

Academic Unfreedom, Unacademic Freedom

Part Two of Two

6.

ON MARCH 6, at a moment when commentaries on the Middlebury affair had reached fever pitch, around a third of the Middlebury faculty signed and endorsed a document called “Free Inquiry on Campus: A Statement of Principles by over One Hundred Middlebury College Professors,” which was published the next day in the *Wall Street Journal*.¹ As a defense of academic freedom, it is a peculiar document, to say the least. It’s best described as a highly condensed version of the dominant doctrine of academic freedom (comprised of a partial interpretation of the First Amendment and summaries of Millian libertarianism), which its signatories present as “unassailable.” Five days later, a number of Middlebury students issued a response called “Broken Inquiry on Campus: A Response By a Collection of Middlebury Students.”² In the relation that opened up between these two documents, just as Arendt warned, crisis became disaster.

Begin with the curious fact that “Free Inquiry” at no point uses the word “academic,” and at no point addresses, much less assumes, the sort of difficult academic responsibilities we considered in Part One. Most tellingly, the text at no point uses the words “true,” “false,” or “truth,” or even “the pursuit of truth.” It’s true that the text does mention the existence of a line between opinion and knowledge: “Only through the contest of clashing viewpoints do we have any hope of replacing mere opinion with knowledge.” But it then exaggerates, in order to disavow, the responsibility involved in drawing that line: “No group of professors or students has the right to act as final arbiter of the opinions that students may entertain.” “Broken Inquiry,” meanwhile, proposes to assume a more modest version of that same responsibility. It asks whether Murray’s academic credentials qualified him to speak at an academic institution,

and it asks whether his falsehoods were the sort of falsehoods that could contribute to the pursuit of truth. The students who authored the text may or may not have been on the mark in their answers to this question. But at least they attempted to raise and answer it. Or, more exactly: they at least tried to assume the responsibility of asking what constitutes specifically academic speech.

The authors of “Free Inquiry” would seem to have a good reason for disavowing this responsibility. They paraphrase Mill as though any and all coercion were necessarily and always, simply by virtue of the fact of being coercion, intolerable. They write: “A protest that prevents campus speakers from communicating with their audience is a coercive act.” But this merely descriptive statement shies from the uncomfortable question Mill’s text in fact poses: under what conditions is coercion warranted? The authors of “Broken Inquiry” sense the hollowness of their professors’ claim. Channeling Frederick Douglass, they respond by proposing that “the intellectual inferiority of women, minority, and low income communities is [not] up for debate at Middlebury.” They also cite Toni Morrison, pointing out that some words are speech acts, and that some speech acts amount to acts of harm. Morrison does the trick nicely, but as a host of Mill scholars have shown, the authors of “Broken Inquiry” equally could have found support in the very text by Mill their professors apparently regard as infallible.

It’s easy to criticize the students who protested Murray, particularly in retrospect, and particularly after a few students resorted to physical violence. But this should not prevent us from recognizing that, even if the protesting students failed to produce a coherent response to the question of what constitutes specifically academic speech, “Free Inquiry” does not even raise this question at all. The sum and substance of “Free Inquiry” is that one should engage civilly with those with whom one disagrees. With this platitude few readers of the *Wall Street Journal* are likely to disagree. But the truly difficult question is not *whether or not to disagree*; nor is it even *how civilly one should disagree*. It is *which disagreements turn opinion into knowledge* and therefore *are worthy of the academy professors have inherited and soon will bequeath to a new generation*.

The protesting students respond to this question by drawing the line at what they call “hate.” This is why they chanted “Your message is hatred, we will not tolerate it.” This chant too is easy to criticize, particularly from the perspective of the dominant doctrine of academic freedom. But the chant has a logic of its own, one that precedes the latter and shapes it

from within, and we forfeit our experience of reality if we merely repudiate it as an effect of mob mentality. Over the course of the twentieth century, the secularization of the university coincided with the racial desegregation of the university, and the word “tolerance” migrated from its origins as a mediator of *religious difference*, acquiring a new function now as a mediator of *ethnic and racial difference*. This displacement helps explain the students’ chant. Understood in these terms, the protesting students were not, as their faculty condescendingly implied, demanding to be comfortable or rejecting any position short of perfect egalitarianism. They were wrestling with a much deeper problem. They were, in effect, proposing to oppose a secularized iteration of the same religious intolerance to which Anglo-American liberalism always has opposed itself. They were claiming that a diverse community of students is possible only on the prior condition that intolerance not be tolerated within that community, in just the same way that, for Milton, Locke, and Mill, religious pluralism within liberal societies was only possible on the prior condition that “the most intolerant of churches” not be tolerated within those societies. Put simply: the students were engaged in a protest that was, in its basic genesis and structure, *Protestant*.

Is it really right to blame *students* for the contradictoriness at work in this protest? Or would it be more intellectually responsible to concede that contradictoriness is a chronic condition for *all* modern discourses on tolerance? The Middlebury faculty who signed “Free Inquiry on Campus,” after all, don’t actually disagree with their students about the need to be intolerant of intolerance. They implicitly agree with their students about this, but simply disagree with their students about the line between the tolerable and the intolerable. For them, tolerance is “openness to considering contrary views,” and what they find intolerable (their word is “unacceptable”) is the arrogation of the right to close down a discussion. (That is why they write: “No group of professors or students has the right to determine for the entire community that a question is closed for discussion.”) For this group of professors, the very idea that a group of professors or students should close down a discussion is absolutely and unconditionally not up for discussion. The discussion these professors value is possible only on the prior condition that claims to infallibility are not tolerated, in just the same way that religious pluralism is only possible on condition that claims to religious absolutism (e.g., papal infallibility) are not tolerated. This group of professors knows this absolutely and unconditionally. For them, therefore, this fact is not open to contrary views or challenging opinions.

Nor, therefore, are they open to the possibility that their stated principle might be fallible. That discussion is, for them, closed. All that matters now, apparently, is that they come together in a large group and broadcast their principles as plainly and forcefully as possible—using short, declarative sentences that can be repeated easily by others. Clearly, the chanting students these professors oppose have learned much from their example. Here too, the discourse of tolerance cannot not be contradictory.

The deadlock is fascinating; it is, moreover, exactly the sort of *aporia* Arendt had in mind when she asked her readers to reflect upon crises rather than react to them with preformed judgments. The problem we're forced to confront here is not that the principles of academic freedom are known to wise adults but misunderstood and disrespected by this brave new generation of students. It is that the tradition of academic freedom we are least prepared to think—this paradoxical discourse of religious tolerance the secularization of which has quietly given shape and substance to the doctrine of academic freedom—is also the one that most ties us into conceptual knots. In the Middlebury affair, we see how *the very conceptual structure students and professors share*—the axiom that the tolerant must be intolerant of intolerance—also and at the same time *makes it impossible for those students and professors to speak with one another*, leaving us with two generations who are at once *excessively close to one another* (professors and students alike claiming that intolerance cannot be tolerated) and also *completely incommensurable with one another* (for if the students are right about what is intolerable, the professors are wrong, and vice versa).

7.

TO BREAK THIS deadlock, consider a last origin for our contemporary discussions about academic freedom. In U.S. courts, the first clear victory on behalf of this principle was won sixty years ago.³ In *Sweezy v. New Hampshire* (1957), the U.S. Supreme Court upheld the right of Paul Sweezy (who in 1949 had founded *Monthly Review*) to refuse to answer questions put to him by the New Hampshire attorney general about the content of his classroom lectures on socialism.⁴ Writing in a concurring opinion joined by Justice Harlan, Justice Felix Frankfurter set forth what is today recognized as “the classical statement” in U.S. courts on “the four essential freedoms of the university—to determine for itself on academic grounds who may teach, what may be taught, how it shall be taught, and who may be admitted to study.”⁵

In recent years, Frankfurter's opinion largely has been forgotten. When it is cited at all it has been cited to support three claims: that academic freedom inheres in institutions and not professors; that university autonomy entails the right of universities to protect intellectual life from government intervention; and that entailed in this autonomy is the responsibility of universities to remain neutral with respect to the great social and political controversies of their day.⁶ But if one truly follows Frankfurter's argument where it leads, one ends up in a much different place.

Importantly, what American legal scholars characterize as "Frankfurter's" argument about the university's "four essential freedoms" is actually not *Frankfurter's* argument at all.⁷ It is an argument that Frankfurter derives from a text he characterizes as "poignant" and calls, in his opinion, "the latest expression" on the subject of academic freedom. The text in question, *The Open Universities in South Africa*, which was published the same year *Sweezy* was decided, summarizes the proceedings of a conference convened by two South African universities: the University of Cape Town and the University of the Witwatersrand (Johannesburg). The occasion for this conference was provided in March 1957, when the Nationalist Party—the South African political party responsible for the imposition of apartheid in South Africa in 1948—introduced into Parliament a bill that aimed to extend the policy of apartheid to the two South African universities that at that time admitted African students.

The Open Universities is not only a declaration of opposition to this proposal; it is also the first articulation of academic freedom in the history of higher education in South Africa.⁸ It opens with a comprehensive overview of the existing racial composition of South African universities before moving on to a summary of the government's proposal for academic apartheid. It then provides a point-by-point refutation of each of the government's arguments for academic apartheid; it quotes from the government's own commission of inquiry that supports academic freedom in South Africa; and it includes pronouncements from the governing bodies of both universities, stating their united opposition to "academic segregation on racial grounds" and their belief that "academic non-segregation accords with the highest university ideals and contributes to interracial understanding and harmony in South Africa."⁹

No reader who absorbs the text's opening chapter in full, particularly with an eye toward the parliamentary debate that occasioned it, can have any doubt about the text's purpose. For the authors of *The Open Universities*, academic autonomy and academic apartheid are mutually exclusive:

either it will be the case that the open universities will remain able to pursue the ideal of academic nonsegregation or else it will be the case that they will lack any academic autonomy at all. Between *Lehrfreiheit* and *Lehrfreiheit* on the one hand, and apartheid on the other, there can be no coexistence.

Frankfurter, however, would quote exclusively from the first three pages of the text's second chapter, which is a history of the idea of the university and which contains no objections to the policy of apartheid: It's there that he finds the passages he will include in *Sweezy*, and that thenceforth would become integrated into the American tradition of academic freedom as the "classical statement" on academic autonomy.

In a university, knowledge is its own end, not merely a means to an end. A university ceases to be true to its own nature if it becomes the tool of Church or State or any sectional interest. A university is characterized by the spirit of free inquiry, its ideal being the ideal of Socrates—"to follow the argument where it leads." This implies the right to examine, question, modify or reject traditional ideas and beliefs. Dogma and hypothesis are incompatible, and the concept of an immutable doctrine is repugnant to the spirit of a university. The concern of its scholars is not merely to add and revise facts in relation to an accepted framework, but to be ever examining and modifying the framework itself. . . .

Freedom to reason and freedom for disputation on the basis of observation and experiment are the necessary conditions for the advancement of scientific knowledge. A sense of freedom is also necessary for creative work in the arts which, equally with scientific research, is the concern of the university. . . .

. . . It is the business of a university to provide that atmosphere which is most conducive to speculation, experiment and creation. It is an atmosphere in which there prevail "the four essential freedoms" of a university—to determine for itself on academic grounds who may teach, what may be taught, how it shall be taught, and who may be admitted to study. . . .¹⁰

On the basis of this quotation alone, it certainly is plausible to conclude, as have numerous readers of *Sweezy*, that the university's four freedoms are not only consistent with but also dependent upon the notion that academic institutions ought to remain politically neutral. Because there is no mechanism internal to the university that would allow it to arrive at any given collective position without also first internally inhibiting the full freedom of dissent on which it thrives, the university cannot

take collective action on the issues of the day without also giving itself over to a “sectional interest” and endangering the conditions for its own existence and effectiveness.¹¹ In order to avoid the suppression of dissent internal to the university, therefore, universities cannot issue dissents to political policies external to the university. Academic freedom, on this reading of *Sweezy*, entails the academic responsibility *not to engage* in political disputes.

Interpreted in this manner, *Sweezy* even authorizes the claim that universities should abstain from debates over whether or not to divest from the apartheid state.¹² And with this we come full circle: the way that Frankfurter quotes from *The Open Universities* in *Sweezy* creates the conditions for this *manifestly antiapartheid text*—this text *the sole purpose of which* is to articulate the grounds on which universities can and should resist apartheid—to be quoted in support of the claim that universities *cannot and should not resist apartheid*. As if apartheid were merely one among many problems that should be avoided on the basis of the university’s four essential freedoms, and not *the very reason for the formulation of those freedoms in the first place*.

Read to the letter, in fact, *The Open Universities* requires us to reexamine and modify the juridical framework into which Frankfurter inserts it, and against which it strains. What happens, after all, when we apply the Socratic imperative Frankfurter quotes—“to follow the argument where it leads”—to Frankfurter’s own quotation of *The Open Universities* itself? Does Frankfurter’s quotation from *The Open Universities* follow the argument of that text where it leads? Does that quotation itself obey the Socratic imperative it introduces into American law? Or does it disobey that imperative? Does it, in other words, break with the argument of *The Open Universities*, losing its way under the pressure exerted upon it by the protocols and constraints of American law? And if it does, what re-reading of *Sweezy* might that imperative require of us?

When Frankfurter ends his quotation of *The Open Universities*, he will deny any resemblance between South African apartheid and the case at hand: “I do not suggest that what New Hampshire has here sanctioned bears any resemblance to the policy against which this South African remonstrance was directed. I do say that in these matters of the spirit inroads on legitimacy must be resisted at their incipiency. This kind of evil grows by what it is allowed to feed on.”¹³ In a narrow, doctrinal sense, this is an uncontroversial point: the New Hampshire attorney general’s unconstitutional interference in Professor Sweezy’s right to lecture on

socialism does not raise the same sort of constitutional questions as does the apartheid state's exclusion of "non-white persons" from South Africa's open universities, which in turn are governed by a very different tradition of jurisprudence.

Interpreted from the standpoint of *The Open Universities*, however, Frankfurter's point is not only debatable but also uncanny. After Frankfurter stops reading, *The Open Universities* will go on to criticize the South African policy of apartheid by showing how it is reducible to the American constitutional doctrine—set into place by *Plessy v. Ferguson*, which in 1957 was still the controlling precedent for American higher education—of "separate but equal."¹⁴ For *The Open Universities*, in other words, South African academic freedom is incommensurable with a form of academic segregation that was American before it was South African. To translate into English the Afrikaans word "apartheid," it would thus be necessary to turn first and foremost to American legal precedents. To follow the argument where it leads, it turns out, is to return to America itself. For the Frankfurter who wrote in *Sweezy*, by contrast, the jurisprudential problems posed by the university's "four essential freedoms" are *separate from* the jurisprudential problems posed by the doctrine of "separate but equal." As though it were possible to resist the "evil" (Frankfurter's word) of imposing on academic freedom without also resisting academic apartheid, either in South Africa or elsewhere.

So is Frankfurter's reading *The Open Universities* an example of the academic freedom it also enshrines in law? Or would it be closer to the mark to say that the way Frankfurter introduces this South African text into the American tradition of academic freedom also introduces a set of internal constraints into that tradition?

Frankfurter, of course, is not an academic but a judge, and an especially courageous one at that.¹⁵ It's not then necessarily a contradiction for him to disobey the very maxim he quotes approvingly as the very exemplar of academic freedom. The same can't be said, however, for other readers—most especially for students and professors who today turn to *Sweezy* to make sense of academic freedom. Suppose, therefore, one were to take even more literally than Frankfurter himself the same Socratic maxim he quotes. After characterizing the ideal of Socrates as "to follow the argument where it leads," where does the argument of *The Open Universities* itself lead?

For the authors of *The Open Universities*, the four freedoms of the university are not only intrinsically interrelated; they also entail "the

plain duty” of the university to oppose academic apartheid. To support this argument, the authors will cite the precedent of the *studium generale* in English educational history, concluding—in words that could have been written in the United States in the twenty-first century—that “it is almost axiomatic that a university should be more diverse in its membership than is the community in which it exists. This diversity itself contributes to the discovery of truth, for truth is hammered out in discussion, in the clash of ideas.”¹⁶ Or, as they would put it later: “diversity is essential to our ideal of a university.”¹⁷

Significantly, these ideals cannot be limited to any given public. Citing the existence of “an international community of universities,” the authors of *The Open Universities* set forth an argument that is worth reproducing in full:

All [universities] are united in an international fraternity based on ideals and traditions shared in common. It is by virtue of these universal ideals that a particular university may on occasion find itself in conflict with sectional interests or with a narrow interpretation of national loyalties and interests. When such conflicts do arise, as the result of pressures from outside, and a university is obliged to yield against its judgment, then we have a serious interference with its autonomy. The open universities in this country have not merely the right to resist any unwarranted interference; *it is also their plain duty to do so unless they wish to become party to the betrayal of their own ideals and traditions. These ideals and traditions demand the rejection of any policy involving the exclusion of students on racial grounds.* To force a university to abandon its ideals and traditions is to affront its dignity and to restrict its legitimate activities, a situation which no self-respecting university can accept with equanimity. As the universities view the matter it is part of their function in a society such as ours to continue to represent and maintain the ideals and principles upon which they have always taken their stand.¹⁸

In order to appreciate the full force and thrust of this claim, first recall that at the heart of the American tradition of academic freedom is an ethical dyad: *no academic freedom without a corresponding academic responsibility*. Over the course of the last century, this dyad has been interpreted with reference to the problem of “extramural utterances,” which is to say, professorial speech that occurs outside of the classroom, and that is protected by the First Amendment. On these terms, academic freedom entails the academic responsibility to restrain both the manner and the content of one’s extramural utterances: to the extent that one speaks the truth in an uncivil

way, one is exposed to censure not only by the public but also by one's own institution. Instead of seeing in academic freedom a reason to exceed from within the nation-states that host them, joining with one another to form an archipelagic international community, academic institutions are thereby authorized to treat it as a framework to neutralize the excessive discourse of the professors it itself hosts. Academic freedom so construed is no longer the freedom to sting like a Socratic gadfly, which once was affirmed even by the most restrained interpretation of the university.¹⁹ It now becomes a reason, as Ani Difranco might say, to "suck up and be nice."²⁰ The existing interpretation of this ethical dyad is therefore, at best, "deeply inadequate."²¹

In *The Open Universities* we find a very different teaching, one that we also find waiting within the American tradition itself once we realize that Frankfurter's selective quotation of the text constrains the same Socratic imperative it also enshrines in law. Once we follow its argument where it leads, *The Open Universities* teaches us that the "four essential freedoms" of the university not only allow for a right to resist apartheid but also indeed require a *plain duty* to resist apartheid. Because "duty" is another word for "responsibility," the teaching of *The Open Universities* may be translated thusly: *the academic responsibility that follows from the university's four essential freedoms is the responsibility to oppose academic apartheid.*²² And because those four freedoms are interrelated, this responsibility must come into play not only to determine who may be admitted to study, but also who may teach, what may be taught, and how it shall be taught.

In the event, even *The Open Universities* itself failed to live up to this responsibility. A year after the South African Parliament imposed academic apartheid on the University of Cape Town in 1959, the university unveiled a bronze plaque in Jagger Library that memorialized the loss of academic freedom in 1960 and left a blank space for the insertion of the date on which that freedom would be restored.²³ Fifteen years later, during some of the most repressive years of the apartheid regime, a number of South African academics arranged for the republication of *The Open Universities*, characterizing the document's opposition to apartheid as "unequivocal."²⁴ In truth, both memorializations were more than a little bit off the mark. It would be closer to the mark to say that the argumentation in *The Open Universities* was always nonidentical with itself in the first place: the text's formulation of the principle of an anti-apartheid academy was undone not only by the text's own deference to the autonomy of other South African universities that affirmed racial

segregation, but also by the historical reality of the practices of the open universities themselves (which on many fronts were nowhere close to true desegregation).²⁵ Even the open universities that mourned the loss of their academic freedom under apartheid, in other words, were apartheid universities.²⁶

Mourning, however, is not merely one among many modes of academic responsibility. The paradigmatic academy, as we were saying, came into being in response to the loss of its founding figure. It's not then altogether strange, only untimely, to suppose that a trace of this mode should remain active in texts like *The Open Universities*, which openly declare their loyalty to that same figure. *The Open Universities* may have lost its autonomy at the very moment it formulated the terms for that autonomy, but a loss of this sort is not at all antithetical to the formation of a certain experience of conscience that then becomes vital for the survival of that autonomy. Or more to the point: it's not at all antithetical to the genesis of a paradoxical form of responsibility, a responsibility that may never have been satisfactorily performed at all, not even in the place where it originated, but that remains binding not despite but because of this unsatisfactoriness. No one likes mourning the loss of ideals that were never fully realized in the first place. But the academy's best students always have remembered to do just that.

NOTES

¹Jay Parini and Keegan Callanan *et al.* "Middlebury's Statement of Principle," the *Wall Street Journal* (March 6, 2017), online at <https://www.wsj.com/articles/middlebury-statement-of-principle-1488846993> (last checked September 21, 2017).

²"Broken Inquiry on Campus: A Response By a Collection of Middlebury Students," online at <https://brokeninquiryblog.wordpress.com/2017/03/12/broken-inquiry-on-campus-a-response-by-a-collection-of-middlebury-students/> (last checked September 21, 2017).

³See, on this point, American Association of University Professors, "Protecting an Independent Faculty Voice: Academic Freedom after *Garcetti v. Ceballos*" (2009), 72.

⁴For a more detailed description of the case, see John J. Simon, "Sweezy v. New Hampshire: The Radicalism of Principle," *Monthly Review* (April 1, 2000), online at <https://monthlyreview.org/2000/04/01/sweezy-v-new-hampshire/> (last checked September 26, 2017)

⁵See, for example, Kaplin and Lee, *Law of Higher Education*, (Hoboken, NJ: John Wiley & Sons, 2014) 290–1 (calling Frankfurter's opinion the "classical statement" of the "four essential freedoms").

⁶See *Stronach v. Virginia State University* (2008) WL 161304 (E.D.Va, 2008); Richard A. Shweder, “To Follow the Argument Where It Leads: An Antiquarian View of the Aim of Academic Freedom at the University of Chicago,” in *Who’s Afraid of Academic Freedom?*, ed. Johnathan Cole and Akeel Bilgranni (New York: Columbia University Press, 2015)192–5, 200, 209.

⁷Shweder’s essay “To Follow the Argument Where It Leads” takes its title not from Frankfurter, as Shweder seems to suppose, but instead from Frankfurter’s quotation from *The Open Universities*: the phrase “to follow the argument where it leads” appears on page 10 of *The Open Universities*. Here, as in the case of the “four essential freedoms of the university,” an American scholar attributes to Frankfurter a phrase that Frankfurter himself attributed to an antiapartheid text, *The Open Universities*. The examples of misattribution are almost too many to count. See Marjorie Heins, “Academic Freedom after *Keyishian*,” in *Priests of Our Democracy: The Supreme Court, Academic Freedom, and the Anti-Communist Purge* (New York: New York University Press, 2013), 239–51; “Academic Freedom and Federal Regulation of University Hiring” (Note), *Harvard Law Review* 92, no. 4 (1979), 882; Lauren DeLap, “Look Ahead, Dixieland: An Examination of State University Discretion in Mascot Selection,” *Alabama Law Review* 64 (2012), 890; R. Eugene Rice, “Enhancing the quality of teaching and learning: The US experience,” *New Directions for Higher Education* 133 (2006), 13–22; Benjamin Baez, “Confidentiality and Peer Review: The Paradox of Secrecy in Academe,” *The Review of Higher Education* 25, no. 2 (2002), 163–83; Joshua M. Levine, “Stigma’s Opening: Grutter’s Diversity Interest(s) and the New Calculus for Affirmative Action in Higher Education,” *California Law Review* 94, no. 2 (2006), 461; Donald J. Weidner, “Academic freedom and the obligation to earn it,” *Journal of Law & Education* 32 (2003), 445; “An Evidentiary Framework for Diversity as a Compelling Interest in Higher Education,” *Harvard Law Review*, 109, no. 6 (1996), 1357–74

⁸In a 1975 review of the history of academic freedom in South Africa, G. R. Bozzoli situated *The Open Universities* at the origin of that history. See G. R. Bozzoli, “Academic Freedom in South Africa: The Open Universities in South Africa and Academic Freedom 1957–1974,” *Minerva: A Review of Science, Learning and Policy* 13, no. 3 (1975), 430.

⁹*The Open Universities in South Africa: Published on behalf of the Conference of Representatives of the University of Cape Town and the University of the Witwatersrand, Johannesburg, held in Cape Town on 9, 10 and 11 January 1957* (Johannesburg: Witwatersrand University Press, 1957), 4–5.

¹⁰*Sweezy v. New Hampshire*, 354 U.S. 234 (1957), ellipses in original.

¹¹See, on this point, *Kalven Committee: Report on the University’s Role in Political and Social Action* (Chicago: University of Chicago Press, 1967), 1.

¹²Shweder, “To Follow the Argument Where It Leads,” 201–2.

¹³*Sweezy v. New Hampshire*, 354 U.S. 234 (1957).

¹⁴*The Open Universities*, 41–47.

¹⁵See, as one among many examples, Felix Frankfurter, “The Case of Sacco and Vanzetti,” *The Atlantic Monthly* 139 (March 1927), 409–32 (online at <https://www.theatlantic.com/magazine/archive/1927/03/the-case-of-sacco-and-vanzetti/306625/>) (last checked September 11, 2017).

¹⁶*The Open Universities*, 14–15.

¹⁷Ibid., 21.

¹⁸Ibid., 25–26, emphasis mine.

¹⁹Kalven Report, 1.

²⁰Ani Difranco, “Pixie,” *Little Plastic Castle* (Righteous Babe: Cooking Vinyl, 1998).

²¹John Mowitz, “Risking Responsibility,” *AAUP Journal of Academic Freedom* 6 (2015), 6.

²²Needless to say, this teaching bears directly on the question of whether it is a violation of academic freedom for institutions of higher learning to oppose apartheid in Israel: only on the terms of an unacademic and unfree reading of *The Open Universities* does it become plausible to argue that BDS (the academic movement to oppose apartheid in Israel) is not *the logical extension of academic responsibility* but is instead *a violation of academic freedom*.

²³Bozzoli, “Academic Freedom in South Africa,” 437–38.

²⁴Ibid., 428.

²⁵B. K. Murray, “Wits as an ‘Open’ University 1939–1959: Black Admissions to the University of the Witwatersrand,” *Journal of South African Studies* 16, no. 4 (December 1990), 649–76; Graeme Moodie, “The State and the Liberal Universities in South Africa: 1948–1990,” *Higher Education* 27 (1994), 1–40.

²⁶Premesh Lalu, “Apartheid’s University: Notes on the Renewal of the Enlightenment,” *Journal of Higher Education in Africa* 5, no.1 (2007), 45–60.