

# The Gender Wars, Academic Freedom and Education

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*Philosophical arguments regarding academic freedom can sometimes appear removed from the real conflicts playing out in contemporary universities. This paper focusses on a set of issues at the front line of these conflicts, namely, questions regarding sex, gender and gender identity. We document the ways in which the work of academics has been affected by political activism around these questions and, drawing on our respective disciplinary expertise as a sociologist and a philosopher, elucidate the costs of curtailing discussion on fundamental demographic and conceptual categories. We discuss some philosophical work that addresses the conceptual distinction between academic freedom and free speech and explore how these notions are intertwined in significant ways in universities. Our discussion elucidates and emphasises the educational costs of curtailing academic freedom.*

The ideal subject of totalitarian rule is not the convinced Nazi or the convinced Communist, but people for whom the distinction between fact and fiction (i.e., the reality of experience) and the distinction between true and false (i.e., the standards of thought) no longer exist. (Arendt, 1973, p. 474)

## INTRODUCTION

Philosophical arguments regarding academic freedom can sometimes appear removed from the real conflicts playing out in contemporary universities. This paper focusses on a set of issues at the front line of these conflicts, namely, questions regarding sex, gender and gender identity. As a philosopher and a sociologist, we aim to elucidate the costs of curtailing discussion on fundamental demographic and conceptual categories. We argue that these costs are educational in the broadest sense: constricting the possibility of shared learning and knowledge production, which in turn are vital to a functioning democracy.

We will argue that current conflicts around sex and gender are not about trans rights per se, which we fully support, and which are already protected

under current UK legislation,<sup>1</sup> but about the imposition of ontological claims underlying a particular ideological position. Often associated with the intellectual traditions of postmodernism and queer theory, this position entails denying the material reality and political salience of sex as a category, and rejecting the rights of women as a sex class (Jones and Mackenzie, 2020). Disallowing discussion on these points is a feature of and, as we will argue, fundamental to a prominent strand of activism associated with this position, which we will refer to here as the gender identity ideology and movement.

Following this introduction, section two explains why the core position of gender identity ideology is fundamentally opposed to the expression of a range of views on sex and gender, and the role of the definition of ‘transphobia’ in creating unspeakable truths. Section three describes the forms that breaches of academic freedom to discuss sex and gender have taken. Section four outlines our argument in favour of academic freedom, with particular reference to sex and gender, based on (a) the importance of engagement with others and of sharing ideas and evidence for a community of scholars and students and (b) the importance of knowledge as a public good in a democracy. Section five discusses the boundaries between academic freedom and acceptable speech, and considers a recent argument in defence of no-platforming and related practices by Simpson and Srinivasan (2018). We consider this paper in some detail as an exemplar of contemporary arguments that academic freedom is not under threat in any meaningful sense. We conclude by affirming our shared responsibility to uphold academic freedom as an academic community, and suggesting steps we might take to address this.

Discussion of the related ideas of academic freedom and free speech is a thread which runs through the paper, as, while these notions are conceptually distinct, they are also intertwined in significant ways in universities. In exploring this particular issue, we hope to contribute to discussions about how these ideas are conceptualised, how their complex interdependence plays out in practice and why they matter.

## **TRANSPHOBIA AND ‘NO DEBATE’**

For gender identity campaigners, simply asserting that sex exists as a meaningful category, distinct from people’s self-declared ‘gender identity’, is deemed transphobic. Lobby groups such as Stonewall demand affirmation of the mantra ‘Trans Women Are Women’, with explicit and repeated calls for ‘No debate’. The statement ‘Trans Women Are Women’ could be assumed to be a polite fiction. Indeed, the claim that a man who has undergone a sex change and is in possession of a Gender Reassignment Certificate can be legally regarded as a woman is commonly acknowledged as a legal fiction subject to clear limitations in significant legislative contexts (Asteriti and Bull, 2020). However, the slogan functions not as an empirical statement but as a demand to adhere to the ontological position that claims about people’s ‘gender identity’ trump claims about their biological sex. Gender identity ideology is in this sense, absolutist, demanding that we

ignore material evidence of the relevance of sex in any context. Repetition of the mantra ‘Trans Women Are Women’ obstructs any attempt at a nuanced discussion about the circumstances under which sex might be relevant. Thus, epistemological scepticism regarding scientific discoveries and the truth of empirical facts is combined with profound moral certainty (Wight, 2020). The view that it is transphobic to acknowledge natal sex as even potentially relevant has led gender identity campaigners to demand that social and human scientists must not collect data on sex, and philosophers must not use sex as a conceptual category. Such demands are fundamentally antithetical to academic freedom.

Defenders of the silencing tactics we will outline in section three typically rely on a combination of two distinct claims. Firstly, it is often suggested that the kinds of verbal attacks and threats described are simply part of the legitimate academic practice of rejecting people’s arguments, or protesting at the allegedly damaging consequences of articulating these arguments in the public sphere. We will go on to discuss the problems with eliding the distinction between the norms of content-based peer review, which can involve reward and rejection of academic research and scholarship, and the suppression of the expression of ideas. A second claim made in this context is that the targets of such tactics are transphobic bigots, and that gender identity advocates are simply defending a marginalised group. Key to understanding this charge, and the far-reaching significance of its effects, is an exploration of the way the term ‘transphobia’, and arguably the term ‘trans’ itself, has become conceptually and politically intertwined with the particular ontological position underlying gender identity ideology.

Stonewall defines transphobia as ‘The fear or dislike of someone based on the fact they are trans, *including denying their gender identity or refusing to accept it*’ (our italics). This statement is open to interpretation, particularly given the lack of clarity and public understanding regarding the notion of gender identity (see Burt, 2020; Byrne, 2019; Murray Blackburn Mackenzie Policy Analysis, 2020(b); Reay, 2014).

In practice, the kinds of statements that routinely lead to people (overwhelmingly women) being denounced as transphobes include: that humans, like all mammals, have two sexes, male and female; that females are the sex that produce large immobile gametes called ova; that males are the sex that produce small mobile gametes called sperm; that women are adult human females; that women do not have penises; that homosexuality is same-sex attraction; that only women have cervixes; that a transwoman who transitions as an adult has not always been female; that non-gender-conforming young children should not be encouraged to believe that they may have been ‘born in the wrong body’ and that they can change their sex.

Most people could in principle fall foul of the charge of transphobia, but in practice it is most commonly applied to women who have articulated and defended an account of women’s rights that assumes the biological reality of the male/female distinction and, accordingly, defines women as a sex class. Many but not all of these women are also feminists, in that they believe that gender is a socially constructed system that maintains male privilege and oppresses females on the basis of their sexed bodies. On this view, in Susan

Okin's words, gender is 'a social and political construct, *related to but not determined by biological sex*' (Okin, 1998, p. 26, italics in original). This theoretical position, which conceptualises hierarchical systems of gender as historically and socially contingent, rather than as an innate feature of individuals, is at odds with the view that everyone *has* a personal gender or gender identity, and they must be categorised based on their gender identity, rather than their sex, for all purposes.<sup>2</sup>

In discussing 'transphobia' it is also important to clarify what is meant by 'trans'. Many assume that the word 'transgender' refers to transsexual people; that is, people who experience or have experienced dysphoria with their natal sex and who are undergoing, or have undergone, some form of medical transition. However, it is important to note that the term 'trans' is now used as a term of self-definition, and that one need not have dysphoria nor any intention of undergoing any medical intervention or 'sex change' operation to call oneself trans. Indeed, a recent systematic review reports that the majority of individuals identifying as transgender do not undergo any modifications to their body, with less than 0.1% of the trans community undergoing genital surgery each year (Collin *et al.*, 2016). In other words, the vast majority of males who identify as women retain their male sexual organs and male hormones. The Stonewall definition of trans is as follows:

An umbrella term to describe people whose gender is not the same as, or does not sit comfortably with, the sex they were assigned at birth. Trans people may describe themselves using one or more of a wide variety of terms, including (but not limited to) transgender, transsexual, gender-queer (GQ), gender-fluid, non-binary, gender-variant, crossdresser, genderless, agender, nongender, third gender, bi-gender, trans man, trans woman, trans masculine, trans feminine and neutrois.

Liberals should not have any problem extending tolerance to male cross-dressers, transsexuals or any of the above varieties of gender non-conforming behaviour. In the same way as it is homophobic to discriminate against someone based on their sexual preference, it is prejudiced and unjust to discriminate against someone based on their failure to comply with prescriptive gender roles and the socially normative visible trappings of these roles. However, the view that males who reject the gendered forms of presentation and behaviour typically associated with males should not suffer discrimination or abuse for doing so is an entirely different position from the view that doing so equates to 'identifying as a woman', thereby constituting their 'gender identity', and that this equates to the claim that such a person *is* a woman. Yet, it is this latter view that forms the core of the political demands made by gender identity ideologists; demands which include legal and social inclusion in the category of women for a range of practices, from competitive sports to single-sex accommodation, all-women shortlists and data collection.

Whether or not one subscribes to a version of queer theory, according to which human biological sex is merely a social construct—or, in Butler's words, a 'categorical fiction' produced by a 'medico-legal alliance

emerging in nineteenth century Europe' (Butler, 1999, pp. 42–43)—the denial that humans are sexually dimorphic mammals appears, at the very least, problematic for a range of scientific disciplines, and the belief that sex is not real and determined at conception but merely 'assigned' at birth as a social label, whereas gender identity is real and innate (Ehrensaft, 2012), has implications for a range of social and political questions. Yet, these beliefs are so fundamental to the orthodox gender identitarian position that merely to point out the contentious nature of the ontological claims on which they rest and the tensions they give rise to is to attract accusations of transphobia. The absolutism of the orthodox genderist position militates against reasoned debate. If the above definitions of transphobia, much less the shifting public understanding of what it is to be 'trans', cannot even be discussed, then there is certainly no space for questioning the political implications of these conceptual claims. If the campaigning slogan 'Trans Women Are Women' is taken as true in an absolute and literal sense, then there can be no scope for discussion of the ways in which the possession of a male body may be relevant in different ways in different contexts, from sex-segregated sports, to changing rooms, to prisons, to lesbian relationships, and no scope for compromise regarding women's concerns and boundaries. The refusal to acknowledge biological categories also impinges on our ability to collect data according to sex, as we discuss below.

Disagreement with the ontological foundations of genderist ideology is routinely condemned as constituting or legitimating discrimination against individuals for being trans, even when the targets of this charge uphold the moral and legal importance of guaranteeing the existing rights of trans people. Nor does the routine description of such views as 'anti-trans' acknowledge the range of views amongst trans people, some of whom are attacked by gender identity activists for dissenting from the orthodoxy. Indeed, as Pilgrim notes, there is an ambiguity within trans-affirmative politics regarding the role of medicalization, leading to the epithet 'truscum' (pronounced 'true scum') being applied by gender identity campaigners to transsexual people who wish to make a distinction between themselves and those trans people who simply 'identify as' the opposite sex without medical intervention (see Pilgrim, 2018, p. 317).

We can draw a parallel with religious belief here—one can respect the rights of members of religious groups to practice their beliefs without necessarily respecting their beliefs, in the sense of seeing these beliefs as well-founded, and certainly without sharing their beliefs. Indeed, the possibility of respecting people without sharing their beliefs is essential in a pluralist society.

The obfuscation in many official documents, popular discourse and policy language between 'sex' and 'gender' has contributed to the difficulties of articulating critical intellectual positions on these issues. But policy, the law and research cannot work, let alone make changes and advances, without clear and commonly understood definitions. If large swathes of the population are talking at cross purposes when they use basic terms like 'sex', 'gender' and 'gender identity', it is imperative for spaces to exist where we can discuss what we mean when we use these terms, and what is implied

by their use in different contexts. If universities, of all places, cannot provide these spaces, it is difficult to see how they can fulfil their function of contributing to public understanding.

### **THE SUPPRESSION OF ACADEMIC FREEDOM ON SEX AND GENDER**

This section documents some examples of the suppression of academic freedom on sex and gender. It is not intended to be exhaustive, but to give a sense of the terrain. We focus primarily, but not exclusively, on instances in Britain. These examples include: attempts to prevent research or suppress research evidence; no-platforming and shutting down of events and conferences; dis-invitations from academic events and publications; blacklisting, and attempts to get people fired; harassment and smear campaigns directed at students and staff. Our aim here is to document these tactics, as advocates of gender identity ideology often deny that any silencing of opponents of their position is taking place, or diminish its extent and significance. A further aim in detailing these examples is to inform the subsequent discussion of the value of academic freedom and the conceptual distinctions involved in justifications for attempts to limit freedom of expression. As our discussion will make clear, although most incidents of course do not receive publicity, the prevalence of practices such as these has an inevitable wider chilling effect on academics who avoid saying anything in anticipation of the potential consequences (Stock, 2019)<sup>3</sup>. We will return to the question of the distinction between academic freedom and free speech, and will problematise this distinction.

Some of the examples that we document constitute obvious violations of academic freedom, in that they involve overt attempts to prevent academics from carrying out research or to remove them from their professional roles; others may seem more appropriately regarded as threats to the basic right to freedom of expression, enshrined in the Universal Declaration of Human Rights (Article 19), which states that ‘Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers’. In practice, academic freedom is intertwined with free speech, as the free exchange of information and ideas is fundamental to research and teaching, and to the capacity of scholars to use their knowledge for public benefit.

#### *Suppression of Research*

The extreme tactics used by gender identity campaigners to suppress research, including the use of defamatory allegations against researchers, have been described by social historian Alice Dreger (2008, 2016). Dreger documents the campaign against psychologist J. Michael Bailey, which included targeting his family, and false allegations that he sexually abused his children. For exposing the abuse of Bailey, Dreger was targeted by the same group of activists (Dreger, 2016). She received threatening messages mentioning her family, and referring to her five-year-old son as her ‘precious womb-turd’. Slandorous allegations were made that Bailey had

paid for Dreger's work. Vexatious ethics charges were filed against her, and organised complaints were directed at institutions which invited her to speak.

Whereas research on gender identity may have seemed a niche interest when Bailey (2003) was writing about adult male transsexuals, the stakes are now much higher, as the number of young people expressing trans identities has risen. The first research paper to examine the broader social and psychological reasons for the surge in gender dysphoria among teenage girls (Littman, 2018) prompted protests from gender identity campaigners. Brown University bowed to pressure by removing publicity on the paper from their website, while the journal which had published the peer-reviewed paper, *PLOS One*, carried out a post-publication review. This vindicated the analysis and results, yet the journal insisted on some 'reframing' of the paper in a corrected version (Heber, 2019). In the UK, proposed research on people who 'de-transition' (Revesz, 2017; BBC, 2017) has been blocked by Bath Spa University, apparently due to concerns about potential reputational damage to the university. Meanwhile, rising numbers of people who regret medical transition suggest a profound need for such research (Holt, 2020). Research on the wider implications of these issues for women's rights is also affected—a publisher applied pressure to have a peer-reviewed paper on policy capture in this area spiked (Murray Blackburn Mackenzie Policy Analysis, 2020a).

### *Blacklisting, Harassment and Smear Campaigns*

A campaign of blacklisting and smears against women academics was orchestrated by a lecturer at Goldsmiths University's Department of Educational Studies, Natacha Kennedy, who plotted to oust feminist academics from their jobs by accusing them of hate-crimes. Kennedy was supported by some Goldsmiths students, who argued, in all earnestness, that their opponents should be sent to the Gulag for re-education (Woolcock and Bannerman, 2018). Several academics have faced attempts to get them sacked, for example, philosopher Kathleen Stock faced calls for her dismissal by student activists angered by her articulation of concerns about the conceptual assumptions behind the slogan 'Trans women are women', and about the potential effects of allowing males to claim the status of women based on self-declaration. Attempts to remove academics from their posts can take the form of co-ordinated campaigns of (often anonymous) complaints to university administrators, which, though they may fail in the goal of getting the target fired, often trigger a stressful and time-consuming administrative process. Another tactic is to launch a petition calling for an academic with dissenting views to be fired. This technique was deployed against disabilities scholar Michele Moore in an attempt to remove her from the editorship of the journal *Disability and Society* for expressing concern about the narrative that children can be 'born in the wrong body', and the fact that vulnerable and autistic children are disproportionately likely to be referred to gender identity services (Yeomans, 2019). Similar tactics were used to fire Sarah Honeychurch, a fellow at the University of Glasgow's business

school, from her role as editor of the academic journal *Hybrid Pedagogy* (Fazackerley, 2020). Physical threats and intimidation are part of the gender identity activist arsenal. The history faculty at the University of Oxford has received credible threats against the historian Selina Todd, forcing them to provide security at her lectures. There are many lower profile cases of (mainly) female academics facing campaigns of defamation and campaigns to have them sacked (see Stock, 2019). The personal costs of such processes, in terms of mental and emotional stress and financial insecurity, especially for those on precarious contracts, should not be underestimated.

Simply defending academic freedom is enough to draw accusations of transphobia. Signatories to letters in the press (Guardian, 2018) about academic freedom to discuss sex and gender have been subject to campaigns of harassment by students (Griffiths *et al.*, 2018). After becoming aware of how fellow academics—overwhelmingly women—were being harassed, bullied, verbally abused and threatened for voicing a particular view on sex and gender, we published three short pieces expressing concern about the shutting down of academic freedom on these issues (Sullivan and Suissa, 2019; Smith *et al.*, 2019; Sullivan *et al.*, 2019). Since doing so, we have had colleagues refuse to work with us, had complaints about our views directed at our managers, have been subject to calls for students to avoid our classes and have had to report violent threats to the police. A flyer featuring a photograph of Suissa, denouncing her as a fascist, was displayed in her faculty building. In Sullivan's case, advocating for accurate sex-based data collection led to de-platforming from a research methods seminar (Griffiths, 2020).

'Cancel culture' on campus is often characterised as a conflict between students and academics. The truth is more complex. A small minority of students and university staff are active in the harassment of their peers, and students are also targeted. For example, Bristol University is being sued by a student, Raquel Rosario Sanchez, who has experienced over two years of harassment by transactivists (Somerville, 2020). Neither are non-academic staff exempt from persecution. Kevin Price, a college porter at Clare College Cambridge, resigned from his role as a Labour councillor rather than support a council motion containing the slogan 'Trans Women are Women'. For this principled political action, entirely unrelated to his duties as a porter, the Students' Union called for him to be sacked (Watson, 2020). This case highlights the tendency for universities with a disproportionately upper class student body to be most afflicted with student demands for those with differing views to be sacked or punished.

### *No-Platforming, Disinvitations and Shutting Down of Events*

Public attention is often focussed on the no-platforming of individual speakers including well-known figures such as Germaine Greer, Julie Bindel and Jenni Murray, a tactic often described as McCarthyite, because the woman herself is banned, regardless of the topic she may be due to speak on on any given occasion. But activists have also targeted events organised by individuals with gender-critical views, even where these views

are not the topic of the event, as in the case of a planned Open University conference on prison reform which was cancelled after pressure from activists, or a talk on women's art by the artist Rachel Ara (Turner, 2021). Events discussing the consequences of changes in policy and practice have been targeted. For example, the criminologist Jo Phoenix, from the Open University, had a planned talk on trans rights in prisons cancelled by the University of Essex following protests from activists who objected to her raising questions about possible tensions within the criminal justice system (Fazackerley, 2020).

Activists have attempted to silence discussion of women's rights in the context of proposed legislative change within universities as well as without. An event at Edinburgh University to discuss women's sex-based rights in June 2019 was subject to a campaign of intimidation, including attempts to sabotage the booking system, defamatory allegations against the speakers made using university channels, a petition to get the meeting shut down and a rally outside the event with banners showing misogynistic slurs. The university was forced to provide a high level of security. One of the speakers, Julie Bindel, was assaulted by a transactivist when leaving the venue. As one of the organisers has pointed out: *'We did not face traditional academic criticism for the event, based on engagement with the ideas discussed. We faced a gloves-off concerted attempt to stop it from going ahead and thereby silence a discussion of women's rights'* (Benjamin, 2019). The university had hosted several trans-rights events in the preceding months, which had faced no disruption of any kind.

An event scheduled for 2019 at Edinburgh University on the teaching of gender identity in Scottish schools was cancelled following complaints (Davidson, 2019). Given that DfE guidance for English schools on this matter was changed some months after the cancellation of this event, this illustrates the way in which a culture of silencing prevents academics, policy-makers and practitioners from coming together to discuss matters of public importance, with potentially damaging consequences for policy and practice, and in this case, for young people (Davidson, 2019).

## **WHAT IS ACADEMIC FREEDOM AND WHY DOES IT MATTER?**

In this section we outline our understanding of academic freedom and its educational and societal importance.

While the conceptual distinctions involved in any account of academic freedom and its relationship with associated ideas about free speech are complex, as we explore below, the legal framework governing practice in this area is clear. In the UK, the main relevant legal context is the Education Reform Act 1988, section 202(2)(a) of which states: *'[A]cademic staff have freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing their jobs or privileges they may have at their institutions'*. This formulation is included verbatim in the statutes and charters of many UK universities. The Education Act (No. 2) 1986 (Section 43) also enshrines a positive and proactive legal duty on

universities to promote and protect freedom of speech on campus, by requiring that universities ‘shall take such steps as are reasonably practicable to ensure that freedom of speech within the law is secured for members, students and employees of the establishment and for visiting speakers’.

### *Academic Freedom and the Possibility of Learning*

As an empirical social scientist and a philosopher, we rely on conceptual distinctions such as that between sex and gender in our teaching and research, whether in collecting data about sex differences in education, or discussing theories about the gendered division of labour in the family and how it can be addressed as part of a theory of justice. But crucially, what we do when we employ such concepts and tools is not just go out and design and carry out research, write papers or present well worked-out positions. Nor do we only speak to people who are already immersed in our disciplinary frameworks. Underpinning this is a form of thinking aloud; putting forward ideas which conversational companions—whether students, colleagues or members of the public attending academic events—engage with and may disagree with. In the course of such conversations, people may express ideas that are not fully developed or defended. They may say things that we disagree with, but we try to make sense of the disagreement, clarify what we mean by the terms and positions we describe, explore their implications and reach towards a common understanding, or, at least, a shared view on what it is we disagree about and why.

This activity is precisely what is enabled when the university is really an environment bound not just by the principles of academic freedom, but by a broader commitment to free speech. Recognising this does not mean that we collapse the distinctions between academic freedom and free speech articulated by theorists writing on this issue (see Post, 2012; Simpson, 2020). But it does require that we acknowledge that this distinction does not map neatly onto the reality of academic life. Nor does the insistence that the commitment to free speech is an integral part of academic life, rather than separate from it, commit us to versions of this commitment that invoke a ‘battle of ideas’ or the ‘marketplace of ideas’ envisaged by classic liberal theorists, where the best argument will win out and human progress will be achieved in a relentless march towards the Truth. A somewhat different emphasis, based on an account of the essential pluralism of thought and action, comes from Hannah Arendt, who argued:

We know from experience that no one can adequately grasp the objective world in its full reality all on his own, because the world always shows and reveals itself to him from only one perspective, which corresponds to his standpoint in the world and is determined by it.

For Arendt, freedom of speech means that we will always hear other opinions, other perspectives and other arguments than our own. Free speech is the foundation of all serious thinking:

If someone wants to see and experience the world as it ‘really’ is, he [sic] can do so only by understanding it as something that is shared by many people, lies between them, separates them, showing itself differently to each and comprehensible only to the extent that many people can talk about it and exchange their opinions and perspectives with one another, over against one another. Only in the freedom of our speaking with one another does the world, as that about which we speak, emerge in its objectivity and visibility from all sides. (Arendt, 2005, pp. 128–129)

On this view, it is not only truth about the world which we are striving for, but the viability of the world as a shared place to create, to improve and to live in. As academics, we already share this world with students and colleagues whose experience of it is often different from ours. In coming together in a spirit of intellectual enquiry, we are not engaging in abstract theoretical debates or trying to defeat opponents with knock-down arguments, but trying to make sense of this world, to offer explanations that make sense of our lives within it and help us think about how we can change it for the better. It is this ability to conduct such forms of thinking aloud that is frozen out in the current climate. When students and staff have whispered exchanges in corridors rather than thinking out loud in seminar rooms and lecture halls, we all lose out, because these seminar rooms and lecture halls become places where ‘the world as that about which we speak’ is less likely to emerge as a shared place.

In a context where shared understanding of basic concepts such as sex and gender has substantive implications for a range of social issues, not least for children’s education, one might think that the existence of widespread and deep disagreement would call for more, not less, discussion. Opposition to gender identity ideology comes from a range of perspectives and is not limited to feminists. Yet, the effective silencing of voices and self-censorship, as a result of tactics such as those described above, is now common-place, as reflected in our own frequent experience of being contacted by students and colleagues who say they agree with us, but are too frightened to express their views in class or in public. Often these are junior staff on casualised contracts, members of minority groups or young women at the start of their careers.

The refusal to engage with ‘offensive’ views directly, reflected in the tactics described above, means that certain views are widely available only in a misrepresented form. The historian Mary Beard provides an example in a recent review of Germaine Greer’s book *On Rape* (Beard, 2019). Beard shows, with careful quotes from the book, how a lot of what Greer is accused of saying about rape (mostly based on a talk she gave at the Hay festival) completely misrepresents her arguments. Beard notes that perhaps ‘Greer is being punished for her much-quoted remarks on the trans community’ and that ‘the anger at what she has said on that topic has clouded fair judgement of her arguments on rape’. A vicious circle of ignorance and offense follows: Once an individual has been denounced, her work can be freely misrepresented, since her opponents will not give it a fair reading

(or any reading at all). This process is similarly illustrated by the case of Rebecca Tuvel, a scholar who was subject to ad hominem attacks and on-line shaming, accompanied by a striking failure to engage with what she had actually written (Singal, 2017; Tuvel, 2017). The book-burnings and #RIPJKRowling hashtag provoked by JK Rowling's latest novel before it had been generally released exemplify the capacity for those so-minded to be outraged by words they have not read (Cohen, 2020). Kathleen Stock has written of the way her views have been misrepresented in order to demonise her, including in an open letter which had to be corrected with an erratum because a central claim was patently false (Stock, 2021). To speak about women as a sex routinely leads to hyperbolic accusations of offences such as 'literal violence' against trans people and 'denying trans people's existence'. When intellectual engagement is replaced by denunciation, the possibility of learning is lost.

Discrimination and harassment directed at trans students or staff should of course be treated with the relevant disciplinary procedures. But if statements, claims, theoretical positions and conceptual definitions are denounced as transphobic by definition, irrespective of the actual views or theoretical arguments that the speaker is trying to articulate, these arguments are never heard, and never engaged with on anything other than the most superficial level. Thus, the discursive realm in which anyone can make any useful social or political argument about sexism, gender roles or sexuality is narrowed. This is surely detrimental to the people for whom universities should provide, amongst other things, access to a broad intellectual domain and the tools to navigate it. This state of affairs is not only profoundly anti-intellectual and anti-democratic, but educationally disastrous.

### *Academic Freedom and Democracy*

The ability to engage the public beyond the university lies at the heart of the connection between academic freedom and democracy. Indeed, the Universities and College Union statement on academic freedom notes that

One of the purposes of post-compulsory education is to serve the public interest through extending knowledge and understanding and fostering critical thinking and expression in staff and students, and then in society more widely. Academic freedom is essential to the achieving these ends and therefore to the development of a civilised democracy. (Universities and College Union (UCU), 2016)

As Calhoun (2009) puts it, 'The issue is not just whether free speech is repressed, important and basic as that is, or whether individuals suffer in their careers for expressing controversial views. It is whether and how universities bring knowledge, diverse perspectives and competing analyses into the public sphere' (p. 578). For Calhoun, this delivery of knowledge as a public good is both a right and a responsibility, demanding a notion of academic freedom as a positive freedom rather than simply an absence of outright repression. The responsibility to share knowledge and insights with the wider

public can also be seen as a logical extension of the educational function of the university.

It should be a basic right for all workers to take part in the democratic process without fear of losing their livelihoods. But for academics, public engagement has a special importance, because it is essential that policy discussions, in the widest sense, are informed by reasoned argument and evidence. Free speech and academic freedom are conceptually distinct, yet interdependent values. In a climate where discussion is being shut down, and threats are used to silence opponents, it is particularly important that universities provide a space where discussion can occur without fear. Indeed, as universities are not the only organisations which are engaged in knowledge production and sharing in contemporary society, there is a case for extending the rights and responsibilities entailed by academic freedom to research organisations outside academia.

These debates about sex and gender are not abstract. In the UK, they have been triggered partly by proposed legislative change, in the form of changes to the 2004 Gender Recognition Act which would allow individuals to change their legal sex on the basis of self-ID, without meeting any diagnostic or other criteria. It is important to note that, in the UK context, transgender people are already protected from discrimination under the 2010 Equality Act, which lists 'gender reassignment' as a protected characteristic as well as sex. Beyond this proposed legislative change, gender identity lobby groups are campaigning to remove the existing legal protections for single-sex spaces (see, e.g. WPUK, 2018), and for the effective erasure of sex as a category in language, law and data (Jones and Mackenzie, 2020). Lobbyists such as Stonewall have been highly effective in achieving 'policy capture' of organisations, meaning that, without achieving the proposed legislative change, the status of the category of sex in policy and practice has been eroded with extraordinary rapidity, and without proper democratic scrutiny (Biggs, 2020a; Murray and Blackburn, 2019). Similar processes have occurred internationally (Burt, 2020; Murray *et al.*, 2020).

The need for academic freedom to research and discuss sex and gender identity seems clear-cut given the wide range of questions at stake, and the implications of these questions for policy and practice. Gender self-ID has implications for equalities monitoring and women's legal rights to sex-based protections (Asteriti and Bull, 2020), for single sex services (Greed, 2019) and girls' and women's sports (Hilton and Lundberg, 2020; Pike, 2020). The narrative that one can be 'born in the wrong body' has implications for adolescent development and education (Brunskell-Evans and Moore, 2019).

Given that the rapid growth in the numbers of young people, especially girls, presenting with gender dysphoria (psychological distress relating to one's bodily sex) is not well-understood, there is a *prima facie* public interest in facilitating scientific research in this area. These are not purely theoretical questions. Professionals working in this field have a duty to ensure that children turning to them for help and support receive the most appropriate treatment based on rigorous research and evidence. Yet, there are serious concerns that experimental treatments are not receiving the

scrutiny that one would expect (Biggs, 2019; see also Dower, 2018; Evans, 2019; Heneghan and Jefferson, 2019). The Tavistock Clinic in London reports that referrals to its Gender Identity Development Service clinic for teenagers have more than doubled in recent years, referral of girls has multiplied by a factor of 44 from 2009/2010 to 2017/2018, with teenage girls now constituting 70% of those referred (Gilligan, 2019). The wider context is one of a crisis in adolescent girls' mental health, with 24% of 14-year-old girls in the UK classified as depressed, compared to 9% of boys of the same age (Patalay and Fitzsimons, 2018). There is also an apparent overlap between gender dysphoria and other mental health conditions, including autism (Shumer *et al.*, 2016; Warrier *et al.*, 2020). In this context, a lack of open academic scrutiny is likely to harm rather than help vulnerable people. In particular, a lack of normal scientific process in assessing medical interventions has serious risks (D'Angelo *et al.*, 2021). An article raising concerns in the *British Medical Journal* notes 'We sought the views of methodologists and clinical trial statisticians, but few were prepared to speak publicly for fear of reprisal' (Cohen and Barnes, 2019). Academics who have raised the alarm about such matters may consider themselves vindicated by the recent High Court Judgement in the case of Keira Bell (Bell vs Tavistock, 2020), a young woman who took action against the Tavistock clinic following her medical transition, and subsequent regret and decision to 'de-transition'. The judgement highlighted the lack of data collection and evidence for the treatments provided. The case illustrates the dangers to the mental and physical health of vulnerable people when professional standards of scrutiny, safeguarding and research ethics are abandoned in the face of ideological demands (Biggs, 2020b, Griffiths, 2021).

Women who have attempted to discuss girls' and women's rights and their experience as a sex class in this context have faced concerted attempts to have their meetings shut down and to silence them (Aaronovich, 2018; Kirkup, 2018a). Woman's Place UK was formed after a meeting to discuss proposed legislative reform that was targeted for harassment, and a 60-year-old woman was assaulted by male gender identity activists (Turner, 2017). Yet, women's organisations that campaign within the law to protect women's existing rights, such as Woman's Place UK and Fair Play for Women are slandered and denounced as 'hate groups'. Accusations of fascism abound, directed at life-long socialists and trade-union activists, in order to justify denying these women a platform by any means. It is worth noting that the traditional left basis for no-platforming fascists is often misunderstood. This rests on the view that fascists will shut down democratic debate and organising through the use of violence against opponents (Trotsky, 1969 [1932]). The argument was not that fascist speakers have dangerous ideas which might influence their audience, but that there is no sense in trying to reason with violent thugs. Careless use of the term 'fascist' is far from new (Orwell, 1944), and the parameters of the 'no-platform for fascists' policy have been contested throughout its history from the early 1970s (Smith, 2016). But it seems that no-platforming has now been turned on its head, as those who oppose the democratic civil liberties of freedom of speech and association use no-platforming to silence dissent (Ditum, 2014). None of

the feminists who have been no-platformed for gender-critical views have committed or incited violent acts. Accusations of fascism and ‘literal violence’ levelled against these women may appear comical, but have real consequences in dehumanising and monsterring them, thereby justifying harassment and even violence against them.

The rights and humanity of women have historically been discounted, and attempts to silence women with threats of violence and slanderous attacks on our reputations are as old as history. Yet, we have been shocked by the outpouring of hatred directed at women, typically accompanied by the term ‘TERF’, effectively used as a replacement for epithets such as ‘witch’, ‘bitch’ or ‘cunt’ (see Cameron, 2016). The treatment of J.K. Rowling, subjected to a tidal wave of requests to ‘choke on a basket of dicks’ and similar, in response to a strikingly thoughtful and empathetic essay, is simply the highest profile case of a commonplace phenomenon (Leng, 2020; Rowling, 2020). Rowling’s intervention was prompted by the fact that women who speak publicly on these issues face campaigns of harassment, including attempts to get them fired. Prominent legal cases like those of Maya Forstater (Kirkup, 2019), Allison Bailey (Filia, 2020) and Sonia Appleby (Barnes and Cohen, 2020) represent the tip of the iceberg. The role of the police in restricting free speech on sex and gender has also been challenged in a number of legal cases, some of which are ongoing at the time of writing (Phillimore, 2020).

The policing of women’s language and political activity is particularly evident within the Labour movement. During the 2020 Labour Leadership campaign, all candidates barring the winner (Keir Starmer) signed a pledge demanding the expulsion of women who support women’s sex-based rights from the party. The policing of women’s language regarding our own bodies is illustrated by the hounding of Labour MP Rosie Duffield, who ‘liked’ a tweet commenting ‘do you mean women?’ in reply to a campaign recommending cervical cancer screening to ‘Individuals with a cervix’. To imply that cervix-bearing people might prefer to be described as women, or that only women have a cervix, was sufficient for her to face calls for the removal of the Labour whip (Hayton, 2020). Beyond the Labour movement, parliamentarians across the political spectrum are reported to be afraid to speak their views on these matters (Kirkup, 2018b).

The need for academics to communicate evidence and rational analysis is all the more apparent when political discussion is constrained by fear and intimidation. Yet, dehumanising name-calling, mindless slogans and associated threats are not restricted to Twitter, but appear in peer-reviewed journals (Allen *et al.*, 2019) and in teaching materials. The lack of a vigilant and robust defence of a positive conception of academic freedom risks allowing those engaged in what amounts to bullying to set the parameters of what can and cannot be discussed.

The current debates about sex and gender provide an illustration of the way in which threats to free speech in the wider society both tend to impinge on academic freedom, and also demonstrate the importance of maintaining universities as places in which uncomfortable truths can be spoken. Academics have both a right and a duty to engage in research and

discussion which illuminates questions of public and policy importance. To stifle such research risks real harm, particularly in a climate of post-truth politics, polarisation and intolerance.

### **ACADEMIC FREEDOM AND ACCEPTABLE SPEECH: WHERE DO THE BOUNDARIES LIE?**

Academic freedom is often described as a ‘foundational value’ in higher education (Davies, 2015; Harland and Pickering, 2010), yet it is important to note that this value is not synonymous with the right to freedom of speech. Significantly, while the concepts of free speech and academic freedom are ‘symmetrical and overlapping, not synonymous’ (Olivas, 1993, p. 1838), neither of these principles translates into an unrestricted right of individuals to say whatever they like. As mentioned above, academics in UK universities are protected by the legal frameworks of both academic freedom and the right to freedom of expression, and the Education Act (No. 2) 1986 (Section 43) requires universities to ‘take such steps as are reasonably practicable to ensure that freedom of speech within the law is secured for members, students and employees of the establishment and for visiting speakers’. But as the phrase ‘within the law’ indicates, there are significant constraints on these freedoms, in line with existing legislation on the prevention of disorder or crime, protection of the reputation or rights of others and protection of national security and public safety. The Criminal Justice and Public Order Act (1994) expressly forbids communication which is ‘threatening or abusive, and is intended to harass, alarm, or distress someone’, and similarly the Racial and Religious Hatred Act (2006) forbids the harassment of individuals and incitation to racial or religious hatred. But these unlawful acts are narrowly defined and require in general either ‘threatening, abusive or insulting words or behaviour’ or conduct that ‘creates an intimidating, hostile, degrading, humiliating or offensive environment’ for another individual, with particular reference to the protected characteristics under the Equality Act 2010.

Liberal defences of free speech usually invoke a version of J.S. Mill’s classic argument in *On Liberty* (Mill, 1991, p. 21), whereby ‘The peculiar evil of silencing the expression of an opinion is, that it is robbing the human race; posterity as well as the existing generation; those who dissent from the opinion, still more than those who hold it’. Suppressing free speech can be damaging for opponents of the position in question, on Mill’s view, because ‘If the opinion is right, they are deprived of the opportunity of exchanging error for truth’, and ‘If wrong, they lose, what is almost as great a benefit, the clearer perception and livelier impression of truth, produced by its collision with error’.

While many writers on this issue distinguish between a ‘free speech zone’ that university campuses, as public spaces, are part of, and the zone of academic freedom governed by different (disciplinary) standards, Robert Simpson (2020, p.2) is critical of this ‘standard view’ according to which ‘academic freedom and free speech are importantly distinct, but both kinds of freedom have important—and complementary—roles to play in the

university's organisation and governance'. In his view (pp. 2-3), 'we have good reasons to uphold free speech as a basic civil liberty, and good reasons to accept academic freedom as a governing principle in universities. But we don't have particularly good reasons [...] for thinking of the university as a special venue for extra-academic speech, or for making that extra-academic speech immune to content-based restrictions, as if it were just another form of free-speech-protected public discourse'.

Rejecting the view that sees the proper function of the university as, not just academic excellence, but the maintenance of a 'free speech zone' that covers all extracurricular activities, Simpson argues that all university activity should be subject to the standards of rigour that define and limit academic freedom: 'Universities can be run as discriminating, intellectually regimented discursive arenas. We aren't obliged to turn universities into totally wide-open marketplaces of ideas' (p. 3).

The same position, that is, that the norms of academic freedom should govern university life, rather than the 'two zones' position, informs Simpson's argument, in an earlier paper co-authored with Amia Srinivasan (Simpson and Srinivasan, 2018) that offers a liberal defence of no-platforming. Drawing similar distinctions, they argue (p. 1): 'No platforming should therefore be acceptable to liberals, in principle, in cases where it is used to support a university culture that maintains rigorous disciplinary standards, by denying attention and credibility to speakers without appropriate disciplinary credentials'. They are dismissive of concerns raised, for example, by Lukianoff and Haidt (2015, 2018), that activists pose a threat to academic freedom, claiming that this is a distraction and/or a misrepresentation of what academic freedom really consists in. 'No platforming, trigger warnings, safe spaces, and calls for curriculum reform are the bugbears of some self-appointed champions of academic freedom', Simpson and Srinivasan declare,

But in the end they may distract from more potent threats to the independence of academic experts from outside influences. When it comes to political interference in academic research, threats from the pro-Israel lobby or the anti-climate science lobby seem to exert much more pressure than student activists. And when it comes to factors that passively incentivize academics to direct their research away from some topics and towards others, the influence of corporate sponsorship, private grant-making bodies, and government research agendas is stronger, and in some cases more pernicious, than the influence exerted by students. (pp. 22-23)

We suggest that in making these claims, Simpson and Srinivasan fail to engage with the reality on the ground. We do not disagree with the statement that 'the communicative climate of the campus at large [should be] characterised by similar kinds of rigour, thoughtfulness, and deference to academic expertise as the lecture theatre or faculty research seminar' (Simpson, 2020, p.13). Yet, it seems to us that the values of thoughtfulness and rigour are precisely those under attack.

Simpson and Srinivasan's characterisation of discussions on gender as a 'hard case' (Simpson and Srinivasan, 2018, p.17) in terms of academic freedom is significant. They suggest that the reason it is such a 'hard case' is that 'there exists deep disagreement—either intradisciplinary or interdisciplinary—over whether a particular speaker possesses disciplinary competence of a relevant kind' (*ibid*).

Some scholars with apparent institutional and disciplinary credibility—in fields like cultural studies, sociology, anthropology, philosophy, gender studies, and queer studies—will insist that the questions of what a woman is and whether trans women qualify are central to feminist inquiry. Other scholars in those same fields, with similar credentials, will insist that the question has been settled and is no longer reasonably treated as open to inquiry... If ascendant trends in feminist theory continue, it is possible that Greer's trans-exclusionary views might one day be rejected by all credentialed experts in the relevant humanities or social science disciplines. (p. 17)

The claim that the question of 'what a woman is' has been settled in favour of the view that womanhood is determined by identity rather than sex is surprising, not least because the statement 'Trans Women Are Women' has typically been accompanied by the demand for 'no debate', which, as we discuss above, has been highly successful in preventing open dialogue on these questions. The list of disciplines deemed here to have a stake in these questions is remarkably narrow, with the notable omissions of biology, history and economics. If some scholar has made the argument that 'the woman question' was at some point open to discussion, but is now settled, we would be interested to see their case (while regretful that we missed the window for debate). Such a claim implies that a scientific revolution has occurred, over-turning millennia of evolutionary data and a wealth of empirical evidence for the physical and social relevance of biological sex. Yet, in support of the view that the sex question is settled, Simpson and Srinivasan cite Paris Lees, a journalist and activist, not a scholar with 'disciplinary credibility'. Lees' piece (2016) is littered with the misogynistic slur 'TERF', and simply denies the need for debate, while branding those who disagree as bigots. Simpson and Srinivasan's labelling of Germaine Greer's views as 'trans-exclusionary', without any engagement with those views, is also disappointingly prejudicial.

In portraying controversies over the no-platforming of feminists such as Greer as a reflection of the fact that 'the governing disciplinary standards in this arena remain deeply contested' (*ibid*), Simpson and Srinivasan fail to acknowledge that the debate over gender self-identification is a matter of public significance, subject to potential legislative change, with far-reaching implications over a range of social contexts. The implicit suggestion here is that this legislative change does not in and of itself raise complex issues on which there is no consensus amongst academics, and which

requires an informed and rigorous discussion, including about conflicting rights claims.

It is all very well to argue, with Simpson (2020, p. 3), that ‘Universities can be run as discriminating, intellectually regimented discursive arenas’. But if we are to accept that some views will not find a platform, we need to at least pose the questions ‘*who decides, and how?*’ Intellectual discrimination has typically taken place within disciplinary and subject-based boundaries, for example, in the form of peer review. But content-based academic discrimination is not absolute—a paper may be rejected by one journal, only to be accepted by another, and not all academic speech is expected to meet the standards of peer review. There is scope for radical ideas to be developed, even if they are not initially (or ever) accepted by the relevant scientific or scholarly community (Kuhn, 1962). There is a fundamental difference between the processes via which research is rewarded or not (through publication, funding, etc.) and silencing tactics such as no-platforming.

Crucially, the very existence of sound, content-based norms by which positions can be explored and argued with, depends on academics being able to function within a climate where they can talk and express ideas freely with their colleagues and students. If a range of *prima facie* unproblematic content is proscribed or self-censored, the result is that the scope of the academic discussions within which content-based judgement and distinctions are made in the first place becomes thin.

A notable element of gender identity ideology’s assault on academic freedom is that it does not operate within the intellectual and professional parameters that Simpson and Srinivasan assume. For example, academics who have never used population data have lobbied to prevent the UK Census from including data on sex (Sullivan 2020a, 2020b). Similarly, university staff who attempt to shut down events on women’s rights may come from the natural sciences or the English department or from technical services—their intervention is grounded in an ideological position, not any relevant disciplinary expertise. Within such a climate, it is possible to be no-platformed and harassed for expressing views which are quietly shared by the majority of one’s peers. Simpson and Srinivasan give no consideration of the power dynamics and processes involved in such cases, whereby some academics and students are able to silence others. As co-convenors of the ‘Women’s Liberation 2020’ conference at UCL, we gained first-hand experience of the role of university administrators in assessing ‘risk’, in terms of physical threat and reputational management, which is central to this. Because events discussing women’s rights have faced threats of violence and campaigns of smears, they are deemed ‘high risk’. In contrast, there are no documented cases of university events organised by gender identity campaigners facing such threats, hence these events pose no special risk. This generates a perverse incentive, and a power imbalance between those who are willing to use intimidatory tactics and those who are not. And this has nothing to do with disciplinary standards or the exercise of intellectual discrimination.

Some norms of scholarly enquiry can be seen as cross-disciplinary, including the importance of rational argument and empirical evidence. But

such cross-disciplinary norms do not apply to all disciplines. And, while postmodernists have always been sceptical regarding scientific truth claims (Sokal and Bricmont, 1998), Queer Theory seems to have moved beyond epistemological questioning of the status of scientific methods and claims to a demand that the logic of scientific enquiry be rejected across the board.

In attempting to theorise current debates over no-platforming on the basis of the conceptual distinction between academic freedom and free speech, commentators like Srinivasan and Simpson side-step the problems posed by current restrictions on academics' speech. 'Principles of academic freedom', they argue (2018, p. 22), 'unlike principles of free speech, positively support the exclusion of speakers and viewpoints for content-based—rather than merely procedural—reasons'. That may be so, yet the distinction between content-based and procedural reasons is difficult, if not impossible, to maintain in practice, and has been completely blurred in current examples of policing academics' speech. One reason it can be so easily blurred is because what counts as unproblematic content in one discipline often gets framed as problematic when it is referred to within another.

Many philosophers draw on empirical data in their work. In teaching philosophical theories of justice, for example, one may refer to examples of injustice or structural inequality, such as the fact that women are more likely than men to encounter obstacles to participation in the political sphere. This is a simple fact, easily backed up by objective data. But if part of the job of philosophy is to offer explanations as to why our social world is the way it is, this involves offering conceptual distinctions and theoretical frameworks that make sense of this world. One such theoretical framework is that which sees patriarchal systems as, at base, a way of controlling women's bodies because of their reproductive capacity. Another is the connected body of work that theorises the very distinction between the 'public' world of politics and the 'private' world of the home as based on the gendered distinction between productive and reproductive labour. These theoretical ideas are at the heart of a body of feminist theory that explains the ongoing inequality between men and women, its historical origins and its role in political theory and practice (see Okin, 1998; Pateman, 1983). But one cannot articulate, much less defend, this theoretical analysis without assuming the basic distinction between biological sex and gender.

Srinivasan and Simpson's argument may allow one to claim, rightly, that this distinction is not one which could reasonably be rejected on the basis of disciplinary norms of academic rigour. But most academics are not insulated in disciplinary silos, and rely on being able to freely refer to facts about the social world and different views about these facts. If this involves invoking the idea that the terms 'female' and 'male' refer to the biological categories that apply to all species that reproduce sexually, but this idea, when expressed in public, routinely attracts accusations of bigotry and transphobia that serve to silence and intimidate anyone expressing it, then it is not much help to tell academics that they can invoke disciplinary norms of academic rigour in defending their right to make such statements. When the basic facts of human biology become unspeakable, something is amiss (Hilton *et al.*, 2021).

In the current climate, the effect of the above-described accusations of ‘transphobia’ is to prevent individuals from articulating ideas and positions based on such statements; the idea, for example, that it is not just a coincidence that the people who have historically experienced sexism and misogyny happen to be the ones with vaginas and wombs, and that gendered social differences have to do with women’s child-bearing capacity. Although the objections to the original statements may not be framed as ‘content-based’, their effect is to prevent people from hearing, much less engaging with, certain content. This in turn has the effect of shutting down forums for exploring ideas, creating a cycle of misunderstanding that impoverishes the intellectual quality and educational purpose of academic life.

Theoretical arguments that delineate the distinctions between free speech and academic freedom fail to capture the educationally damaging effects of the contemporary situation, effects that become apparent only when one analyses the details of this debate. For the distinction between content-based and ‘procedural’ is precisely what is at stake in these contexts. In the current climate, what may appear to be a new content-based disciplinary set of accepted standards and norms is actually often the result of people’s fear to speak out, or of their being prevented from doing so.

One of the effects of current dismissals of particular views and speakers as ‘transphobic’ is to ascribe positions and opinions to people that they do not actually hold. This creates a vicious circle in which people are not given the opportunity to articulate their views, and other people are prevented from hearing and critiquing them. Simpson and Srinivasan, in a paper intended to provide clarity on these issues, in fact end up contributing to this vicious circle by referring to the charge of ‘transphobia’ made against Kenneth Zucker, without acknowledging the contested nature of this charge and the slippery conceptual terrain on which it relies. Zucker, the psychiatrist fired from his post as Director of the CAMHE Family Gender Identity Clinic in Toronto after 30 years’ experience, was later cleared of all charges and issued a public apology and financial settlement from CAMHE. In their letter objecting to his dismissal, over 500 clinicians and researchers noted that the attempts to shut down his clinical practice ‘appear primarily politically motivated and to have been rationalized and justified, after the fact, by public statements extremely damaging to Dr. Zucker’s professional reputation’.<sup>4</sup>

Universities should not be places where students or staff feel threatened or unsafe, and campaigns of silencing and harassment precisely prevent the possibility of the university as a ‘safe space’ for open discussion. In light of the need to address the way in which claims about harm are in fact frequently used to restrict academic freedom, it may be more useful to focus not on a robust definition of the content-based norms of disciplinary rigour, but on the procedural norms that govern restrictions on free speech.

## **CONCLUSION: WHAT CAN UNIVERSITIES DO?**

The defence of academic freedom is the collective responsibility of the academic community. Current challenges to upholding this value include

a marketised system in which students are seen by university leaders primarily as customers rather than learners (Jones and Cunliffe, 2020), encouraging an instrumentalism at odds with educational traditions which strive to teach how to think rather than what to think. Increasing precarity among academic staff makes the exercise of academic freedom, both in teaching and research, too risky for many colleagues to contemplate. The trend for university administrators to police the boundaries of academic freedom within the parameters of 'risk assessments' and 'reputational damage', rather than seeing academic freedom as a matter for the academic community, is central to the problem. Social media creates the conditions where small numbers of academic staff and students can loudly demand the censure of others, but it does not force universities, publishers or scholarly bodies to acquiesce to these demands.

In rejecting the 'anything-goes' permissiveness of free speech and defending the view that academic standards of intellectual rigour can and should be used to make decisions on who gets to speak on campus, Simpson (2020, p. 31) proposes that the way for universities to vet speakers 'calls upon the intellectual expertise and judgement of the institution's own academic experts'. Yet, the above discussion shows not only that this is manifestly not occurring in universities at present, but that a central threat to academic freedom comes not primarily from the no-platforming of invited speakers, but from the fear and intimidation that leads academics to suppress and self-censor particular ideas and views due to a surrounding climate of political intolerance.

Academic research undertaken in good faith and by experienced researchers can be, and regularly is, criticised for its methodology, for its underpinning assumptions and for what it does not say, as well as what it does say. But in an era of 'post-truth' and 'alternative facts', when we are witnessing the incremental but unmistakable rise of forms of totalitarian political discourse, it seems imperative to be careful and accurate in distinguishing rigorous academic research from dogma and ideology. The language of harm and safety must be treated critically and seriously. While we should all be vigilant in addressing the disadvantage and discrimination faced by various minority groups, students and staff should be able to distinguish between the expression of dissenting views and actions and speech which constitute overt forms of harassment, intimidation and threats towards individuals.

A commitment to free speech and academic freedom does not and should not constitute a defence of harassment or attempts to close down the speech of others (for some helpful recent work on the different meanings of 'harm' and 'safety' in this context, see Ben-Porath, 2017; Callan, 2016). Universities must take appropriate disciplinary action against students and staff who engage in campaigns of harassment against other students and staff.

Opponents of free speech and academic freedom in some sections of the Left increasingly assume that there is something Right wing about upholding these values (Wight, 2020), which they see as elitist (Chatterjee and Maira, 2014). Yet, this is both historically illiterate and grossly

short-sighted. It perversely ignores the power dynamics at play, and the fact that abandoning academic freedom as a value to be upheld by the academic community means ceding decisions about what can and cannot be said to administrators who may equally be swayed by government, financial donors or social media mobs. As this paper focusses on academic freedom, we have emphasised the case of academics and quasi-academic workers, but there is also a complementary case for strengthening free speech as an employment right for all workers, given that the absence of such protection tends to expose organisations to policy capture, weakens democratic discourse and can only be detrimental to the ability of policy-makers to know the views of the people they represent. Universities are not ivory towers, and our ability to defend academic freedom, and to deliver knowledge as a public good, is undermined by a wider climate of censorship.

Institutions need to give serious consideration to whether some of the organisations they work with operate in a way which is incompatible with the core value of academic freedom. Lobby groups such as Stonewall and Gendered Intelligence provide training at many universities, yet these organisations promote a particular perspective on gender and face serious criticisms for their role in silencing debate. All university policies should be assessed to ensure their alignment with academic freedom. Universities are legally bound to protect both gender reassignment *and* sex as protected characteristics under the Equality Act, and it is not acceptable that they should impose an official ideological view on gender identity which erases sex (Biggs, 2018). ‘Policy capture’, where a small number of powerful lobbyists determine policy without proper scrutiny (Murray and Blackburn, 2019), has driven policy on sex and gender identity at our universities as it has at other institutions.

Many academics have only recently become aware of the political project to deny the material reality of sex, and the restrictions it aims to place on the conceptual and empirical landscape. This paper has focussed on the threat to academic freedom in the case of sex and gender, not because it is a hard case, but because it is an easy one, with implications across the disciplines. If we cannot defend academic freedom in such a case, we cannot defend it at all.

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## NOTES

1. The right of trans people not to be discriminated against or harassed unlawfully because they are trans is guaranteed in Section 7 of the Equality Act 2010, under the protected characteristic of 'gender reassignment', and covers people anywhere along the 'transition' route.
2. At the time of writing, there are apparently 64 different genders. See: <https://www.healthline.com/health/different-genders>
3. At the time of writing, the website [www.gcacademianetwork.org](http://www.gcacademianetwork.org) has collected over one hundred anonymous testimonies by staff and students documenting this chilling effect.
4. See Petition Open Letter to the Board of Trustees of CAMH ([ipetitions.com](http://ipetitions.com))

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