

It's not free speech: Race, democracy, and the future of academic freedom

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[Aller au sommaire du numéro](#)

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BOOK REVIEW / COMPTE-RENDU

BÉRUBÉ, M., & RUTH, J. *It's Not Free Speech: Race, Democracy, and the Future of Academic Freedom*. Baltimore, MD: Johns Hopkins University Press. (2022). 304 pp. \$29.95 (Hardcover). (ISBN 9781421443874).

Academic freedom and freedom of speech are hot button issues on campuses across North America. Academic freedom is often a right ascribed exclusively to faculty members with tenure, which allows them to effectively do and say what they please as part of their scholarly endeavours. In contrast, freedom of speech is a right of almost universal application. Every person, no matter their status at the university, enjoys some degree of freedom of speech. A challenge arises when these two ideas collide. Which one is granted a higher priority? Can one trump the other? Depending on who you ask, and what is at stake, answers will differ.

In Bérubé and Ruth's book, this conflict is examined by looking at a slowly simmering issue in academia: In the past decade or so, there has been a clever ploy underway from the alt-right to question the legitimacy of discourse on campus. The argument goes that certain schools of thought are being ignored, and that, because of academic freedom and freedom of speech, these competing marginalized worldviews should receive their fair share of dialogue in the marketplace of ideas. The irony is that these same voices on the alt-right have been working ceaselessly to shut down the proliferating lines of thought, such as critical race theory, trying to challenge established White hegemony on campus. The alt-right is, in effect, chastising those who are using academic freedom and freedom of speech to advance ideological arguments, while they are in fact using the very same tactics.

Ultimately, the alt-right is trying to rebrand anything that is critical of racism as anti-American, and this tactic is surprisingly making ground. Or, as Bérubé and Ruth put it:

What we know is that in the long history of human hypocrisy, the right-wing moral panic about campus “cancel culture,” followed by a nationwide attempt to ban an entire school of thoughts from classrooms from kindergarten to college, deserves a special place. (p. 16)

Here we see academic freedom and freedom of speech being used as cudgels to legitimize the advance of ideology, but only if it is the right kind of ideology. The pervasive nature of this strategy forms a critical plot point in the book.

In fact, the authors' main thesis is scaffolded around this strategy. Academic freedom is usually described as having four constituent components: freedom to teach, freedom to research, freedom to perform intramural speech, and freedom to perform extramural speech, the most important in this work. Extramural speech is often explained as the notion that faculty members can engage in the public sphere while recognized as members of their respective institutions, but with the understanding that, although affiliated with the institution, they do not represent it. This creates a scenario in which utterances from faculty members carry implicit institutional approval because of their academic status, despite how racist, or sexist, their comments may be. This phenomenon is the focus of Bérubé and Ruth's book. The authors provide abundant examples of academic freedom-protected professors who have made a name for themselves claiming outlandish and racist notions. The seemingly resultant paradox of these utterances is that, if academic freedom is more or less inviolable, what kind of recourse and/or sanction can be levied against such a professor?

Bérubé and Ruth speak with some authority on the topic as both were members of the American Association of University Professors (AAUP) Committee A. This committee is charged with adjudicating academic freedom concerns. In their many years of service, they would have participated in cases of this nature, thus providing the driving motivation for the book.

However, why do we need another title on academic freedom? Their *It's Not Free Speech* differs from other treatises on academic freedom in that it presents a nuanced argument about how academic freedom should be seen in this day and age. Right from the introductory chapter and throughout most of the book, the authors investigate the paradox of academic freedom and extramural speech. Faculty members are assured academic freedom, which is protected vehemently up until the individual is no longer fit to perform their duties as assessed by their peers. However, when a faculty member makes an utterance that is outside of their direct area of expertise in the public sphere, they are also protected by academic freedom, regardless of its content. This is because their fitness is not being adjudicated when making statements outside of their research and teaching area. What is particularly vexing is that these extramural utterances could cross over into racist and sexist language. All this gives the illusion that faculty enjoy *carte blanche*.

Bérubé and Ruth delve even further, arguing that some things should not be excused by the absoluteness of academic freedom as they are highly detrimental to the progression of society and to the achievement of the goals of higher education. For example, even under the guise of academic freedom, no reasonable person would tolerate actions that directly contribute to the proliferation of systematic

racism as no ends can justify such a means. In practice then, there are some ideas that are out of bounds, and we need to understand that exceptions exist. A crucial additional detail to this running example used throughout the book is that the United States saw a strong resurgence of racist action during the Trump administration, underscoring the fact that everyone still needs to understand that racism is just as rampant as it ever was. Developing this narrative is the focus of the first five chapters of the book, with the final chapter outlining a possible remedy to this situation.

But what exactly could such a remedy be? A compromise on academic freedom? Not quite. Bérubé and Ruth suggest that universities create academic freedom committees, which would pass judgement on these thorny topics. If left to administratively focused equity, diversity, and inclusivity units, which presently do feature on most campuses, the verdicts found in investigating these situations would undoubtedly favour hush-hush settlements and minimizing liability. The authors counter-propose that if the same case was in the hands of an academic freedom committee, composed of faculty peers, a level-headed final verdict that actually addresses the outstanding issue is more likely. In other words, academic freedom issues can be resolved using the time-honoured traditions of collegial self-governance. In this way, the definition and stature of academic freedom does not need to be compromised or weakened when dealing with extramural utterances that clearly have crossed the line. Or more succinctly, as the authors put it: “The lesson of the past decade, we believe, is that it is more imperative than ever for universities to differentiate between high-value and low-value speech, or, if you prefer, legitimate ideas and utter bullshit” (p. 194).

In short, Bérubé and Ruth have written a compelling work which adds to the pantheon of literature devoted to academic freedom. Quite often, works on this topic are lengthy tomes outlining the history and advances of academic freedom during pivotal times in the birth of the modern university from the mid to late 20th century. The authors resist this urge and instead concentrate on chronicling how racism and the academy live in each other’s orbit. A history of contemporary critical race theory is developed, replete with descriptions of reactionary White faculty of both supportive and oppositional political stripes. The scenario they describe is truly tense. If we are to continue to believe that academic freedom is vital to the livelihood of the academy, something must be done about how much racism still continues under the protection of that same freedom.

Where their argument perhaps falls apart is in the suggested solution: the academic freedom committee. Universities are bureaucratic monoliths, and this proposed solution could become yet another bureaucratic, process-heavy mechanism. It might not be the proverbial light at the end of the tunnel to reassure readers. Presently, the usual trajectory for an academic freedom complaint is that the faculty association gathers the facts of the case and files a grievance that cites the collective agreement. In response, the university will typically disagree with the

merits of the grievance; after an established timeline passes, an arbitrator will then hear both sides of the situation and determine a remedy that could include financial components. This clearly is a drawn out, expensive way of dealing with these situations. The suggested academic freedom committee model has a certain appeal as it avoids expense and keeps the issue within the purview of peers, presumably knowledgeable about academic freedom and other important components of academic life. The difficulty, of course, is determining how this committee would function, something Bérubé and Ruth do not discuss. Still, *It's Not Free Speech* constitutes an important entrant in the presently very lively debate around academic freedom and freedom of speech. It will especially be of interest to those who study, or are concerned with, policy development or governance of post-secondary institutions. The book does an admirable job of describing what is at stake and providing a possible solution worth thinking about.

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