. Moreover, as explicitly recounted by Fish (2014a) and Gordon (2023, 2) in their surveys, as well as illustrated by debates between proponents of contrasting viewpoints, the term has different meanings for different users. Gordon (2023, 5-6), for example, notes that the "past century is saturated with complex and often unresolved disagreements about the meaning of academic freedom" and that "there are now multiple traditions." Similarly, Reichman (2019, 28) notes that the "concept would appear to have been widely accepted, but its interpretation is often disputed."[9]

The fourth criterion, *openness*, requires that the "accredited achievement must be of a kind that admits of considerable modification in the light of changing circumstances; and such modification cannot be prescribed or predicted in advance" (Gallie 1956a, 172). When new situations periodically arise, the concept must be revisable (Collier et al 2006, 218). Because the concept of academic freedom has changed over time, it meets the openness criterion. For example, prior to the 1960s, there was no fully formed theory of academic freedom that allowed

[9] See also Scott (2019, 17-18).

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for political activism and academia to be combined (Gordon 2023, 77). This lacuna became more consequential in the 1960s with the creation of programs where struggle was an explicit part of their mandate (Gordon 2023, 77-83), and with the increasing prevalence of more critical epistemologies (Gordon 2023, 84-86). Relatedly, for much of its history, the American Association of University Professors (AAUP) argued that academic inquiry and political activism were distinct, and that it was unprofessional for teaching to include the latter. Starting in 2005, the AAUP began to defend political advocacy in the classroom, if there was a disciplinary consensus about the arguments being advocated (Gordon 2023, 65, 92, 115). Cary Nelson argued that the 1915 AAUP Declaration of Principles on Academic Freedom and Tenure "was obsolete because America had changed" (Gordon 2023, 113).

The fifth criterion is *reciprocal recognition*, which requires that users of the concept acknowledge that it is contested (Collier et al 2006, 219). While some commentators (e.g. Collier et al 2006) are skeptical that this is a requirement, it is nevertheless a criterion that academic freedom easily satisfies. In addition to the overviews offered by Fish (2014a) and Gordon (2023), edited volumes have been periodically published which include authors offering disparate views on academic freedom. Commenting on the Spacks (1996) and Menand (1996) volumes, for example, Gordon (2023, 100) observed that they bring together "opposing opinions into a collage, enabling readers to comprehend each "shape," or argument, through contrast." Other examples included Doumani (2006), Carvalho and Downing (2010), and Bilgrami and Cole (2015).

Essentially contested concepts are grounded in "an original *exemplar* whose authority is acknowledged by all the contestant users of the concept" (Gallie 1956a, 180). There are two versions of this sixth criterion. A narrower account refers to a single original exemplar. The other broader approach, which we follow in this essay, invokes multiple, historically independent but similar traditions (Collier et al 2006, 219, 225). Academic freedom meets this broader understanding of exemplar, where the "common core is centred on multiple, paradigmatic examples that … anchor the concept" (Collier et al 2006, 220).[10] Analyses of academic freedom typically draw from a shared group of documents and events, albeit interpreting them in ways that are consistent with their preferred definition of the concepts. With respect to documents, discussion of both the AAUP's 1915 Declaration and their 1940 Statement of Principles on Academic Freedom and Tenure are ubiquitous (among the countless examples, see Bernard-Donals 2025, 3; Finkin and Post 2009, 30-45, 47-48; Rabban 2024, 24-31; Reichman 2019, 3; 25; Post 2006, 64; Lee 2015a 23-32, 46-49; Cain 2012, 38-40; Tiede 2015, 114-124 and 2021, 106-108). Similarly, analyses of academic freedom often point to the same controversies to describe the concept's content and trajectory. The dismissal of Edward Ross at Stanford University, is an especially prominent case, achieving what Tiede (2015, 35) describes as "iconic status" (examples include Finkin and Post 2009, 30-31; Reichman 2019, 51; Metzger 1961, 163-166; Mohr 1970; Scott 2019, 43-44; Post 2006, 65; Lee 2015a, 1-5; Cain 2012, 16-17). Other well-known cases with repeated mentions include Scott Nearing at the Wharton School (Finkin and Post 2009, 30-31; Scott 2019, 44; Post 2006, 65; Lee 2015a, 14-17; Tiede 2015, 104-110); Ward Churchill at the University of Colorado (Gordon 2023, 104-107; Lee 2015a, 133-141;

[10] See also Collier et al (2006, 230-231) discussion of Waldron rule of law as ECC, and discussion of case law as a series/sequence: "wide range of precedents and exemplars."

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Schrecker 2010, 123-141); Steven Salaita at the University of Illinois at Urbana-Champaign (Gordon 2023, 5, 117-119; Reichman 2019, 20, 59, 74-76; Scott 2019, 69-71) and Angela Davis at UCLA (Gordon 2023, 10-34; Reichman 2019, 22; Scott 2019, 63).

The final criterion, *progressive competition*, suggests that disputes over the meaning of the concept are productive (Gallie 1956a, 180). There are two forms of this seventh criterion. A stronger version, which is a corollary of the openness criterion, suggests that competition over a term moves the relevant scientific community towards a consensus about the exemplar (Collier et al 2006, 225). This convergence on a single meaning suggests that over time an ECC might be decontested, which in this context means that the relevant research communities would agree on one of the meanings of academic freedom. There is little indication that discussions of academic freedom are trending to a single definition (Gordon 2023, 11; 30; Reichman 2019, 2).

A weaker version of the progressive competition criterion suggests that it is sufficient if the discourse leads to adherents of a particular meaning developing stronger rationales for their own particular position. In this regard, the edited volumes cited in support of academic freedom satisfying the fifth criterion (reciprocal recognition) are also probative for this seventh criterion. The engagement with opposing camps leads to sharper and more persuasive accounts of their own. In the following section, we provide illustrations of three accounts that have been prominent within the US literature on academic freedom.

Table One: Gallie's Criteria for Essential Contestability

Criteria of essential contestability	**Satisfaction**
1. Appraisive	Achievement is ascribed positive or negative value
2. Internally complex	Characterization involves several dimensions
3. Diverse describability	Different users describe meaning in different ways
4. Openness	Achievement can be modified as circumstances change
5. Reciprocal recognition	Users recognize concept is contested
6. Original exemplar(s)	Concept is anchored by one or more paradigmatic examples
7. Progressive discourse	Disputes are productive, leading to either consensus or to stronger rationales for different approaches

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American Academic Freedom: Occupational, Epistemic and Critical

American conversations about academic freedom have largely been focused on US universities, with the contested meanings bracketed by that usage. While adherents of particular views position themselves vis-à-vis each other, they rarely consider academia as one among many professions, or America as one among many countries.[11] Because this article consists of a review of how the concept is employed in the US, we follow that usage, and we illustrate the essentially contested nature of the concept by considering three leading narratives: occupational, epistemic and critical.

Table Two: Fish's Five Definitions of Academic Freedom

	Meaning	**Fish**	**Authors**
Occupational	Corollary of faculty's purpose-driven practices, undergirded by minimalist account of professionalism	**Yes**	**Yes**
Epistemic	Granted as part of social contract with state in return for expert generation and promulgation of knowledge needed for democratic decision making	**Yes**	**Yes**
Exceptionalism	Faculty have the right to exercise their individual inclination to virtue and justice	**Yes**	No
Critical	Faculty have the right to defy orthodoxy, by questioning professional and disciplinary standards inside the university, and state and other power structures outside	**Yes**	**Yes**
Revolutionary	Faculty have the right to engage in political action to effect positive change	**Yes**	No

The multiple-understandings approach we take in this essay reflects previous treatments of American academic freedom, most prominently Stanley Fish's (2014a) *Versions of academic freedom: From professionalism to revolution*, and Daniel Gordon's (2023) *What Is Academic Freedom?: A Century of Debate, 1915–Present*.[12] While neither text explicitly invokes the ECC framework, they both review multiple meanings. Fish proposed five understandings of academic

[11] Stanley Fish (2014a, ix), for example, explicitly notes that his text does not "take into account the shape of academic freedom in countries other than the United States." For examples of scholars taking a more comparative approach, see our discussion in the "Next Steps" section below.

[12] See also Metzger 1988.

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freedom, which we summarize in Table Two. In this essay we focus on three of them, with some modifications.[13]

Occupational Academic Freedom

In his "it's just a job" approach, Stanley Fish (2014a, 20-22; 2014b, 192) considers academic freedom to be a corollary of faculty's purpose-driven practices. Those purposes are to be found in the internal understandings of the respective disciplines. Faculty like being academics, and they request the freedom needed to do that job. There is no set of external principles which justifies universities or society more generally providing faculty with that freedom. For Fish, the lack of an external rationale explains why it is hard to find any constitutional or legal justification for academic freedom (Fish 2014a, x-xi, 86; Fish 2014b, 201). Faculty "are not free in any special sense to do anything but their jobs" (Fish 2014a, 10). Their autonomy will largely depend on whatever faculty have managed to negotiate with their respective universities, albeit guided by examples from peer institutions and by templates from relevant organizations.

Fish positions the "it's just a job" approach to academic freedom as a subset of professionalism. However, while citing some mainstream literature (e.g. both Larson 1977 and Freidson 1970), he uses a very thin account of professionalism. Fish (2014a, 20-21) describes it as "essentially a form of market monopoly. A successful profession is one that has (a) identified, or in some instances created, a need; (b) developed mechanisms for producing the service that meets the need; and (c) persuaded the state, or some ruling elite, to award it an exclusive franchise for the delivery of the service." While Fish's last point mentions the role played by the state in establishing professional monopolies, he does not explain why the state has any incentive to grant rights of non-interference that go well beyond the de minimis list of professional privileges. Indeed, apart from mentioning the role that the state plays in professionalism more generally, Fish misses some key elements from the ideal-typical account of professionalism (Freidson 2001), including the ideology that makes the normative case for why the profession deserves to be the protected supplier of a particular set of expert services. Fish's pinched version of professionalism treats "it's just a job" academic freedom as being largely a matter for faculty to work out with their respective universities.[14]

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[13] We decided to exclude the "exceptionalism" meaning that academic freedom is needed for faculty to exercise their individual inclination to seek virtue and justice. Fish (2014a, 103) acknowledges this is the weakest of the five, and we found very little support for it in any contemporary analysis of academic freedom. We also decided not to include the revolutionary approach. The empirical examples cited by Fish (e.g., academic squatting) are so extreme as to amount to a straw man. Moreover, when it came to his theoretical discussion of the schools, there seems to be substantial overlap between the critical and revolutionary schools, and indeed Fish cites some of the same scholars as contributing to both schools (e.g. Henry Giroux and Grant Farred, cited at pages 14 and 123). Accordingly, we proceed with a single critical school. Note that while Gordon did not present a formal typology, by our reading he is mainly concerned with what we are calling the epistemic and critical approaches. In this essay, we also include those two definitions, as well as Fish's favored occupational interpretation.

[14] This approach resonates with Philip Lee's (2015a, 121-132; 2015b) argument that contract law is the most plausible mechanism for securing professorial academic freedom. Contra Fish,

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Epistemic Academic Freedom

Focusing on universities' capacity to create and promulgate knowledge, the epistemic account provides more compelling reasons for why states should grant academic freedom.[15] This emphasis is reflected in the approach's reading of AAUP's 1915 Declaration, which holds that universities "promote inquiry and advance the sum of human knowledge." Similarly, the AAUP's 1940 Statement holds that "Institutions of higher education are conducted for the common good," which in turn "depends upon the free search for truth and its free exposition." As Finkin and Post (2009, 35) observe, knowledge is produced by professional experts following their respective disciplinary practices. To be deserving of protection, scholarly activities have to be conducted in accordance with the standards of the relevant academic discipline (Post 2009, 763). Post's (2006, 73) characterization of the case for academic freedom made in the 1915 Declaration is that it is "the price the public must pay in return for the social good of advancing knowledge."

Although proponents of the epistemic view argue that universities are systems that are uniquely qualified to produce and promulgate knowledge, there is some divergence over the value that university-generated knowledge offers to society. The broadest accounts hold that knowledge is a social good. If society wants to enjoy the benefits of this knowledge, then it has to grant scholars the freedom to create and share it (Rabban 2024, 144, 149; Post 2006, 72; Finkin and Post 2009, 42, 44; Scott 2019, 7). A narrower reading of the epistemic approach connects university's knowledge-making to democracy. Universities deserve the privilege of academic freedom because the knowledge those activities produce is an important input into democratic decision making, and/or disciplined scholarly inquiry is constitutive of democracy, and/or universities train citizens to be open-minded and critical thinkers (Post 2012; Reichman 2019, 44).

While earlier approaches tied knowledge-making to a single, universal understanding of what constitutes knowledge, more recent understandings suggest that different disciplines (and sub-fields) can follow different epistemologies (Gordon 2023, 91, 111). According to this view, these rules only need to be shared and followed by the relevant members of the community (Rabban 2024, 146-148). Sociologists need to follow the rules of sociology and to be accountable to their fellow sociologists, not to historians and biologists. One prominent account suggests that these disciplinary rules play a crucial role in the social bargain with the state. They allow for 'democratic competence,' which is a necessary but not sufficient condition for democratic legitimation (Post 2012, 34, 82-83).

Critical Academic Freedom

The critical approach to academic freedom focuses on preserving faculty's right and obligation to speak truth to power, both inside and outside the university. Channeling American philosopher

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however, Lee is more confident that universities as institutions (i.e. distinct from faculty as individuals) have separate constitutional protection from the state.

[15] Fish labels this approach as the "for the common good school." We prefer "epistemic," since it more clearly identifies higher education's contribution from their side of the social contract.

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John Dewey, Joan Scott (2022, 4) observes "academic freedom is meant for those who have the courage to say what is not deemed acceptable by the powers that be, that it is meant for those who take the risk of defying orthodoxy by interrogating the foundational premises of the status quo—whether of particular disciplines, "common sense," or the state." Along similar lines, Judith Butler (2022, 406) notes that one of the aims of universities is to "question what and how thought is bounded, and whether those limits should be dismantled in the name of another university or another world."[16] Importantly, while the critical definition draws on understandings from the humanities, it suggests that an openness to challenge settled understandings is important across the whole university. As Butler (2020) notes, the meta-analysis of science is "asking a sociological and historical question," which sometimes means asking "how historically established paradigms of knowledge can, and do, suppress critical or dissenting views."

The critical approach applies the same willingness to interrogate and challenge embedded understandings both inside and outside the university.[17] In the context of discussing academic boycotts of Israel, for example, Grant Farred (2008, 355) argues that "academic freedom has to be conceived as a form of political solidarity." Henry Giroux (2007, 37) observes that "education is already a space of politics, power and authority," and argues (ibid., 39) for "reclaiming the university's subversive role, and …combining critiques of dominant discourses and the institutional formations that support and reproduce them with the goal of limiting human suffering."

The three approaches to academic freedom—occupational, epistemic and critical—suggest variation across a wide range of dimensions. In the next part of the essay, we consider the different kinds and degree of protection they claim for four different activities: research and publication, teaching, intramural and extramural expression.

Core Activities (Potentially) Protected by Academic Freedom

In this section we illustrate some of the differences between the three approaches to academic freedom by highlighting the different levels or kinds of support for four categories of faculty activity: research and publication, teaching, intramural and extramural expression. We summarize these differences in Table Three, below.

[16] Fish (2014a, 61) suggests that, in this approach, critique is "the profession's chief obligation and a key component of academic freedom….".

[17] Because each discipline has its own rules, they allow for different levels of commitment to those rules and tolerance of dissent from them. More activist subfields have more permissive rules about politicized activity (Gordon 2023, 111, 116-117; Post 2013, 18-20). With respect to internal critique, a discipline-specific approach also allows differentiation between 'dogmatic' disciplines with a required core, and those which provide faculty and students with more latitude to dissent from any mainstream positions (Post 2006, 81).

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Research and Publication

The occupational approach considers adherence to customary disciplinary practices to be the key metric by which academic activities, including research, are justified. Lacking any external epistemological or social justification, it is disciplinary competence that underwrites scholarly judgements. Challenges to such judgements will come from "the on-the-ground-in-the-trenches perspective of other competent practitioners" (Fish 2014a, 27). An activity will be considered a valid part of the occupation to the extent that it belongs in a workplace "configured by the discipline-relevant dos and don'ts, by the knowledge of what is and is not appropriate behavior in this shop" (Fish 2014a, 29). When engaged in "activities in which they have a professional competence … they should be accorded the latitude — call it freedom if you like — necessary to their proper performance" (Fish 2014a, 10). Research and publication are core to every academic discipline's mainstream. Accordingly, to the extent a particular scholar's actions are coded as research and publication by the scholar's professional peers, those activities should be protected from interventions by the university or external actors. They will, however, be subject to the scholarly judgement of their peers.

The epistemic approach recognizes the close connection of research and publication to "the fundamental mission of the university to create new knowledge" (Finkin and Post 2009, 54). This is unproblematic for 'normal science' which offers incremental progress within a particular discipline's mainstream. The epistemic approach, however, struggles to accommodate the protection of research which diverges from the academic consensus in how it was conducted or the conclusions it reaches. The problem arises from the major role played in the epistemic approach to academic freedom by shared and stable scholarly norms, which both justify and condition academic freedom. Professional and disciplinary norms provide the framework through which knowledge is generated, and academic freedom is granted to work done in accordance with those norms. At the same time, the boundary delineated by professional and disciplinary norms also operates to describe work that fails to qualify. Sub-par work can be critiqued and rejected by the scholarly community using its current standards. This requires scholars to be operating in the mainstream of their respective discipline, and to be obedient to its orthodoxies. Scholars advocating for the epistemic approach recognize the paradox that academic freedom requires norms to warrant knowledge, but that academic freedom should also allow for those norms to be challenged (e.g. Finkin and Post 2009, 55). Their solution appears to be to rely on the perseverance of maverick scholars eventually unsettling the field, so that the status quo can be punctuated by paradigm shifts.[18] But by leaning so heavily on fealty to disciplinary norms, one suspects that only successful challenges to the status quo would be recognized as legitimate, and then only post hoc.

The critical approach is more skeptical of the status and stability of professional and disciplinary norms. While it agrees that academic knowledge must be based on what Adam Sitze describes as a "truth procedure," the critical approach insists that professional and disciplinary norms should also be problematized. As Butler (2009, 774) observes, the worry is that if norms "become the legitimating condition of academic freedom, then … critical inquiry into the legitimacy of those

[18] Rabban (2024, 151) suggests that "professors within a discipline should be generous while considering new ideas, giving them a chance to become accepted over time."

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norms not only appears to threaten academic freedom but also falls outside the stipulated compass of its protections. So too do disciplinary and interdisciplinary innovations that might unsettle the boundaries of the discipline." Without the freedom to challenge norms, disciplines can "make the existing form into a dogmatic position and label any other position as rogue" (Butler 2009, 794). Accordingly, while proponents of the critical approach accept that disciplinary constraints are necessary for the generation of community-based knowledge, they argue against the reification of norms that should instead be constantly challenged and revised.

Teaching

Proponents of all three approaches would agree with Keith Whittington's (2024, 35) general observation that "Professors should be allowed to teach controversial ideas that are relevant to the subject matter of their courses without the interference of those outside the faculty." They would, however, diverge on the value delivered by that pedagogy, and accordingly on the breadth of activities that would be protected.

The occupational approach suggests that teaching is protected by academic freedom when the professor "academicizes" the topic they are covering (Fish 2014a, 31). This requires detaching "it from its real-world context…and insert[ing] it into an academic context where inquiries into its structure, history, significance and value are conducted by means of the traditional methods (textual, archival, statistical, experimental) of humanities, social sciences, and physical science scholarship." (Fish 2014a, 31) Following Max Weber, Fish argues that professors can teach about anything, but the topic has to "be the object of analysis rather than the vehicle of an agenda." In his *Save the World on Your Own Time* (2008), Fish argues that professors only have two legitimate classroom jobs: "(1) Introduce students to bodies of knowledge and traditions of inquiry that had not previously been part of their experience; and (2) equip those same students with the analytical skills … that will enable them to move confidently within those traditions and to engage in independent research after a course is over." Fish (2014b, 198) rejects "the claim that you can be a political actor and a pedagogical actor at the same time."[19] The occupational approach also insists on a strict border between pedagogy and job training, with the latter falling outside the bounds of academic freedom (Fish 2014b, 202-203). As law professors have noted (e.g. Anderson 2013, 34; Gilmore 2013, 52), this is an especially difficult boundary for graduate professional schools to delineate.

In line with its richer view of the professional social contract underlying academic freedom, versions of the epistemic approach provide a longer list of pedagogical activities that would be protected. The "knowledge is good for society" variant would argue that professors are protected when they fulfill their primary teaching function of conveying "the results of scholarly research to their students and … train[ing] them in the methods of scholarly inquiry" (Rabban 2024, 145). The "knowledge for democracy" variant would add the benefit of a university education in preparing students to be better citizens, by inculcating open-mindedness and a willingness to engage in thoughtful inquiry (Rabban 2024, 148).

[19] Wilson (2013, 80) notes the ironic consequence that Fish's insistence on "no politics" requires a constant obsession with politics to ensure it is excluded.

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The critical approach extends this professional social contract further in relation to academic freedom, as "a freedom that requires moving beyond established parameters of knowledge" (Butler 2022, 405, 406) and to protect faculty rights to teach students to think critically, to critique and question established boundaries and limitations. Giroux (2006, 31) emphasizes how academic freedom is essential to "maintaining the university as a democratic public sphere, but defending critical pedagogy as a condition of civic responsibility and teaching as a deliberate act of intervening in the world…". Crucial to academic freedom is the faculty right to prepare students to be active social agents by teaching, "how power works through the production, distribution, and consumption of knowledge within particular institutional contexts…". It also provides room for self-criticism and self-awareness of teaching and creates space for students to recognize their role as critical agents.

Intramural Expression and Faculty Governance

Intramural speech entails faculty engaging in "speech that does not involve disciplinary expertise but is instead about the action, policy or personnel of a faculty member's home institution" (Finkin and Post 2009, 113). Whittington (2023b, 5) suggests that even while not constituting research or teaching, faculty engaged in intramural speech are "participating in core professional activities that shape their work environment."

Intramural speech is closely connected to faculty governance, the formal institutional arrangements made by universities for faculty to participate in decisions (Slaughter 1994, 59). There is little point in giving faculty a role in such decisions if they will be punished for expressing opinions that disagree with the administration. Accordingly, the freedom of intramural speech is considered a necessary condition for meaningful faculty governance. Such governance is, in turn, a key mechanism for instantiating other academic freedoms.[20] Decision making processes that include faculty are far less likely to trespass on their freedoms to teach, research and speak extramurally.

Intramural speech can involve a range of topics. David Rabban (1994, 78-79) provides an extensive list of instances, including the use of professional development funds, teaching loads, tenure policies, the establishment or disestablishment of a faculty senate, modifying academic standards and debating university budgets. Matthew Finkin (2025, 231) provides a similarly diverse set of examples, including "admissions standards, athletics, library policy, the award of a degree, the quality (and probity) of administrative leadership, [and] salary policies…".[21]

While intramural speech was not included in the 1915 Declaration, such speech raised academic freedom concerns from the AAUP's very first investigation at the University of Utah in 1915 (Finkin 1988, 1336).[22] Subsequently, as "case succeeded case….and as intramural utterance

[20] This point was forcefully made by the AAUP in its 1994 statement "On the Relationship of Faculty Governance to Academic Freedom" (AAUP 2015, 123-125), which argued that "a sound system of institutional governance is a necessary condition for the protection of faculty rights."
[21] See also Finkin 1988, 1338.
[22] Rabban (1994, 80, 82) suggests that while intramural speech was not specifically mentioned, the 1915 Declaration may still provide some indirect coverage. First, the Declaration's inclusion

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became a major and continuing source of conflict and concern, the profession came to see it as directly implicating academic freedom" (Finkin 1998, 1337). Institutional governance was also a focus from the outset, with the AAUP forming a committee in 1917, which then issued its first report in 1920 (AAUP 2015, 115). The AAUP provided strong support for faculty governance in its 1963 Statement on Government of Colleges and Universities. The 1963 statement grounded institutional effectiveness in the joint efforts of the university's components, albeit with the weight given to each 'voice' being "determined by reference to the responsibility of each component for the particular matter at hand…" (AAUP 2015, 118). The report was unambiguous in the role it claimed for faculty with respect to research and teaching related topics, noting that the "faculty has primary responsibility for such fundamental areas as curriculum, subject matter and methods of instruction, research, faculty status, and those aspects of student life which relate to the educational process" (AAUP 2015, 120). Faculty were also expected to be included in discussions about planning, where "…the broadest possible exchange of information and opinion should be the rule for communication among the components of a college or university" (AAUP 2015, 119).[23]

The AAUP made more expansive claims in its 1994 statement "On the Relationship of Faculty Governance to Academic Freedom," arguing that "the faculty's voice should be authoritative across the entire range of decision making that bears, whether directly or indirectly, on its responsibilities….it is also essential that faculty members have the academic freedom to express their professional opinions without fear of reprisal" (AAUP 2015, 124). With respect to intramural matters, academic freedom included the freedom for faculty "to express their views…on matters having to do with their institutions and its policies," because "grounds for thinking an institutional policy desirable or undesirable must be heard and assessed if the community is to have confidence that its policies are appropriate" (AAUP 2015, 124). A 2009 AAUP statement responded to the Supreme Court's 2006 *Garcetti* decision, which had introduced a new threshold test for a *Pickering* balancing test.[24] For our immediate purposes, the statement's main contribution is in its restatement of AAUP's understanding of the centrality of intramural speech, both as part of formal governance and more informal communications (AAUP 2015, 126-129).

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of extramural speech may lead to an a fortiori argument for extending protection to intramural speech. Rabban (1994, 80) suggests that "…if faculty members have academic freedom to speak as citizens about political issues having nothing to do with the university, one could easily maintain that they should be able to speak about university matters beyond their narrow disciplinary concerns." In the same article, however, Rabban also notes that extramural speech is better seen as falling under broader free speech rights rather than academic freedom. Second, the 1915 Declaration included "practical proposals," one of which provided for judicial bodies of academic professionals to conduct peer review prior to dismissal. Since the peer review proposal was a form of faculty governance, Rabban suggests this arrangement might be seen as being extendable to other areas of university affairs.

[23] The 1963 statement also expects faculty to have input in other intramural areas, such as the use of physical resources, and the selection of new presidents.

[24] Garcetti v. Ceballos, 547 U.S. 410 (2006); Pickering v. Board of Education, 391 U.S. 563 (1968).

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While the occupational, epistemic and critical approaches to academic freedom all agree that some intramural expression is protected, they disagree about the rationale for the shield, as well as its extent.

As with the other categories of faculty behavior, the occupational approach supports types of intramural speech which are considered a customary practice, and hence are core to the faculty's professional identity. What is protected will depend on a combination of factors, including the particular topic and the way in which the speech is delivered. A faculty member emailing her department colleagues to raise concerns with centrally mandated changes in course syllabi would be more likely to be shielded than the same faculty member bringing a bullhorn to a Chancellor's address to protest the university's investments in fossil fuels. While both involve internal university policies, only one of the topics would be considered part of the faculty's portfolio. The relative modesty of the occupational approach's reach is reflected in Fish's (2014, 92) observation that the difference between academics and other employees "does not extend to everything in the workplace situation, and in many respects academics are employees like anyone else." Mark Yudoff (1988, 1356) exhibits a similar reticence when he argues that "we ought to resist the temptation to bring all talk about conditions that have an impact on professional autonomy, no matter how far removed from teaching and research, under the umbrella of academic freedom."

The epistemic approach justifies academic freedom as part of a social contract, a prerequisite and quid pro quo for the production and dissemination of knowledge. Accordingly, intramural speech should be protected to the extent it contributes to that epistemic mission. Whittington (2023b) provides a helpful typology of different kinds of faculty speech. The closest of his types to what we are considering intramural speech is what Whittington labels "distinctively academic intramural speech."[25]

Apart from requiring that the speech's topic impacts the knowledge making and sharing process, the epistemic approach is unclear on what (if any) other standards should be applied for intramural speech to deserve protection under academic freedom (Finkin 2025, 232).[26] To be

[25] This is distinguished from "scholarly-adjacent intramural speech," which is prefatory to or part of the research or teaching process. Such speech might include presenting a draft paper at a department faculty workshop, or meeting with students outside of class time to discuss their work in progress. While there may be some edge cases, we argue that "scholarly-adjacent intramural speech" is better coded as research or teaching, and is more clearly protected in accordance with the article's two preceding sections on these particular faculty activities. Whittington also contrasts "ordinary workplace intramural speech," which is indistinguishable from speech that would be encountered in non-academic settings, and so does not earn any protection from being part of the process by which knowledge is generated and shared. Along similar lines, Rabban (1994, 86) draws a distinction between protected expression that draws on professional expertise to advance the search for knowledge, and speech that does not.

[26] As noted above, this contrasts from the epistemic approach's treatment of both research and teaching, where disciplinary norms play a crucial role in deciding what is scholarship, and accordingly what earns protection under academic freedom. By contrast, as detailed in the next section, the epistemic approach only protects extramural speech because its suppression might

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sure, some components of institutional policy may rest on claims that are amenable to disciplinary testing. For example, faculty can point to research that supports or questions an administrative policy.[27] But most intramural speech involves discussions that take place outside of any particular disciplinary matrix, and so cannot be held to one discipline's standards. They are epistemic because of the impact they have on the truth seeking process, not because they themselves are held to epistemic standards. As Finkin (1988, 1341) observes, "in developing and executing its policies, institutions seek not truth but wisdom." But it is also professional speech, and so presumably should require faculty to apply some care about what and how they speak.[28]

The critical approach agrees with the epistemic approach's characterization of faculty as citizens of a university's academic community, both entitled and equipped to voice opinions about its policies. While the epistemic approach limits its protection to intramural speech implicated in the knowledge making process, the critical approach also wants faculty to be empowered to question broader institutional norms. This can potentially open up a wider range of topics for faculty to speak to, as well as allow for more vigorous criticism. Hence Judith Butler's (2017) argument that intramural speech extends to protecting faculty rights to participate in designing and critiquing curricula overlaps with the epistemic position. But they go further in asserting faculty rights to counter attempts made by the university to claim ownership over course content, syllabi, and curriculum. They also argue that the protection of intramural speech is necessary to preserve avenues for faculty to critique governance such as faculty working conditions (i.e. when faculty were required to return to campus during COVID) (Butler 2022). This extends the notion from the epistemic approach that faculty not only have expertise in knowledge making and sharing processes, but should also have the right to make recommendations regarding institutional structures and systems.

Butler, Scott, and Giroux have all suggested that academic freedom must protect fields of study and topics that are often targeted for challenging the status quo. Scott (2019) argues that academic freedom should protect inquiries that challenge foundational disciplinary premises. Similarly, Giroux (2006) and Butler (2022) point to the need to protect critical academic fields such as Cultural, Queer, Black, and Gender Studies that are often the site of political attacks on higher education and knowledge production. Part of the critical justification for intramural speech is that the right to speak truth to power inside the university will encourage the university community to live up to its potential as a place where social justice is fostered. But at the same time the expectation is that, by fostering that capacity, such intramural speech will in turn better prepare the university community to speak truth to power in the wider society.

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have an impact on knowledge making and sharing, not because the speech meets the requirements of the faculty member's discipline.

[27] For example, Doerer (2019) and Shorter (2023) describe how research results showing that student teaching evaluations are systematically racist and sexist have been used to support a shift to faculty peer review.

[28] Finkin (1988, 1332-1333) mentions a professional standard of care. See also Finkin 2025, 239, note 77, for a discussion of Van Alstyne's 1972 treatment of what might not be protected: "A faculty member who makes meritless, endless motions to protect minutes of previous department faculty meetings in order to obstruct the faculty from doing its needful work can, for example, be excluded from attendance."

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Extramural Expression

Extramural expression refers to faculty speech that is "unrelated to either scholarly expertise or institutional affiliation" (Finkin and Post 2009, 127; Finkin 2025, 223).[29] While initially only offering qualified support, over time the AAUP gradually became more protective of extramural speech. The 1915 Declaration was relatively diffident, suggesting that professors had rights to speak as citizens, but they should "avoid hasty or unverified or exaggerated statements, and…refrain from intemperate or sensational modes of expression." In the 1940 Statement, the AAUP suggested that faculty's "special position in the community imposes special obligations. …they should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others…" In 1970, the AAUP added an interpretive statement that discipline for extramural speech is only warranted when the speech is judged by fellow members of the professoriate to bear on the faculty member's competence (Reichman 2019, 52-53; Berube and Ruth 2022, 72-75; Finkin and Post 2009, 146).[30]

The occupational approach provides faculty with very little support for extramural expression. Because it is only tenuously connected to their job, such speech would not qualify for professional protection. Consistent with that view, the approach's main proponent authored a book titled *Save the World on Your Own Time* (Fish 2008). To be fair, while the occupational approach largely disowns extramural speech as being outside a professor's job, it recognizes that academics may get some protection from their customary employment contracts with the university. Moreover, if employed at public universities, professors may be protected by the First Amendment as citizens (rather than faculty), especially if their speech is unambiguously unrelated to their occupation.[31] Fish's (2008, 84-85) discussion of the Ward Churchill controversy seems to follow this line, when he suggests that the Chancellor of the university should have argued "Mr. Churchill's remarks to the general public about matters of general political concern do not fall under the scope of the university's jurisdiction. He is of course free to make them, although one should not assume that in doing so he speaks for the university." But by this reading, any protection Churchill might receive from the courts would be as a citizen, not as a faculty member.[32]

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[29] Tiede (2021, 111) suggests that "the AAUP's conception of extramural speech apparently simply amounts to speech not made in one's capacity as a faculty member–that is, what remains when freedom of research and teaching are subtracted."

[30] Tiede (2021, 128) suggests that the AAUP's position on extramural speech has remained constant since the 1970 interpretive statement (which represented a broader adoption of a standard expressed in a 1964 Committee A report).

[31] While Garcetti v. Ceballos suggests that public employees can face consequences for speech relating to their employment, expression that they make as citizens falls outside of their employer's control (Rabban 2024, 83-84; Whittington 2024, 82). While this may make sense for district attorneys, for professors it leads to the upside-down outcome that current First Amendment law may provide greater protection for the extramural speech of public university employees than for their research or teaching activities.

[32] Fish is similarly critical of the University of Illinois, Urbana-Champaign withdrawing Steven Salaita's job offer because of his anti-Israel tweets. As related by Gordon (2023, 118, in turn quoting from Flaherty 2014), Fish is reported to have said that "Tweets alone—however

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In the epistemic approach, rationales for protecting extramural expression are largely based on how restrictions on such speech might impact faculty research and teaching. One line of reasoning is that extramural speech should be protected because it is hard to distinguish from the dissemination of research.[33] Consider, for example, a climate scientist giving lectures to a public audience about four topics: (a) rising ocean levels and the likely impacts on coastal communities; (b) the effect of cuts to Federal government funding on the higher education sector; (c) the importance of traditional 'Western' philosophy texts to undergraduate education; and (d) evidence for and against alien abductions. The first topic is directly connected to their expertise, and would be unambiguously promulgation of research. The second topic is a step away from their narrow substantive topical expertise, but they could still make a plausible argument that their analysis and conclusions are relying on their expertise as a professor and grant applicant. The third topic is also complicated, but arguably can also be seen as falling within their expert domain. While it appears to be unconnected to their area of specialized knowledge, in the American liberal arts tradition even hard science majors are required to take classes in other fields. Climate scientists may well have an expertise-based view of the best core requirements for American undergraduates who will be showing up in their classes. The last topic, alien abductions, is unmistakably extramural. One argument for shielding (d) is that it avoids having to struggle with whether (b) and (c) are also deserving of protection. [34]

An alternative (and in some views, stronger) argument than the distinction difficulty is that extramural speech should be protected because free inquiry requires that faculty are shown to be independent thinkers in all aspects of their expression (Finkin and Post 2009, 133-139, 143; Berube and Ruth 2022, 83). Allowing punishment for extramural speech would diminish "the scope of free inquiry" and "the core mission of the university to advance and disseminate knowledge would come under pressure and be subverted." (Whittington 2023a, 1131). This problem is likely to be exacerbated if administrations which are faced with controversial but otherwise protected research, teaching and intramural expression use extramural speech as a back door way to rid themselves of troublesome faculty (Whittington 2023a, 1134).[35]

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uncomfortable they could make students or colleagues—aren't enough" to justify revoking an appointment. But, as in the Churchill case, it is hard to see how the occupational approach would offer any protection to Salaita as an academic, distinct from the First Amendment protections he might receive as a citizen.

[33] See Gordon 2023, 28 and Rabban 2024, 159 for examples of speech that may be hard to classify as expressions of the speaker's expert scholarship or as extramural.

[34] An institutional variant of this argument is that if universities take responsibility for censoring extramural speech, they risk being held accountable for speech they do allow. By refusing to distinguish unprotected extramural speech from protected research, they can plausibly argue that when professors speak extramurally they always do so as private individuals (Whittington 2023a, 1129-1130).

[35] By contrast, Rabban (2024, 139, 155-156) suggests extramural speech that does not draw on the professor's scholarly expertise deserves only general (i.e. civilian) First Amendment protection, not academic freedom.

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Table Three: The implications of different meanings of academic freedom for four faculty activities

	Approach to Academic Freedom		
	Occupational	**Epistemic**	**Critical**
Research & Publication	Fundamental disciplinary practice, but does not extend to political persuasion or applied knowledge.	Core knowledge-making activity in epistemic approach, and typically respectful of professional and disciplinary norms.	Extends more protection to research which questions disciplinary orthodoxy.
Teaching	Fundamental disciplinary practice, but does not extend to political persuasion or job training.	Constrained by stock of knowledge - teach what the discipline 'knows'.	Teach students to be active critics of the status quo.
Intramural speech (including faculty governance)	Fundamental disciplinary practice, but only on issues closely tied to core faculty functions	Faculty expertise provides the best basis for administrative decisions that impact knowledge making.	The role of faculty as critics of internal structures expands what they can speak about.
Extramural speech	Question for First Amendment/free speech, not academic freedom.	Not protecting extramural speech threatens research and teaching, so protect it.	Speak truth to power.

While the epistemic approach may end up advocating for something close to what Deepas Das Acevedo (2024) describes as "Extramural Absolutism," in almost all cases the approach justifies the protections by referring back to the core knowledge making and sharing functions. By contrast, the critical approach to academic freedom provides more welcoming terrain for protecting extramural speech in its own right. To be sure, the critical view makes a similar distinction between critiques that were produced and evaluated by relevant scholarly norms and thus qualify as academic speech, and general opposition which is better characterized as dissent. But, as noted above, in the critical approach both scholarship and pedagogy are explicitly framed as preparation for tackling societal problems. Judith Butler (2022, 400) argues for the reformulation and publicizing of "the critical nature of our work as central not only to the university but to democracy more broadly, to the extent that critical thought, whether inside or

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outside the university, is essentially related to dissent, judgement, and public engagement." Elsewhere Butler (2017, 858) notes that "Higher education grounded in academic freedom opens up the possibility of free and critical thought, including intellectual positions that call into question the status quo, the policies of government, and even the possibility of new political formations… we are exercising a freedom of thought and expression that is not only essential to higher education and to democracy, but also to the very meaning of human freedom."[36] The purpose, they write (Butler 2022, 409) is "to dismantle killing forms of power and knowledge, and to transform society, to know more clearly what freedom and equality might mean, and to build in common a world that reflects and embodies those ideals." Along similar lines, Henry Giroux (2010) argues that the virtues of academic freedom that unions should be supporting include taking "academic freedom as a discourse and set of freedoms that not only engage in the search for truth, but also affirm the importance of social responsibility and civic commitment" (33). Ian Angus (2007, 66) observes that the "university is an institution of thought. Thus its economic and political functions are pervaded by a practice whose distinctiveness consists in its attempt to transcend those functions by inquiring into their justification and their place in the wider social order."

The Road Ahead

Framing academic freedom as an ECC will help universities and faculty to use the concept to best weather upcoming storms. The ECC framework is a tool for the productive recognition and management of disagreements about how to define a concept that is central to an ongoing scholarly discourse. Crucially, it could help advocates of the various meanings to view themselves as part of the same larger conversation, and to moderate what might otherwise be a free for all. Acknowledging that a discourse is grounded on an ECC can have what Garver (1990, 259) described as a "civilizing function," increasing the likelihood of constructive collaboration where it is possible, and respectful understanding of difference where it is not. Given the severity of current challenges, the last thing the higher education sector needs is a circular firing squad, as advocates of the different approaches strive for the upper hand.[37]

The ECC framework also encourages an appreciation of the strengths and weaknesses of the different approaches to academic freedom, and which definitions may have an advantage in dealing with different kinds of threats. As John Higgins (2018, 274) observed when commenting on the trajectory of academic freedom in South Africa: "Academic freedom rarely if ever names, refers to or describes an existing state of things; rather, it is always a normative ideal called up precisely at moments when it is lacking or appears to be under threat."[38] As presaged in the

[36] Butler (2017, 858) recognizes that while it is grounded on scholarly work inside the university, that is distinct from the subsequent external engagement, which they label 'dissent'.
[37] In this regard, the sometimes fractious relationship between the AAUP and the Foundation for Individual Rights and Expression, FIRE, provides examples of both productive and less helpful interventions. See Reichman 2021b for a brief but well-reasoned account of how the two organizations sometimes find themselves in different places. See Lukianoff 2024 for a less temperate contribution. See also Shanley 2024, Wilson 2024, and Scott 2024.
[38] Citing Higgins, De Gennaro, Hofmeister and Lufter (2022, v) make a similar point when they observe that as "long as freedom reigns supreme, it largely goes unnoticed."

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openness criterion, how scholars consider academic freedom changes over time in response to pressures, with both revisions within particular meanings, as well as shifts in popularity between them.

The most immediate pressing concern is the extraordinary intrusion by federal and state governments. It is hard to exaggerate how unusual these demands are, in particular in the absence of war or other severe external threat.[39] We would argue that the different definitions are not equally well placed to respond to these types of threat. The occupational definition focuses on the relationship between faculty and their universities. It may provide some ground to push back on threats where faculty and university are at odds (e.g. protecting faculty governance from private philanthropy) but it provides small comfort when universities are the target, and where university and faculty interests are aligned.[40] Moreover, as we noted above, the occupational definition offers very little by way of an explicit quid pro quo to the state in exchange for academic freedom (Post 2013, 13-14).[41] It provides only a weak case for why academics should be considered members of a senior profession that enjoys more robust protections (like lawyers, doctors or clerics), rather than a junior profession that does not (like veterinarians or architects).

The critical approach is also limited when it comes to facing the current challenges. First, this approach has a more difficult fit with professionalism. The argument for a broader set of protections is based on the particular profession making a stronger case for why they are desirable. But there are important aspects of the critical approach which would sabotage this relationship. First, the critical approach would likely deconstruct the professional norms that underpin the professoriate's contribution in the bargain (see Reichman 2019, 41, and discussion of Butler). Second, the approach would almost surely question the bargain itself, especially if the state grants autonomy to the universities rather than to the faculty. This last point is particularly telling when institutional and individual interests are not aligned.[42] Finally, because the critical

[39] For some accounts of challenges to American academic freedom during periods of external threat, see for example Cain's (2012, 51 -73) discussion of World War I, and Schrecker's (1986) account of anti-Communist purges during the Cold War.

[40] On the potential impacts of private philanthropy, see for example Curti and Nash 1965, Miller and Bellamy 2012.

[41] The lack of external justification is regretted by even Fish's most admiring readers. While Alexander (2013, 1, 8) agrees with Fish's basic thesis and supporting arguments, suggesting it is consistent with his own earlier work (Alexander 2006), he thinks the exclusion of public benefit is a "bridge too far." Similarly, while Schauer (2013, 22) is sympathetic to Fish's deflationary view of academic freedom, he envisions (ibid., 26-27) a consequentialist policy-driven constitutional right that we believe is more consistent with the social contract view taken by the epistemic approach. See also Frye 2013, 46.

[42] There is a long-running discussion about whether US academic freedom attaches to individual faculty, to universities as institutions, or to both. As Lee (2015a, 99) notes, while much of the distinction may be moot when an external intervention threatens everyone, the distinction becomes more consequential when institutional and individual interests are misaligned. One view is that under those circumstances, universities should prevail. See for example Judge Easterbrook's holding in Kilborn v. Amiridis (2025) that "protecting a university's right to decide independently is the goal of academic freedom." He notes that "when a professor and a

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approach aims much of its criticism at the state, this makes it much less likely that privileges would be granted.

The critical definition does its best work when it identifies and deconstructs malign power structures. In the longer term, that will likely help tackle the root causes of the unprecedented government encroachments on the higher education sector. But in the short to medium term, what is needed most is a positive argument for the faculty's and universities' side of the social contract. That is, an argument that emphasizes the magnitude and relevance of the contributions that, in the shape of knowledge, faculty and universities bring to society. Accordingly, we would argue that the epistemic definition is best placed to meet the current moment. The approach provides a much stronger case for the state to protect faculty and universities. The precise reasoning would depend on which aspect of the epistemic function was being invoked. For example, if it was that the process of free inquiry is constitutive of democracy, or the knowledge produced is an important input for efficient decision making. But in each case the argument would be that the academic profession both needs and deserves more protections than architects and veterinarians. This is the case that Robert Post (2012) tries to make when he describes the sequence that links disciplinary rigor to scholarly expertise to democratic competence to democratic legitimation. Contemplating a post-Garcetti world, Post (2012, 96) argues that "democratic competence can be constitutionally protected only if the disciplinary practices that create expert knowledge are themselves invested with constitutional status."

The operational implication of acknowledging the different definitions' suitability to address current challenges is that scholars should be openly declarative about which meaning they are adopting, and the reason for that choice among the available options. Moreover, considering the discourse holistically, we think the cause of academic freedom will be well served if the field considers what each of the meanings can contribute to the conversation, and the different scenarios where one or the other might provide the best possible response.

In considering the strengths and weaknesses of the different definitions, we would also recommend adopting a more comparative lens, both with respect to professions and to countries. Much of the American conversation about academic freedom is too narrowly about the academic profession, rather than considering it as one profession among many. Including more of the broader comparative literature on professions could provide important clues about how faculty and universities can best preserve their independence. Understanding how some professions historically negotiated more extensive public-policy privileges may offer lessons for academics.[43] As mentioned above, the autonomy from state intervention that academic freedom

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university are at loggerheads about what constitutes effective teaching and scholarship, the university has to win." For more on the distinction between the individual and institutional positions, see for example Hiers 2002 and 2007; Byrne 1989, 311-339; Finkin 1983; Horwitz 2007; Post 2013, 15; and Mertz 1987-1988.

[43] The vast literature on professionalism appears in a number of different disciplines and employs a variety of theoretical and empirical approaches. In addition to Larson 1977 and Friedson 1970 mentioned earlier, useful summaries and surveys would include Abbott 1988, Kultgen 1988, Burrage and Torstendahl 1990, Torstendahl and Burrage 1990, Friedson 2001, Evetts 2003, Burrage 2006, Dingwall 2008, and Dent et al 2016.

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requires goes well beyond the core professional components of a restricted labor market and a monopoly on providing relevant services. Accordingly, it may be helpful to compare other contexts in which the state balances competing goals, and opts to protect professional privilege in order to secure a valued societal goal.[44]

With respect to other potential comparisons, we note that the contemporary US conversation about academic freedom is often focused exclusively on America. Considering other single-country experiences might be instructive, as they have occasionally been in the past. For example, German academic freedom provided a partial model for early American efforts (Hofstadter and Metzger 1955, 367-412; Whittington 2024, 31; Cain 2012, 12-15; Reichman 2021a, 6-7). South African developments provided the definition that was used by Justice Frankfurter in *Sweezy* (1957), one of America's best-known court cases on academic freedom (Rabban 2024, 69-70; Sitze 2017, 772).[45] As American faculty confront an increasingly difficult environment, studies of other single countries that have also faced challenges may be helpful. There is, for example, a burgeoning literature on democratic backsliding in Hungary, including its particular impact on academic freedom (for example, Enyedi 2018, Bárd 2020, Ryder 2022, Majtényi and Ryder 2025, Ryder and Soltész 2025, and Bos and Kneuer 2026).[46]

We also note a very promising recent development that seeks to build an explicitly comparative research program based on statistical data. The Academic Freedom Index (AFI) was launched in 2019 as part of the Varieties of Democracy (V-Dem) project (Lott and Spannagel 2025, Spannagel and Kinzelbach 2022, Spannagel, Kinzelbach and Saliba 2020). The 2025 AFI update draws on assessments made by 2,363 country experts from around the world (Kinzelbach et al 2025, 12). The dataset empowers the systematic analysis across different societies of the causes and consequences of academic freedom. For example, Lott et al 2025 investigate factors which make academic freedom more resilient in the face of democratic backsliding, and Audretsch et al 2024 study the relationship between academic freedom and innovation.[47]

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[44] For example, to varying degrees, attorneys, doctors and clerics promise their clients, patients and penitents confidentiality. According to the Wigmorean approach to evidentiary privilege, the state can decide to protect those relationships, by not insisting the information be made available as evidence to ensure a maximally accurate outcome for court proceedings. See Imwinkelried 2003 and 2004.

[45] In *Sweezy*, Justice Frankfurter was drawing on a 1957 report (Conference Representatives 1957) responding to plans to impose apartheid on South African universities. The 1957 report was, in turn, quoting a definition developed by Thomas Benjamin Davie, vice-chancellor of the University of Cape Town. See Van de Sandt Centlivres 1961. Notwithstanding his role in developing this definition, however, Davie has also been criticized for encouraging the university's participation in nationalist and white supremacist celebrations (Barnes 2019, 55-56; see also Witz 2003, 158-162).

[46] There have been similar discussions of academic freedom in other states experiencing democratic backsliding and increasing authoritarianism. On Turkey, for example, see Doğan and Selenica 2022, Göl 2025, and Can and Kaya 2025.

[47] See also Norris 2025, Lott 2024, Fernandez et al 2024, and Berggren and Bjørnskov 2021 and 2022. Relatedly, we also note the newly published Academic Freedom in Constitutions dataset (Spannagel 2024), as well as some initial empirical analysis using it (Spannagel 2025).

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Conclusion

The American scholarly literature on academic freedom uses multiple different meanings of the term. In this essay we have argued that this variety might usefully be approached using Gallie's framework for essentially contested concepts. We first described the benefits and drawbacks of using the framework, and then outlined the seven criteria Gallie provides for a concept to be considered essentially contested, showing how academic freedom satisfies them. We illustrated the application of the ECC framework by describing three prominent strands within the literature— the occupational, epistemic, and critical approaches —and by considering their implications for research and publication, teaching, intramural, and extramural expression.

In using Gallie's framework, we hope to highlight that acknowledging academic freedom as an ECC is not a criticism of either the concept or of the field that uses it (Waldron 2021, 1). Where appropriate, applying the framework permits a more orderly, sustained and cumulative conversation among and between proponents of the different views. This is especially important when academic freedom faces severe challenges, and when proponents of that freedom need to be finding common ground.

Moreover, the ECC framework allows the approaches to be recognized for their different strengths and weaknesses in responding to different kinds of challenges. By far the most serious current threats are posed by state and federal government interventions. Eschewing any external justification, and explicitly disavowing constitutional protections, the occupational approach is virtually powerless against government interventions. It is better-suited to mediating the relationship between university and faculty. The critical approach provides a potentially more powerful response to such interventions, but its application would require substantial long term institutional and social change. Accordingly, we argue that the epistemic approach provides the strongest and most pragmatic arguments for protections against governmental interventions. In the short to medium term, it provides a positive argument for the faculty's and universities' side of the social contract, increasing the likelihood that the courts will uphold constitutional protections, and maximizing public support for university-generated knowledge.

Finally, we have suggested that future research on US academic freedom would be enriched by adopting a more comparative perspective that included the trajectories of other professions and of other countries. This perspective would offer lessons for academics regarding how different professions have garnered more or fewer privileges and protections, and how different countries have or have not weathered storms like the one currently hitting the US.

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