2 Constructions of Academic Freedom

Freedom versus Inclusion?

> Academic freedom lives in the ethical space between an ideal of the autonomous pursuit of understanding and the specific historical, institutional, and political realities that limit such pursuits.
>
> (Scott, 2019, p. 35)

2.1 INTRODUCTION

This chapter critically examines the constructions and contestations of academic freedom held by academics from a range of academic institutions in Lebanon, the UAE, the United Kingdom, and the United States. As noted in the preceding chapter, in some instances, academics have had a range of experiences working in different academic institutions in more than one of the country contexts, whilst others are based institutionally in one country context but conduct their research and fieldwork in one of the other country contexts. This reflects the transnational reality of contemporary knowledge production and the need to consider academic freedom beyond the dominant methodologically nationalist frame. These constructions of academic freedom are firstly contextualised within a brief intellectual history of discourses of academic freedom and situating key legal and policy documents, including the Statement of Principles on Academic Freedom and Tenure of the 1940 American Association of University Professors (AAUP) within the US context and the University and College Union (UCU) and Academics for Academic Freedom (AFAF) statements in the UK context. These documents are also considered in relation to branch campuses in the Middle East,

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distinguishing between the different sociocultural contexts of Lebanon and the UAE and the different educational and political histories of their higher education institutions.

As introduced in the opening chapter, a fundamental debate in the field is the presumed irreconcilability of the principles of academic freedom on the one hand and diversity and inclusion on the other. This tension runs through the empirical data of the interviewees' constructions and contestations of academic freedom. Traditional libertarian approaches typically place primacy on protecting free speech; so from this perspective, there is a discourse of perceived 'oversensitivity' of those engaged in social justice work relating to racism, sexism, and other forms of difference, heightened in the context of post-Brexit in the United Kingdom and post-Trump in the United States, as well as the rise of the #BlackLivesMatter movement against racism and the #MeToo movement against sexual abuse, harassment, and rape culture with heightened global public discourses through social media. In contrast to this position, it is argued that free speech has limits, as it can be used by those in power in ways that harm traditionally marginalised communities. In response to these polemical and polarised debates, Ben-Porath (2017) and Callan (2016) have argued that principles of justice and inclusion and the principles of academic freedom are complementary rather than contradictory, where inclusivity should be conceived as a threshold condition for academic freedom. This means that academic freedom requires certain conditions for its operationalisation, with inclusivity being a prerequisite. This inclusion has been conceptualised as 'dignity safety'. The necessary requirement of 'dignity safety' (as distinct from 'intellectual safety') is thus presented as a requisite for inclusion in the university context and for the practice of academic freedom (Callan, 2016). These arguments have primarily been developed in the context of freedom of speech in academic contexts. However, this potential complementarity has not been examined to date in relation to the production of knowledge. This chapter explores this complementarity between inclusion and academic freedom as a prerequisite in the production of 'inclusive' knowledge.

2.2 ACADEMIC FREEDOM: A BRIEF INTELLECTUAL HISTORY

The notion of academic freedom can be traced as far back as Ancient Greece with the account of Socrates defending himself against a charge of 'corrupt [ing] the youth of Athens' (Stone, 2015, p. 1). Yet, it is within the institutional

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framework of the university that modern constructions of academic freedom are situated. The Latin word 'universitas' refers to 'a number of persons associated into one body, a society, company, community, guild, corporation, etc.'[1]. The earliest degree-granting university in the world is the University of Al Quaraouiyine, in Morocco, founded in 859 AD by an Arab Muslim woman, Fatima al-Fihri. The Al-Azhar University in Cairo, Egypt, is the second oldest university founded as a 'madrasa' (college of law) in 970 AD[2] and is recognised as the first centre of Islamic learning. Madrasas typically consisted of a mosque, boarding house, and a library and maintained by a 'waqf' or charitable endowment. This medieval period from the eighth to the fourteenth centuries is sometimes referred to as the Islamic Golden Age, where scholars from around the world were brought together to gather and translate classical knowledge into Arabic. It was a dynamic period of cultural flourishing of science and mathematics under the caliphates. There was substantial sponsorship of scholars by the patrons of the Islamic empire, with science conducted during this period on a scale larger than at any time in the past or present (Dallal, 2010). According to Makdisi (1981), madrasas enjoyed institutional and professional autonomy, given their establishment based on an Islamic waqf or charitable trust which gave financial security and institutional autonomy. In addition, professors joined guilds which gave them the freedom to teach and pronounce opinions. Whilst scholars enjoyed a certain level of de facto academic freedom, this was not codified in law. The work of hundreds of scholars and scientists in this period is attributed to have had a significant influence on the emergence of science and institutional higher education in medieval Europe.

These universities in Europe were autonomous institutions of power, with their members setting their own rules, yet academic inquiry was limited within the 'truth' of Christianity (Stone, 2015). However, with the rise of science came conflicts with religious authority, and this religious constraint on academic inquiry, also evident in the US context, continued into the nineteenth century (Stone, 2015).

By the nineteenth century, the main restriction to academic freedom was the nation state. In the United Kingdom, academic freedom has historically been taken for granted especially at the oldest elite universities of Oxford and Cambridge. It was not incorporated into law until the 1988 Education Reform Act, which inserted a clause protecting academic freedom. The illusion of a

[1] Lewis and Short (1966) [1879].
[2] It gained official university status in 1961 and now also offers secular programmes.

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tradition of academic freedom can arguably be attributed to the historical privileges of Oxbridge academics, rather than constructed in terms of de jure academic freedom. Authoring a report on academic freedom in the United Kingdom for the UCU in 2017, Karran and Mallinson describe academic freedom as 'a neglected right in the UK' (2017, p. 2), and they note that there had only been six court cases up until 2002, compared to over 1,000 in the United States. In part, this is attributed to the fact that universities are subject to state law in the United States, whilst in the United Kingdom, most universities were legally protected from any court challenge up until the 1988 Education Reform Act. In addition, there are comparatively minimal de jure protections for academic freedom in the United Kingdom.

The transformation of modern higher education has been strongly influenced by the Humboldtian university, with the idea that the university is premised on upholding academic freedom. Academic freedom entailed both the freedom to teach and the freedom to learn (Dea, 2018). However, the Third Reich erased academic freedom with 45 percent of German professors removed from their positions by 1939. Academic freedom from an authoritarian state influenced conceptions of academic freedom in the 1930s, where, for example, science was under strict state control in the Soviet Union. The role of the state in relation to academic freedom was also exemplified in the US context of McCarthyism in the 1950s and 1960s.

In the United States, the conception of academic freedom is considered to rest on the intersecting foundations of the long European history of intellectual freedom, the notion of an autonomous community of scholars arising from the tradition of universities in the Middle East and Europe, and the freedoms guaranteed by the Bill of Rights of the federal constitution (Fuchs, 1963). Academic freedom has evolved from within the organisational and policy contexts of colleges and universities and contextual challenges over time; initially, this was predominantly in relation to pressures for religious conformity and, subsequently, became more political and economic in nature (Fuchs, 1963).

Moving to the more recent Middle East context, throughout the nineteenth and twentieth centuries, in the context of colonialism, educational reformers worked to develop national educational systems (Abi-Mershed, 2010). Yet, colonial rulers used education as a means of rule, introducing American and European schools and universities in the region. Education has been centrally important in states' nation-building missions, and the national university was often seen as a symbol of new national identity, national development, and autonomy in post-colonial contexts after the Second World War; education

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has also been seen as representing a vision of equipping youth to construct a new future (Staeheli and Hammett, 2013). Higher educational institutions in the region can be conceived of as sites of 'intersections' between Western (colonial/neo-colonial/post-colonial) and national sociopolitical particularities and discourses on citizenship in the Arab world (Kiwan, 2017b).

In the Arab region, the number of universities has risen sharply since the mid-twentieth century: in 1939, there were a total of ten universities; in 1961, there were twenty universities; in 1975, there were forty-seven universities, and in 2000, there were over 200 universities (Herrera, 2007). In 2013, it was estimated that there were over 600 universities in the Arab world (Abu-Orabi, 2013). 'Imported internationalisation' can be witnessed through the establishment of partnerships with US and UK universities, especially in the Gulf Arab states, as exemplified by Dubai's Knowledge Park and its mission for establishing a 'knowledge economy'. There are eighty universities ranked in the 2023 QS World University Rankings, with twelve universities in the top 500 (Nabeel, 2022). The Arab region has the world's highest international faculty ratios, including the world's top ten in this category; the UAE has nine of these universities and is the country with the world's most international higher education system (Nabeel, 2022). There is a similar demographic for international students with the top five universities located in the Arab region and four of these universities based in the UAE (Nabeel, 2022). Lebanon has four of the region's top universities, with the American University of Beirut (AUB) ranking the highest in the world's top 250–300 (QS World University Rankings 2022).

Lebanon and the UAE illustrate contrasting historical and sociopolitical contexts with respect to higher education and academic freedom. The AUB in Lebanon established by foreign missionaries in the late nineteenth century is equivalent in status to Oxbridge in the region. AUB as a private higher education institution, with its particular history and development as providing an American liberal education, plays a critical role in constructing an educational and social elite. It is based on the US liberal arts model of education and has a US charter and additionally is bound by the AAUP Statement of Principles on Academic Freedom. AUB holds a significant place in the sociopolitical and cultural imagination of Lebanon and the wider region (Kiwan, 2017b). The UAE has both state university and international 'branch' campuses, with one-third of all branch campuses globally located in the Arab region (Miller-Idriss and Banauer, 2011). These branch campuses are complexly positioned between US and UK requirements of academic freedom and local national law.

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2.3 KEY LEGAL AND POLICY STATEMENTS

At the international level, the two United Nations (UN) Human Rights Covenants do not explicitly state a protection for academic freedom in 'hard international law', although a range of articles, for example, Article 19 (right to freedom of opinion and expression) of International Covenant on Civil and Political Rights (ICCPR), Article 13 (right to education), and Article 15 (1) (c) (right to freedom indispensable for scientific research) of International Covenant on Economic, Social and Cultural Rights (ICESCR), and General Comments can be drawn upon and have substantial legal weight. Through the European Court of Human Rights, cases relating to free speech in an academic context has resulted in judgements.

In the United States context of faculty being dismissed from universities for perceived infringements against the religious, political, and economic mainstream, as well as it being deemed important to have a national organisation, the AAUP, consisting of leading university and college professors from sixty institutions, was formed in 1915 (Fuchs, 1963). Although the AAUP was predominantly framed as a professional body of broad remit, of note is the 1915 Statement of Principles of Academic Freedom and Tenure, which states that principles of academic freedom in the American context entail freedom to teach, freedom to research, and the freedom of responsibly exercised 'extramural speech'. This 1915 statement emerged in what is referred to as the 'progressive era' in the United States, with the rise of the research university, autonomy of academics, and a distinction between religious and secular frameworks of knowledge (Scott, 2019). The formulation of the statement aimed to protect those perceived to be challenging traditional knowledge and was associated with critical thinking. The case of the dismissal of the economist Professor Andrew Ross at Stanford University in 1900 for promoting – according to the Founder's widow – 'the vilest elements of socialism' when he critiqued business for 'throttling social criticism', in conjunction with seven colleagues resigning in solidarity, is seen to have contributed to a climate of concern for academic freedom setting the scene for the founding of the AAUP (Scott, 2019, p. 43).

The AAUP statement of academic freedom which was codified in the United States in 1915, known as the 1915 'Declaration of Principles', was revised in 1925 to the '1925 Conference Statement on Academic Freedom and Tenure'. A further reworking resulted in the '1940 Statement of Principles on Academic Freedom and Tenure', with further interpretative

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remarks added in 1970. The AAUP 1915, and subsequently 1940, Statement of Principles on Academic Freedom and Tenure entails the idea that academic freedom is situated between the university and the general public, what Finkin and Post (2009) articulate as the critical role of the university in promoting the 'common good', where 'the common good depends upon the free search for truth and its free exposition' (AAUP, 1940, p. 14).

Reichman[3] (2018) emphasises the distinction between academic freedom and broader speech rights, citing Chemerinsky and Gillman (2017), who distinguish the protection of academic freedom as being 'inextricably linked to professional standards and decorum' from broader speech rights extending beyond into the community. Similarly, Ben-Porath (2017) argues that whilst academic freedom is a core value of the university, this is not the case for free speech. Although the importance of academic freedom is framed in terms of its importance of knowledge for society, which is underpinned by a commitment to scholarly work, freedom of speech is framed in terms of the democratic notion of the freedom to express oneself (Whittington, 2019). Baer (2019) argues that in the university context, rules around speech are not about political correctness but about regulating behaviour, 'just as rules regulate behaviour in any workplace'. According to Baer (2019), trigger warnings, safe spaces, and speech codes are for equitable learning, rather than censorship.

Therefore, the role of the university in protecting the autonomous production of knowledge by academics is presented in terms of promoting the public good, free from infringement from university trustees, which is expressed in the Statement: '... the work of [which] the trustees holds an essential and honourable place, but in which the faculties hold an independent place' (AAUP, 1940, p. 27). Academics in US institutions are considered to be appointees as opposed to employees, invoking the first amendment freedom of speech state protection, tempered by reference to the importance of 'responsibility' for knowledge production and its uses. The role of the trustees is not to reflect public opinion, but rather to protect the university and its scholars from popularist sentiment. Indeed, many social science academics at the turn of the twentieth century were intellectually engaged with socio-economic and political issues of the time, and they came under pressure from university administrators for lacking objectivity. Discourses of 'rationality' and 'objectivity' continue today in contestations of academic freedom and the production of knowledge.

[3] First vice president of the AAUP, chair of Committee A on Academic Freedom and Tenure, and chair of the AAUP Foundation.

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Academic freedom in the AAUP is presented as essential to 'the advancement of truth' in both research and teaching (p. 14) and is linked with tenure, where 'freedom and economic security, hence tenure, are indispensable to the success of an institution in fulfilling its obligations to its students and to society' (p. 14). The notion of expertise is an important conception invoked in the AAUP statement:

> As scholars and educational officers, they should remember that the public may judge their profession and their institution by their utterances. Hence they should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that they are not speaking for the institution. (p. 14)

This statement would seem to be emphasising the importance of the reputation of the institution; yet, the 1970 commentary asserts that the intention of the statement is to underscore expertise, rather than avoid controversial topics.

The AAUP also applies to some American universities outside the United States, such as the AUB in Lebanon. AUB Faculty United is a group of AUB professors who are actively committed to promoting faculty governance of the university and academic freedom. It is an independent, non-political group and is described as 'a Chartered Chapter of the American Association of University Professors (AAUP), a US-based organisation of professors and other academics founded in 1915 to advance academic freedom and shared governance in higher education' (AUB Faculty United, 2017). It has achieved significant success negotiating the reinstatement of tenure and review of contract terms and conditions, and it is also known for its annual Kamal Salibi Award for academic freedom (Kiwan, 2017b).

It should be remembered that the United Kingdom does not have a written constitution with a form of protection for freedom of speech. Historically, academic freedom as de facto rather than de jure has taken precedence. The UCU statement in 2009 on academic freedom invokes the 1988 Education Reform Act as having 'established the legal rights of academic in the United Kingdom 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 the privileges they have'. It also draws on the 1997 The United Nations Educational, Scientific and Cultural Organization (UNESCO) recommendation on the status of higher education teaching personnel. This detailed UNESCO statement, which was developed through extensive consultation with academics, legal experts, non-governmental organisations (NGOs), and member states, was issued in 1997, which affirmed that

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'the right to education, teaching and research can only be fully enjoyed in an atmosphere of academic freedom … the open communication of findings, hypotheses and opinions lies at the very heart of higher education and provides the strongest guarantee of the accuracy and objectivity of scholarship and research' (UNESCO, 1997).

The UCU statement asserts that academic freedom is under threat, identifying those threats arising from the 'changing nature of funding in UK research, in particular the dominance of the Research Assessment Exercise' and also the 'introduction of anti-terrorism legislation resulting in self-censorship. The UCU statement (2009) also asserts:

right(s) to:

- freedom in teaching and discussion;
- freedom in carrying out research without commercial or political interference;
- freedom to disseminate and publish one's research findings;
- freedom from institutional censorship, including the right to express one's opinion publicly about the institution or the education system in which one works; and
- freedom to participate in professional and representative academic bodies, including trade unions.

There is reference to the relationship of academic freedom 'being bound up with broader civil liberties and human rights', the 'responsibility to respect democratic rights and freedoms of others', and the development of 'open, democratic and collegial forms of institutional governance … with staff play[ing] a pre-eminent role in determining the curriculum, assessment standards and research priorities' (The Education Reform Act (ERA), 1988).

With respect to law on academic freedom in the UAE, the UAE is signatory to the UN ICCPR, and ICESCR, yet this must be understood in relation to the sociopolitical and cultural contexts. As previously mentioned, the UAE is home to a large number of branch campuses of UK, US, and other Western universities, and these universities have policies of academic freedom and are obligated under the laws of the United Kingdom, the United States, and other Western countries. Typically, staff handbook advice on academic freedom in UAE universities is framed in terms of personal responsibility and understanding of local cultural expectations and domestic law.

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2.4 CONSTRUCTIONS AND CONTESTATIONS OF 'ACADEMIC FREEDOM'

The academic literature on academic freedom is predominantly a US literature, although there is a growing UK academic interest, and it is increasingly of a topic of public contention reported in the UK media and popular press, albeit largely centred on debates of free speech. Reports on infringements on academic freedom globally have also focused on issues of free speech, 'identity politics', and allegations of terrorism. In Turkey, over 5,800 academics have lost their jobs and hundreds have been prosecuted on terrorism charges in relation to the coup attempt in July 2016 (Human Rights Watch, 2018). In addition, academics have reported interference with research especially on Kurdish-related issues, and as a result, a culture of self-censorship is reported. Debates on academic freedom in Hungary have focused on the fate of the Soros-funded Central European University (CEU) in Budapest, Hungary, where the far-right Orbán government forced its closure and, subsequently, the university had to move to Vienna in October 2018. Gender studies came under particular pressure, and CEU was forced to close its Open Learning Initiative, a highly regarded education initiative for refugees and asylum seekers, as well as the Horizon 2020 project on migration policy (Guardian, 2018). In the Arab region, external limitations on academic freedom imposed by the state are the predominant focus, with examples of news items including state travel bans on professors and students, practices of state appointment of academics, postponement of student elections in Egypt (Al Fanar Media, 2017a), and monitoring of social media (Al Fanar Media, 2017b)..

2.4.1 'Free Speech', 'Responsibility', and 'Expertise'

Contested understandings of 'free speech' in relation to academic freedom arise with varying nuances in academics' conceptions of academic freedom: 'I understand academic freedom as allowing academics to express their views on any issue' (Peter Singer, Philosophy of Bioethics, Princeton University, US, p. 1), and 'Academic freedom is a pompous term for free speech' (Dennis Hayes, Professor of Education, University of Derby, UK, and Founder of Academics for Academic Freedom (AFAF) UK, p. 1). In contrast, the notion of 'evidence-based' as a qualifier is introduced in the following conception of academic freedom: 'I can see absolutely no justification for treating the opinions of academics as being in some way more or less sacrosanct than anybody else's opinions, but that's not what I think academic work should be

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about, and that's why I stressed the evidence-based' (Professor of History, UK, p. 2).

In the US context, academic freedom entails 'responsibly exercised extramural speech' (AAUP). This raises the issue of the interpretation of the notion of 'responsibly exercised', which could allude to the notion of expertise and evidence-based discourse, as well as accepted disciplinary methods:

> Well I think at its most basic, academic freedom is the right to engage in academic scholarship and research and teaching and writing that is protected speech, meaning that if it is politically sensitive, if it's politically unpopular, that it is permissible and that one cannot get fired from their job for challenging the authority of the university, of colleagues, of the state itself. But also recognising that academic freedom is limited to academic scholarship and not to just any crazy opinion, but it needs to conform to academic methods and scholarly methods that are normative within fields of academia that we work in. So it's not that you can – academic freedom does not protect, in my view, hate speech that is not rooted in academic method or in academic argument. It does not protect ... ideas that can be debunked entirely by the academic method. (Professor of American Studies, University of New Mexico, US, p. 2)

The notion of the pursuit of 'truth' is also linked to the rationale for universities, academic freedom, and the co-construction of knowledge in the process of knowledge production: 'Well I think in the context of the university, universities exist for the pursuit of information and the pursuit of truth' (Emeritus Professor of Law, George Washington University, US, p. 2).

The notion of responsibility necessarily introduces subjective judgement and relativity to the concept of academic freedom, where this judgement relates to the notion of 'public good'.

Talking about the US context, academic freedom is distinguished from freedom of speech and linked to notions of the role of the university to promote a public good:

> Well I think one has to distinguish academic freedom from other types of free speech in the United States because I think the university in the United States – it's probably true in other places – but you know I'm here and I know this perspective well. I think academic freedom in the United States, or academic universities exist for the public good. Whereas speech generally does not have to serve a public good. (Emeritus Professor of Law, George Washington University, US, p. 2)

Similarly, the notion of public good is expressed in terms of limits against harm:

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> So I understand academic freedom as the right to enquire into research, talk about, explore through one's teaching any, you know a range of different ideas and areas of interest including ones that might be controversial, and that one should have the freedom to do so. Provided of course that one abides by the codes of ethics and so on. So I do not understand academic freedom as being a complete freedom of speech with no limits. I think like all freedoms it's limited by potential harm done . . . So I think there are grey areas around it. (Professor of Education, UCL, UK, p. 2)

Responsibility is contrasted with privilege, with a critique of the statement from UK AFAF: '. . . I think that [the] responsibility is an important component of this. It's obviously omitted from the statement from Academics for Academic Freedom, just passed over completely that notion of responsibility. It's not a privilege but a responsibility' (Professor of History, UK, p. 2).

Privilege as an entitlement given to individuals as academics is constructed as stemming from the historical conception of the university as a privileged space:

> If it's about your freedom as a Cambridge Don to drink your wine and have your dinners and to teach what you want to teach without any recourse to thinking about inclusion and diversity and the other kinds of knowledges that, huge swathes of other kind of knowledges that are completely excluded you know. And you call that academic freedom? (Professor Emeritus, Sociology, UK, p. 5)

Academic freedom is situated in a contextualised space and time – geographically, historically, and sociopolitically – in contrast to normative theoretical approaches constructing an ideal of academic freedom. The contextualisation of the university similarly identified as a privileged space, and one which is embedded in its particular space and time, is discussed in Chapter 4, which focuses on the role of the university.

The idea of 'responsibly exercised' academic freedom is elastic enough to refer to the form of delivery, invoking notions of 'performances' of 'civility', 'reasonableness', or 'rationality'. Understandings of academic freedom also entailed the ability to exercise academic freedom without fear. The affective dimension to academic freedom will be examined in greater depth later in the chapter on the relationship of affect to academic freedom and the production of knowledge.

2.4.2 Power, Knowledge, and Morality

The elucidation of the differential distribution of academic freedom is illustrated through reference to the positionality of the academic within society

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and in relation to their research. According to Lubin, he reflects on his own positionality to his research in the field of Transnational American Studies, focusing on the social and political history of US foreign relations in the Middle East: 'In my case, what I've experienced, is that being Jewish and being identified as a white male in the United States affords me a level of protection that Palestinian or any Arab or Muslim scholars do not have' (p. 4).

The power of disciplinarity is also identified, where Lubin describes how 'American Studies is often chastised within the United States as "anti-American" studies' (p. 2), as it entails a 'cultural studies critique of government power . . . articulated in race and gender and sexuality and class and on and on' (p. 2). Despite intended US foreign policy intentions, the discipline has been transformed in its exportation to the Middle East. At the AUB, for example, Palestine and Edward Said's work on Palestine have significant import, in contrast to being an 'absent present' in US-based American studies programmes (Lubin, 2016, citing Mahmoud Darwish). The role of subject associations is also drawn into disciplinary battles relating to academic freedom, as illustrated when the American Studies Association passed a resolution in support for the Boycott, Divestment, Sanctions (BDS) movement, consolidating the sentiment that the 'field of American Studies once again, as not only anti-American, but somehow I think being anti-Israel or critiquing Israel is in a strange way seen as being anti-American too'. The role of disciplinary subject associations in the global BDS movement, initiated by Palestinian civil society in 2005, also illustrates how disciplines 'at the centre' have been affected with the 'transnational' turn, the American Studies Association, the Association for Asian American Studies, the American Anthropology Association, and the International Sociological Association vocalising support for the BDS movement.

The power and accompanying sense of security and confidence that comes with academic seniority are also invoked as important:

> Well, you know that institutional frameworks are pushing us to publish as fast as we can, right, in as great a quantity as we can. So I mean I guess this is easy for me to say, right, because I have tenure and I've been promoted to full Professor, so I have much more academic freedom than I did before tenure. So that's another thing about academic freedom, that it's very contingent upon one's rank and one's institutional position and privilege, so I've got a lot of institutional privilege and I therefore have the ability to say, for example, I worked on a book proposal for a while with a Tribe in Oregon and after a while the Tribe said 'you know what we'd

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> really rather publish this ourselves'. And that's, I'm in a position to say 'absolutely, that's your right'. Whereas I've heard stories of junior scholars, even junior Native scholars who have been in a position where they work for 8 years on a dissertation, getting really amazing information and the Elders say 'we do not want you to publish this' and then that scholar is out of a job. (Professor of Women and Gender Studies, US, p. 3)

The moral responsibility that is perceived to come with the privileges of seniority is elaborated in both the US and UK contexts: 'I feel really strongly that as a tenured Professor it's part of my job to speak out about inequities that I see in the institution, that the junior faculty who do not feel as empowered to speak, it's my job to advocate for them and speak out for them' (Professor of Women and Gender Studies, US, p. 4). Similarly: 'I feel I have a responsibility to speak out, so I'm lucky enough to be in a fairly senior position on a permanent contract' (Professor of Education, UCL, UK, p. 8). Yet this positionality and moral responsibility is gendered: 'I see it as a kind of feminist principle as well, because it is mostly women. It's overwhelmingly women who are being targeted.' (Professor of Education, UCL, UK, p. 8)

However, there is frustration at the perceived tokenism of bestowed privilege in a controlled setting arising from positionality as a Black women. In addition, the psychological burden of colluding in maintaining the status quo is conceived of as significant moral compromise. The perceived powerlessness further compounds this burden:

> You're a pawn in that game ... I can have a lovely seminar where we are just getting in there, we are talking about using critical race theory and we are talking about institutional racism and how it works and how it affects us and the microaggressions or you know, and we walk out feeling empowered amongst ourselves, but it's just an illusion because we are not empowered and nothing has changed you know. (Professor Emeritus, Sociology, UK, p. 5)

The idea of a 'psychological contract' is proposed as a way of accommodating teaching and research in the UAE context: 'As with the legal contract an employee makes with his employer in the Gulf there are psychological contracts we make as expats. Perhaps complete academic freedom is one of these' (Medical researcher, Dubai, pp. 4–5). Invoked here are two forms of contract – the first between the 'employer' and 'employee'. The use of this language contrasts with the language of the university appointee referred to in the US context in the AAUP Statement. The language of

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employer/employee, in contrast, does not denote individual autonomy. In addition, the importance of legal status – citizenship – is implicitly invoked as a second form of contract entered at an individual level implying personal responsibility as a non-Emirati or 'expat'. As previously discussed, the notion of personal responsibility in choosing to work in the UAE is commonly referred to in branch campus staff handbooks.

2.4.3 Contextualisation and Preconditions

The role of the university as the context within which academics practice their academic freedom is the focus of Chapter 4. In this section, the university as a cultural context is considered in terms of how inclusivity relates to academic freedom and theories of knowledge production. The history of missions of the university can be conceptualised as being civic/inclusive, research oriented as in the Humboldtian tradition, or as a mentor for 'select elite students' as in the traditional Oxbridge model (MacFarlane, 2007), all of which have varying implications for understanding academic freedom. There is a history of higher education being conceived as playing a role in the promotion of democratic societies (e.g. Dewey and C. Wright Mills), emphasising the importance of informed and critical citizens, in relation to the emergence of the modern nation state, and now evident in discourses on global citizenship (Kiwan and Evans, 2015). In some discourses on the 'civic university', a liberal education is seen as central in the production of 'a particular kind of critical citizen', whilst other discourses call for a more radical 'transformation of higher education itself' (Biesta 2007, p. 470). It has been argued that higher education is one of the few remaining public spaces where unpopular ideas can be explored, and students can learn how to challenge authority (Giroux, 2002).

In the university context, Callan (2016) and Ben-Porath (2016, 2017) have proposed that inclusivity or access is a threshold condition for academic freedom. Callan (2016) proposes the concept of 'dignity safety' (as distinct from 'intellectual safety'), a necessary condition for inclusion in the university context. Unless the condition of dignity safety is reasonably upheld, there is a threat of dehumanisation that undermines inclusive and equitable participation in the intellectual life of the university, necessary for the proper practice academic freedom. Ben-Porath (2017) proposes that the principles of justice and inclusion and the principles of academic freedom are complementary rather than contradictory. Whilst Ben-Porath and Callan are focusing on the

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student-learning experience and free speech, a normative argument can be made for what I call 'inclusive knowledge' – both in terms of principles of equality and inclusion and in terms of the search for knowledge. As such, an inclusive context in which an academic conducts their research can be seen as a necessary precondition for the inclusive production of knowledge, as well as the rationale for decolonising the curriculum, which will be critically examined in Chapter 3.

Discussing the relationship between principles of academic freedom and principles of diversity and inclusion, it is argued that academic freedom is being 'weaponised': 'This whole debate about academic inclusion and diversity, you know, was an attack on academic freedom, it's just like, it's a huge mirage where they just want to do what they want to do and they do not want to do what you, you know, they do not want to be more inclusive. And that's it you know' (Professor Emeritus, Sociology, UK, p. 5). The perception is that there is a disingenuous use of academic freedom by a 'beleaguered old guard' (Professor of History, UK, p. 7) reacting to a sense of 'Whiteness under threat' (Professor Emeritus, Sociology, UK, p. 11), at odds with the spirit of 'the theory of academic freedom as it was articulated by Progressives' (Scott, 2019, p. 47). Scott argues that academic freedom as propagated by the Right is conceived in terms of 'the absence of any restraint' (p. 116) where 'free speech is the mantra of the Right, their weapon in the new culture war' (p. 114).

However, whether an inclusive context is actually possible given the institutional history of the university as a 'White male patriarchy' is a frustration expressed, in relation to race and gender:

> I've been a brown body allowed into mega-ly white institutions here and that crashing sense in which you have to conform to get on, and all that you give up for that . . . You've got to comply. And the system is bigger than us and we are just, like I said, these little fleas running around you know, allowed to spout out whatever we want but you know we are not changing it. I mean one of the things that I think – and I've seen this amongst so many of my female doctoral students – I mean the system is so against women having kids . . . You get out of the system for a couple of years to bring up your children you will not get Chair, you cannot you know. So you can let women into the system but we cannot, when they reach thirty five and they are like either I have a child or I do not have a child, you know I cannot have a child and have this job. The pressure is too much. But I think it's an interesting thing that the structures remain so, they are so solidified, so invisible, because the bodies are changing, not the structures. (Professor Emeritus, Sociology, UK, p. 8)

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The notion of a hierarchy of rights, where academic freedom is contextualised in relation to other rights, is advocated in support of creating an inclusive environment for the inclusive production of knowledge: 'I think that academic freedom exists in a hierarchy of various rights, and it's not at the top' (Professor of American Studies, New Mexico, US). Echoing the logic of Callan (2016) and Ben-Porath (2017)'s notion of 'dignity safety', the rights of those not to be dehumanised is prioritised as an essential precondition for the exercise of academic freedom.

A related conception to the idea of the hierarchy of rights is raised in the challenge to the emphasis on constructing freedom in terms of 'freedom to'. In contrast to conceiving academic freedom in terms of 'freedom to', the conception of 'freedom from' emphasises freedom from harassment, assault, and dehumanisation. Whilst scholars may conceive of academic freedom in terms of freedom to publish their research, in the field of US indigenous history, the indigenous community may take the view that 'There may be stories that are sacred, that are not supposed to be shared outside the community' (Professor of Women's and Gender Studies, University of New Hampshire, US, p. 2). In this context, academic freedom can be conceived as the collaborative process with the community being researched and 'to be guided by them in what is appropriate for distribution, rather than conceiving this as an infringement on academic freedom' (Professor of Women's Studies and Gender Studies, University of New Hampshire, US, p. 2).

In much of the literature, the state is typically invoked as the legal framework for academic freedom. This dominant national methodological lens can also be seen in terms of the missions of universities historically in both the Global North and the Global South, where the university aims to inculcate a particular type of predominantly *national* citizen[4]. Academic freedom has also been dominantly studied at the level of the national state, with some comparative studies between nations. 'Your responsibility is to deal with academic freedom where you live' (Professor of Education, University of Derby, UK, p. 13). This approach does not engage with the internationalisation of higher education, as well as with the transnational nature of academic freedom and the production of knowledge. The nationalistic lens can also obscure how academic freedom is practiced for those in legal precarity, such as refugee scholars and academics working under military occupation, and is also illustrated in contested debates about the BDS

[4] The rise of internationalisation in higher education is increasingly linked to discourses on global citizenship, and its implications of academic freedom will be discussed in Chapter 4.

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movement. According to a UK researcher in the field of medical anthropology conducting research in the West Bank: 'The "state" was not much involved in the research directly but had considerable impact in other ways. The Israeli occupation hampered the freedom of movement and later they bombed Ramallah police station where statistics were being kept.' Judith Butler (2015) makes the case for certain preconditions to be met for the practice of academic freedom. She argues for a broader notion of academic freedom, where freedom from violence, freedom from hunger, and freedom of movement both internally and across borders are recognised as integral preconditions for academic freedom. The dominant notion of academic freedom implicitly requires legal citizenship as a prerequisite to practice academic freedom – Arendt's 'right to have rights'. This national model of academic freedom does not take account of the transnational realities of the practice of academic freedom and the production of knowledge.

The notion of the necessity of preconditions is similarly invoked for academic freedom in UK and US universities with respect to marginalisation by disability, gender, sexuality, race, and religion. Andrews (2018) and Reay (2018)'s discussion of racism in UK universities invoking Lorde's book, *The Master's Tools Will Never Dismantle the Master's House*, logically suggests that academic freedom under such conditions cannot be met. Similar arguments framed in terms of infringement of human rights are also raised in relation to UK and US branch campuses in the Gulf. According to a UCU Branch President: 'It tends to be academics who bring that [LGBTQ rights] up because they are thinking really about their teaching' (p. 3).

2.4.4 Individualisation and Psychologisation

The banning of controversial speakers, the concept of 'safe spaces' (*Independent*, 30 June 2017[5]), and 'trigger warnings' (*Telegraph*, 11 May 2016[6]) have been perceived to infantilise students and taken as indicative of a wider 'psychologisation' and 'medicalisation' of society (Furedi, 2017). Discourses using terms such as 'snowflake' and 'woke' arose in the context of Brexit and Trump, to denigrate the perceived 'oversensitivity' of the student generation as well as those on the ideological Left working

[5] www.independent.co.uk/news/education/education-news/university-safe-spaces-academics-professors-fear-lose-jobs-students-free-speech-political-correct-pc-a7815991.html.

[6] www.telegraph.co.uk/news/2016/05/11/trigger-warnings-at-oxford-would-threaten-academic-freedom-and-i/.

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on social justice issues relating to racism, sexism, and other forms of difference (*Guardian*, 28 November 2016[7]). These media discourses and policy responses in the United Kingdom and the United States have intensified in response to the #BlackLives Matter and #MeToo social movements.

It has been argued that there has been a therapeutic turn in higher education in UK and US contexts. This is an analysis understood predominantly at the level of the individual, where it is argued that the university is protecting students from distress. As such, the distress is understood as an individual emotional reaction, constructing an infantilised conception of the student as vulnerable: 'I think we were promoting the idea that there was a diminished concept of human beings being promoted in a seemingly caring way. So to see people as potentially victims and it seems very protective' (Professor of Education, University of Derby, UK, p. 4). Whilst not dismissing the therapeutic turn, in terms of both issues of universities' legal responsibilities and market-driven interests in psychological services, what this does not take account of is the diverse range of contextualised lived experiences and positionalities of students. As introduced in the previous chapter, it has also been argued that taking account of such positionalities with trigger warnings, for example, is about inclusive teaching practice and rules in the workplace rather than censorship (Baer, 2019). As such, conceptions of dignity, both individual and group dignity, also underpin discourses of inclusion, as illustrated in Callan (2016) and Ben-Porath's (2017) call for environments that promote 'dignity safety', as opposed to enabling environments of violence and dehumanisation.

Yet, what does this mean for practice? According to a Professor Emeritus of Law (George Washington University US), safe space discourse is 'not a realistic discourse'. Instead, she argues for:

> the ability to access infrastructure. And what the privileged students have is support from infrastructure. So they are free to say certain things without having an impact, economic impact, social impact, et cetera. And certain things that are said about them have no impact because they have access to infrastructure. So my position is to increase access to infrastructure, so that again, more counter speech can be produced, so that those students also have support, rather than the university saying 'Oh there's certain things you cannot say' you know and the like. (p. 10)

[7] www.theguardian.com/science/2016/nov/28/snowflake-insult-disdain-young-people.

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The invoking of infrastructure identifies the issue at the level of institutional inequality, counterbalancing the individualising therapeutic discourse that locates responsibility at the level of the individual.

Whilst concerns are expressed with regard to the infantilisation and medicalisation of student lives, students at the same time are criticised for being troublesome consumers, imbued with a power to complain and censor. Sara Ahmed's blog on 'Against Students' is highlighted as an explication of how 'neoliberalism operates to contain dissent from students, so that idea of safe spaces and students are, what the system does, it sees them as complaining or difficult or consumer led and it makes students into the bogeyman if you like' (Professor Emeritus, Sociology, UK). So, here we paradoxically witness both the decontextualised individualisation and the pathologisation of the dissatisfied student or 'difficult' academic by the same critics of the medicalisation of society and university life.

2.4.5 Civility, Affect, and Power

There is an intellectual history and practice of ascribing negative characteristics to 'emotion', set up in contrast to 'rationality'. This is evidenced in Enlightenment theories of natural rights constructed as a logic of denying women human rights based on the premise that women lacked rationality, and, similarly, colonial and orientalist discourses have typically constructed their colonial subjects as lacking rationality and by extension – conceived to be less 'civilised' and less human (Said, 1978). Ahmed (2014) has also discussed how there is a dominant Western conception that emotions are 'primitive', with an implied hierarchy between cognition and emotion. Not only are emotions feminised and othered, but they also are often presented as something undesirable to be controlled, with the expression or 'leakage' of emotion constructed as unintended consequences of this lack of control (Kiwan, 2017a).

A mutually reinforcing relationship between civility and rationality is invoked, where visible affect or perceived lack of civility is constructed as literally being 'uncivilised' – carrying with it the history of colonial discourses and as evidencing irrationality. In an article by Professor of Theology, Nigel Biggar, of the University of Cambridge, United Kingdom, he discusses Cambridge's decision to rescind its offer of a visiting position to Professor Jordan Peterson, a Canadian Professor of Psychology with controversial views on transgender, Islam, and race, and he contrasts it with the reactions to his Economic and Social Research Council–funded project 'Ethics and

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Empire' that courted some controversy with its focus on examining the benefits of Empire (Biggar, 2019). Referring to Dr. Priyamvada Gopal's (University of Cambridge) criticism of his research project on Twitter, he expressed surprise that the project was considered contentious, as well as disapproval of the *manner* in which it was expressed:

> This occurred in December 2017, when my 'Ethics and Empire' project attracted three online denunciations, one of them led by Dr. Priyamvada Gopal, Reader in Cambridge's Faculty of English and a Teaching Fellow at Churchill College. Dr. Gopal's earliest tweet thus ran: 'OMG. This is serious shit. We need to SHUT THIS DOWN.' All this in reaction to my **modest** view that 'empire' can mean a variety of things, is capable of good as well as evil, raises ethical questions worth thinking about, and requires sophisticated moral evaluation.
>
> My complaint was about the uncivil manner.
>
> Peter de Bolla, Chairman of the Faculty, kept safely clear of any moral judgement, arguing that such speech is simply conventional for its medium, albeit in tension with 'accepted manners or styles of address' in more traditional contexts. (Biggar, 2019)

Biggar defines Dr. Gopal's response as 'uncivil', where the emotive use of language is disapproved of and contrasted with the perception of his rational and objective view of Empire. The notion of incivility also arises in how academics working on issues of social justice, race, and gender are perceived. According to an Emeritus Professor of Sociology of race in the United Kingdom: 'We're not legitimate, we are difficult and angry people. This whole idea of freedom of speech is dangled like a carrot in front of us. It's the yardstick, the thing we have to live up to, but the game is not an equal level playing field at all' (Professor Emeritus, Sociology, UK, p. 9). The objective rationality of traditional disciplines is also contrasted with the subjective and emotive research and teaching relating to social justice: 'So Women's studies, African American studies, Native American studies, these are all grievance studies' (Professor of Women's and Gender Studies, University of New Hampshire, US, p. 5). The term 'grievance studies' constructs these fields in direct contrast to the perceived traditional, objective, and rational disciplines as subjective, emotional, and ideologically driven, where those conducting this work are 'complainers' and where Sara Ahmed's work on complaint is referred to: 'this is Sara's thing. You say there is a problem. You become the problem' (Professor Emeritus of Sociology, UK, p. 9).

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Biggar (2019) goes on to contrast his perception of Cambridge University's position as one of 'serial inactions in the case of Dr. Gopal alongside its precipitate action in the case of Professor Peterson', which he sums up as:

> the University does in fact discriminate on the unjustifiable grounds of race, gender, and above all morals and politics. If you are non-white, female, and aggressively 'woke', then you'll be accorded maximal benefit of doubt, given a pass on official norms of civility. However, if you are white, male, culturally conservative, and given to expressing reasoned doubt about prevailing mores, you'll be given no benefit of doubt at all. And, should you do so much as *appear* to transgress ill-conceived norms of inclusiveness, you'll be summarily and rudely excluded.

The performance of civility is weaponised against inclusivity and equality in this account; whilst the claim that 'ill-conceived norms of inclusiveness' result in exclusion, accusations of 'incivility' are used to 'shut down' critiques of research similarly perceived not only to be 'ill-conceived' but also to be harmful.

Furthermore, 'virtue' is linked to civility when Biggar (2019) argues that Dr. Gopal sets a bad example to students, instead of teaching 'the students the virtues of courage, self-restraint, patience, and critical openness necessary to cope with alien ideas liberally and responsibly'. The discourses of 'civility' and 'virtue' are imbued with a moral weight intended to 'shame' the 'other' to 'be a good sport and play by the rules', invoking the language of privilege of class, gender, race, and empire. Yet, similarly, those championing social justice and inclusion also use a 'virtues' discourse, which is also seen as problematic: 'We have a problem with kind of a fanatical sense of "I know what's right. I'm more virtuous, because of my perceived superior virtue I get to dictate what gets taught, how it gets taught, what gets written and whether something is or is not legitimate research". I think it's dangerous' (Professor of English, University of Arizona, US, p. 7).

The focus on etiquette in the public *performance* of academic debate problematises the expression of emotion, which is conceived as illustrating individual lack of control. Yet, Ahmed (2014, p. 14) argues that it is critical to recognise that emotions are social, political, and cultural practices, rather than thinking primarily in terms of an individual's psychological state; as such, this necessitates the recognition of relations and dynamics of power and the 'public nature of emotion and the emotive nature of publics'. Emotions as a public performance entails how discourses of class, gender, and race intersect with the politics of emotion (Athanasiou et al., 2008): 'You name

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the problem. So I will name racism then I'm the difficult, angry person' (Professor Emeritus, Sociology, UK, p. 9).

The critique of emotionality is further extended where 'emotive' reactions on issues of inclusion are constructed both as an individual psychological weakness and as a manipulative vulnerability: 'the cry, that's offensive was closing down debate, and also tied to some work I was doing on *The Dangerous Rise of Therapeutic Education*, so the idea of a safe space . . . that you must not say anything that emotionally upsets anyone' (Dennis Hayes, Professor of Education, University of Derby, UK, p. 1). However, academics who are the targets of intimidation, death threats, and rape threats, often through the medium of social media, express fear:

> People speaking at those events have been bullied, physically bullied, targeted with threats. Meetings have been shut down. I mean any meeting that I've attempted to go to has had last minute venue changes because of bomb threats to the venue. Quite aggressive people sort of demonstrating outside and shouting targeted abuse and harassment at people. I personally know people who have had death and rape threats on social media, from activists who are aware of the stance they are taking. (Professor of Education, UCL, UK, p. 4)

This visceral experience of fear is also expressed in the accounts of academics in the United States and the UAE as well as the United Kingdom: 'I think we are all kind of terrified, you know, of being kicked out of the country' (Professor of Sociology, UK, formerly UAE academic, p. 11). Similarly, in the US context, a Professor of Women's Studies recounts her experiences having criticised the wearing of monkey suits on campus:

> There were posters put around our campus accompanied by bananas and I think pacifiers . . . with my face and some graffiti at the library . . . I got death threats and hate mail and threats of particularly gender violence that were frightening and it was just a barrage of frightening stuff. (p. 2)

This gendered nature of the experience of intimidation and insecurity, especially in the United Kingdom and the United States, was noted: 'It's overwhelmingly women who are being targeted' (Professor of Education, UCL, UK, p. 8).

In contrast, legal status was often perceived as the greatest source of insecurity. According to a UK-based European Muslim female academic, formerly an academic based in the UAE, there is a heightened sense of insecurity in the form of job precarity in the United Kingdom relative to the UAE:

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> A lot of the people who are working in these places [UAE] do have their lives there and do have their families there, and they do like living there very much. And this is not just like from a Western perspective, just because of the tax-free salary, but a less precarious academic life. A lot of the people have married to people that they have met in these places. They gave birth to their kids in this place so they have a very emotional you know, sense of belonging to the city that is beyond this milking this system from an expat point of view. So, which is why I mean, instead of coming back to Europe and working with year contracts they are very happy to stay there. (pp. 8–9)

Another dimension of insecurity relates to a sense of heightened scrutiny of academics' political positions because of assumptions made about their positionality, as seen in the following excerpt from a Muslim UK-based academic:

> I do not or I cannot be as vocal about certain issues such as military interventions in certain parts of the Middle East and how that is sort of like justified through like orientalist discourses in the West. I always feel that I have to sort of dim it down because they may think that that is because of my sort of imagined common identity with these people that inhabit these areas. So I feel so much more 'surveillanced' somehow. (Lecturer in Migration Studies, UK, p. 10)

In addition, a sense of precarity in academia comes for some based on the contentious issues they work on, described as a 'global trend of, this precarity, increasing precarity in academic work which I think also relates to the issues that you are working on which is academic freedom' (Lecturer in Migration Studies, UK, p. 9). Many of the interviewees expressed fear of losing their jobs in the United Kingdom, and this fear was also expressed by non-tenured academics in the US context.

This contextualised precarity and its relationship to the emotive experience of academic freedom have not been experienced and are not recognised by those whose positionality carries with it a sense of safety and power as is more likely the case for White male academics, who then take this as universal. For example, referring to the issue of consent and level of attribution for this book project, one UK-based White male professor expressed the following:

> But any academic who wants to keep their views anonymous is part of the problem. How cowardly is that? Academics, they are not actually under threat, they can speak up but they just will not and I think it pays off in the sort of cosy contentiousness and basically do not challenge the institution and the institution does not challenge you. (Dennis Hayes, Professor of Education, University of Derby, UK, p. 4)

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2.5 CONCLUDING THOUGHTS

This chapter has critically interrogated contested conceptions of academic freedom through academics' experiences in Lebanon, the UAE, the United Kingdom, and the United States. Tensions between discourses of academic freedom and of inclusion and diversity run through the empirical data of the interviewees' constructions and contestations of academic freedom. Differential understandings of academic freedom arise in the perceptions of the relationship between academic freedom and free speech, which is linked to positioning the role of academic 'expertise'. The issue of 'expertise' is critically examined in the following chapter in relationship to constructions of knowledge and debates relating to disciplinarity, interdisciplinarity, the canon, and notions of 'truth'. The transnational production of knowledge will also be examined, where geographical location plays a critical and complex role.

There is also contestation with regard to whether academic freedom is a universalised and decontextualised absolute position, in contrast to the notion of a hierarchy of rights where academic freedom is contextualised in relation to other rights and is advocated in support of creating an inclusive environment for the inclusive production of knowledge. Similarly, 'freedom from' is contrasted with 'freedom to', with the former emphasising freedom from harassment, assault, and dehumanisation, and where publication is not seen as the exclusive right of the researcher but arising as a negotiated co-production with the researched population. Finally, individualising and psychologising discourses as well as discourses of civility and affect shape constructions of academic freedom. The implications of these discourses for the production of knowledge are also examined in the following chapter.

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