



Intellectual Freedom, Academic Freedom, and the Academic Librarian

Jesse D. Mann

Abstract

Intellectual freedom and academic freedom are related but distinct concepts. As a “nerve cent[er]” of the university, the academic library represents a critical, if not *the* critical, point of intersection between these two freedoms. This essay explores this intersection and thereby considers how issues of intellectual and academic freedom affect the academic librarian and the university as a whole. It suggests that a basic understanding of the similarities and differences between intellectual freedom and academic freedom is important for academic librarians as they strive to uphold the mission of the library and the mission of the academy.

In 1999, Barbara M. Jones observed that “all the major intellectual freedom issues of the past decade are arguably more applicable to academic libraries than to any other type of library.”¹ Nearly twenty years later this observation is still largely valid. As the “nerve centre of the intellectual potential of the university,”² the academic library represents a critical, if not *the* critical, point of intersection between two distinct but related freedoms—namely, intellectual freedom and academic freedom. This essay will explore this intersection and thereby consider how issues of intellectual and academic freedom affect the academic librarian. I will suggest that a basic understanding of the similarities and differences between intellectual freedom and academic freedom is important for academic librarians as they strive to uphold the mission of the library and the mission of the academy.

Scholars have noted that the American Library Association (ALA) has never officially defined “intellectual freedom.”³ In the most recent edition of the *ALA Intellectual Freedom Manual*, Jones writes, “Although the term *intellectual freedom* has never been officially defined by the American Library Association, it

is used in the library profession primarily to mean the right of every individual to both seek and receive information from all points of view without restriction. Intellectual freedom as a professional practice and as a subject for scholarly research has expanded over the years to include conditions that protect the freedom to read, such as privacy.”⁴

Even if never formally defined, intellectual freedom figures prominently in numerous ALA statements. For our purposes, the statement of *Intellectual Freedom Principles for Academic Libraries* is especially relevant. As Jones suggests, this statement emphasizes access to information and to spaces and privacy as essential components of intellectual freedom.⁵ But it also advocates freedom of creative expression.⁶ So even if “in librarianship, statements on intellectual freedom often focus more exclusively on rights of access to information than on freedom of expression,”⁷ such statements do not completely ignore freedom of expression.

In November 2000, the AAUP Council endorsed the ALA’s statement on *Intellectual Freedom Principles* but prefaced its endorsement with language (taken from the 1973 *Joint Statement on Faculty Status of College and University Libraries*) that explicitly mentions academic freedom: “College and university librarians share the professional concerns of faculty members. Academic freedom, for example, is indispensable to librarians, because they are trustees of knowledge with the responsibility of ensuring the availability of information and ideas, no matter how controversial, so that teachers may freely teach and students may freely learn. Moreover, as members of the academic community, librarians should have latitude in the exercise of their professional judgment within the library, a share in shaping policy within the institution, and adequate opportunities for professional development and appropriate reward.”⁸

As this prefatory paragraph indicates, there is clearly a connection or relationship between intellectual freedom and academic freedom. If, in accordance with Article 19 of the Universal Declaration of Human Rights, one defines intellectual freedom as encompassing the essential principles of freedom of thought, inquiry, and expression, then academic freedom “can be defined as an application of intellectual freedom in the university setting.”⁹ Similarly, in its 2015 statement on academic freedom, the Association of College and Research Libraries (ACRL) observed that “in the context of higher education, intellectual freedom is closely associated with academic freedom.”¹⁰ As these assessments suggest, and again as Jones has argued, intellectual freedom in libraries and the traditional concept of academic freedom share common roots, but they differ in some significant ways.¹¹ To identify these ways we must consider more closely the concept of academic freedom.

Richard Danner and Barbara Bintliff define academic freedom broadly as “the atmosphere of free inquiry and discussion necessary to find and teach ‘truth’ as the faculty member sees it. It is the freedom to research

any topic and to report one's findings without fear of retribution."¹² The AAUP issued its first comprehensive statement on academic freedom in 1915. That statement, still the fundamental document on academic freedom in the United States, asserted that academic freedom safeguards the right "to freedom of inquiry in research, freedom of teaching within the university or college, and freedom of extra-mural utterance and action."¹³ Thus, academic freedom comprises at least three domains, and it appears to be a "negative freedom" inasmuch as it implies freedom *from* interference in these domains. In 1940, the AAUP and the American Association of Colleges (the predecessor of the American Association of Colleges and Universities) issued a *Statement of Principles on Academic Freedom and Tenure* that reiterated the academy's commitment to the free search for truth and its free expression, while linking academic freedom to tenure protections.¹⁴ In sum, we might concur with Aaron Burgess and James Sedlacek that "academic freedom is associated with the free exchange of ideas and the development of an institutional culture which tolerates those who hold diverse views."¹⁵

The "free exchange of ideas" and the holding of "diverse views" might suggest a connection between academic freedom and freedom of speech. Although they are related, these freedoms, like academic freedom and intellectual freedom, are not identical. Most significant, freedom of speech derives from the US Constitution, while academic freedom does not. Here we come to a fundamental difference between academic freedom and intellectual freedom.

US courts have handled these two freedoms rather differently. According to Jones, "The courts did not construct a concise relationship between academic freedom and the First Amendment until 1967."¹⁶ In an important earlier case, *Sweezy vs. New Hampshire* (1957), the Supreme Court recognized academic freedom as a liberty deserving protection. Concurring with the court's opinion, Justice Felix Frankfurter laid out the famed four essential freedoms of the university—namely, the freedom to determine on academic grounds (1) who may teach, (2) what may be taught, (3) how it shall be taught, and (4) who may be admitted to study.¹⁷ Then, in the seminal 1967 decision *Keyishian vs. Board of Regents*, the Court placed academic freedom among the recognized rights protected by the First Amendment and stated that "that freedom is a special concern of the First Amendment."¹⁸ Nonetheless, as J. Peter Byrne has forcefully argued, "nothing has confused understanding of *constitutional* academic freedom as much as the misguided attempt to derive its contents from general First Amendment principles."¹⁹ Thus, in contrast to intellectual freedom, which they have seen as based in constitutional protections, the courts have recognized academic freedom without grounding this freedom in the First Amendment.

Accordingly, scholars such as Barbara M. Jones and Philip Lee have argued that academic freedom is usually guaranteed not on the basis of constitutional rights but rather as the result of contractual

agreements.²⁰ Although intellectual freedom is rooted in First Amendment rights, these rights are only guaranteed at public, not private, institutions. Indeed, Lee advocates tying academic freedom to contract law “even in public institutions where the Constitution is applicable, [since] judicial decision makers have recently put academic freedom at risk by either significantly narrowing the protections of professorial free speech or denying the very existence of professorial academic freedom.”²¹

In some measure, this difference between academic freedom and intellectual freedom reflects “two fundamental approaches to justifying academic freedom” surveyed by Henry Reichman in a recent review article in this journal.²² One approach sees academic freedom as a political (or legal?) right that belongs to the larger class of rights enjoyed by citizens of a free society. The other approach treats academic freedom as specific to academe and to the professional autonomy of the academy. Reichman attempts to link these two approaches and thus, indirectly, to establish a common foundation for academic freedom and intellectual freedom in the notion of the common good.

But other differences between intellectual freedom and academic freedom remain. Robert Post, who figures prominently and favorably in Reichman’s review, has highlighted several of these differences: “All persons are entitled to intellectual freedom, but only academics are entitled to academic freedom. Intellectual freedom does not presume the responsibility of competence, but academic freedom does. Intellectual freedom is not bound to any specific institution, like a university, but academic freedom is.”²³

Post clearly and not unreasonably affords academic freedom solely to academics. However, we might ask who these “academics” are. In fact, the courts have often seen academic freedom as the prerogative not of academics or individuals but of academic institutions.²⁴ As the AAUP statement cited above implies, however, academic freedom is also the prerogative of professors, students,²⁵ and academic librarians. Is it the librarians who interest us here.

In the current environment, academic librarians are doing more and more classroom-style teaching. Likewise, many academic librarians are involved in professional and personal research. Consequently, Jones argues that academic freedom must increasingly apply not solely to the library but to individual librarians as well.²⁶ She asserts that librarians should have the same guarantees as faculty of freedom of inquiry and expression.²⁷ Some institutions explicitly extend academic freedom to librarians; others, often those where librarians do not have faculty status or tenure, do not. According to Danner and Bintliff, “Whether or not a university has chosen to extend the protections of academic freedom to librarians or professional staff, it is important for librarians to understand the implications of current and ongoing challenges to academic freedom, and to be able to respond to them.”²⁸

Due to their multifaceted position, today's academic librarians face various types of challenges to academic freedom. Danner and Bintliff have enumerated and discussed several significant types of challenges to academic freedom that affect academic librarians.²⁹

One type of challenge that librarians and others in academe have confronted has presented itself as a defense of academic freedom. In the view of the AAUP and of the ALA, the "Academic Bill of Rights" (ABoR) promoted by David Horowitz and Students for Academic Freedom (SAF) undermines the very academic freedom (and intellectual freedom) it claims to support.³⁰ The ABoR alleges that liberal and left-leaning faculty indoctrinate students with their political views and shut down opposing voices. Supporters of the ABoR want legislatures to implement policies that "ensure academic freedom" as defined by politicians. In opposing SAF and related groups, both the AAUP and ALA emphasize that academic bodies and criteria rather than political ones should govern academic institutions. The ALA *Resolution in Support of Academic Freedom* (January 2006) opposed "any legislation or codification of documents like the Academic Bill of Rights that undermine academic and intellectual freedom, chill free speech, and/or otherwise interfere with the academic community's well-established norms and values of scholarship and educational excellence."³¹

Other types of challenges to academic freedom and to intellectual freedom at academic libraries are familiar to nonacademic libraries as well. For example, privacy and confidentiality are critical issues. As Danner and Bintliff note, "Confidentiality of library records is a matter of concern to academic freedom, as well as to intellectual freedom. Outside the library, other efforts to manage and monitor uses of electronic resources on university campuses should be of as much interest for their privacy implications to academic librarians as they are to others concerned with academic freedom in the university community."³² Indeed, the ALA recommendations are quite clear on this point: "The privacy of library users is and must be inviolable. Policies should be in place that maintain confidentiality of library borrowing records and of other information relating to personal use of library information and services."³³

Likewise, since September 11, 2001, legislation and government monitoring programs have affected the general public and academics, including academic librarians, with respect to their research, publishing, and access to information, especially to "sensitive but unclassified" information. Such matters illustrate how academic freedom and intellectual freedom can overlap.

Collection development is another obvious area where challenges to academic freedom and to intellectual freedom can arise. As Jones has noted, "Libraries, of course, are affected by the debate about academic freedom in terms of collections, information literacy and reference services; it has been argued that even a book's classification within a call number structure is an ideological act. Academic librarians need to monitor this ongoing discourse."³⁴ For its part, and in keeping with its emphasis on access, the ALA proposes that

collection development “should transcend the personal values of the selector” and “in the interests of research and learning should represent a variety of perspectives on subjects that may be considered controversial.”³⁵

Quite understandably, discussions of academic freedom in regard to collection development usually focus on the content of holdings or of materials considered for purchase. This is especially true as academic librarians weigh controversial purchase decisions in the context of greater budgetary constraints. However, some observers see resource *format* as well as *content* as pertinent to academic freedom considerations. In a 2002 article, S. David Mash, dean of information resources and services at Columbia Biblical Seminary and School of Missions, argued that an exclusive focus on digital resources, to the detriment of print resources, represents a potential challenge to academic freedom and to freedom of inquiry. According to Mash, “The systematic de-emphasis of print media and the unique habits of mind they alone inculcate suppresses the spirit of inquiry because it foreshortens the horizon of ideas to which a student may be exposed and narrows the cognitive options for developing and exploring alternative ways of thinking.”³⁶ Even if one disagrees with Mash’s conclusion, his intriguing argument suggests that those making collection development decisions should at least reflect on the relationship between format and academic freedom.

At the same time, as digital resources become increasingly essential to the academic enterprise, academic libraries certainly must continue to provide easy, convenient, and unrestricted access to the Internet. Libraries and librarians must resist any and all attempts to limit such access. As the ALA has stated, “Content filtering devices or content-based restrictions are a contradiction of the academic library mission to further research and learning through exposure to the broadest possible range of ideas and information.”³⁷ Such restrictions to Internet access represent another area of challenge to both intellectual and academic freedom.

Finally, the “corporatization” of the university represents yet another potential challenge to academic freedom. “Corporatization” refers to the “increasing growth of corporate influence on university governance due to the increasing costs of higher education and reduction in funding, especially at public universities.”³⁸ Such influence can affect things such as selection of resources, research results, and publication embargos. These various threats to the essential accessibility of information are clearly matters of concern to professors, academic librarians, and all who value academic freedom and intellectual freedom.

Librarians do indeed value these freedoms, and not just as broad human rights or even as professional rights of academics. Intellectual freedom is also a professional value of librarianship, enshrined in ALA statements and actions and integral to professional education.³⁹ As a professional value, support for intellectual freedom informs all aspects of the librarian’s work, especially that of the academic librarian. In regard to collection development, for example, this professional value means that the librarian’s responsibility

is, as Lester Asheim famously put it, selection not censorship.⁴⁰ Support for intellectual and academic freedom is thus part of the ethos of academic librarianship. As Emily J. M. Knox has observed, “The [library] profession as a whole . . . is dedicated to upholding support for intellectual freedom as a core value whether or not it is actually part of librarians’ actual practice.”⁴¹

In a 2015 statement, the ACRL affirmed that “academic freedom is indispensable to librarians in their roles as teachers and researchers.”⁴² Both for their own protection and for the protection and fostering of the unrestricted freedom of inquiry that contributes to the social utility of academia, academic librarians need to have academic freedom and to understand its relationship to intellectual freedom. Danner and Bintliff have put it succinctly: “In a time of rapidly changing technologies, financial exigencies, and new government information policies aimed at protecting national security, challenges to academic freedom will impact university libraries just as much as they will the other parts of the university. Librarians will need to bring their skills and talents to bear in resolving these issues in active collaboration with others in the university community. Gaining familiarity with the documents of academic freedom and the organizations dedicated to its protection, such as [the] AAUP, are necessary first steps to taking on these important professional tasks.”⁴³

Jesse D. Mann (PhD, University of Chicago) is the Theological Librarian at Drew University. His recent publications include: “Histories of the Council of Basel,” in: A Companion to the Council of Basel, ed. Michiel Decaluwe, Thomas M. Izbicki and Gerald Christianson, Brill’s Companions to the Christian Tradition, 74 (Leiden: Brill, 2016), 50-72, and “Reading the Bible in the 15th-Century: The Case of Juan de Segovia,” Journal of Medieval Religious Cultures 43, no. 1 (2017): 115-34.

Notes

¹ Barbara M. Jones, *Libraries, Access, and Intellectual Freedom* (Chicago: ALA, 1999), 103.

² Albert Arko-Cobbah, “Intellectual Freedom and Academic Freedom: Opportunities and Challenges for Academic Libraries in Africa,” www.codesria.org/IMG/pdf/Albert_Arko_Cobbah.pdf?1319/; accessed November 20, 2016.

³ See, e.g., Tami Echavarría Robinson, “Academic Freedom: The Role of Librarians in What Universities Contribute to Intellectual Freedom,” *ALKJ: The Washington Library Association Journal* 30, no. 3 (2014): 11.

⁴ Barbara M. Jones, “What Is Intellectual Freedom?,” in *ALA Intellectual Freedom Manual*, edited by Trina Magi, 9th ed. (Chicago: ALA, 2015), 3.

⁵ American Library Association (ALA), “Intellectual Freedom Principles for Academic Libraries: An Interpretation of the Library Bill of Rights,” esp. nos. 1, 2, 6, 8, and 10, <http://www.ala.org/advocacy/intfreedom/librarybill/interpretations/intellectual>; accessed November 28, 2016.

⁶ *Ibid.*, no. 7.

⁷ Richard A. Danner and Barbara Bintliff, “Academic Freedom Issues for Academic Librarians.” *Legal Reference Services Quarterly* 25 (2006): 20.

⁸ ALA, “Intellectual Freedom Principles,” <http://www.ala.org/advocacy/intfreedom/librarybill/interpretations/intellectual>.

⁹ Danner and Bintliff, “Academic Freedom,” 19.

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- ¹⁰ Association of College and Research Libraries, "Statement on Academic Freedom" (approved June 2015), <http://www.ala.org/acrl/standards/academicfreedom>; accessed January 9, 2017.
- ¹¹ See Barbara M. Jones, *Protecting Intellectual Freedom in Your Academic Library: Scenarios from the Front Lines* (Chicago: ALA, 2009), 16.
- ¹² Danner and Bintliff, "Academic Freedom," 14–15.
- ¹³ AAUP, "1915 Declaration of Principles on Academic Freedom and Academic Tenure," 292, <http://www.akronaaup.org/documents/AAUP1915.pdf>; accessed November 20, 2016.
- ¹⁴ AAUP, "1940 Statement of Principles on Academic Freedom and Tenure," <https://www.aaup.org/report/1940-statement-principles-academic-freedom-and-tenure>; accessed November 20, 2016.
- ¹⁵ Aaron Burgess and James Sedlacek, "Academic Freedom in Christian Church (Independent) Institutions of Higher Education: Critical Matters Regarding Academic Freedom," *Stone-Campbell Journal* 18 (2015): 16.
- ¹⁶ Jones, *Protecting Intellectual Freedom*, 16.
- ¹⁷ See J. Peter Byrne, "Constitutional Academic Freedom after *Grutter*: Getting Real about the 'Four Freedoms' of a University," *University of Colorado Law Review* 77 (2006): 932. On *Sweezy vs. New Hampshire*, see Law and Higher Education, "Sweezy vs. New Hampshire," <http://lawhigheredu.com/124-sweezy-v-new-hampshire.html>; accessed 10 January 2017. The text of the decision can be found at FindLaw, "Sweezy vs. New Hampshire," <http://caselaw.findlaw.com/us-supreme-court/354/234.html>; accessed January 10, 2017.
- ¹⁸ Jones, *Protecting Intellectual Freedom*, 17. On *Keyishian v. Board of Regents*, see Robert C. Cloud, "Keyishian v. Board of Regents of the University of the State of New York," <http://lawhigheredu.com/81-keyishian-v-board-of-regents-of-the-university-of-the-state-of-new-york.html>; accessed January 12, 2017. For the decision, see Legal Information Institute, "Keyishian v. Board of Regents," <https://www.law.cornell.edu/supremecourt/text/385/589>; accessed January 12, 2017.
- ¹⁹ Byrne, "Constitutional Academic Freedom after *Grutter*," 930; my emphasis. See also Philip Lee, *Academic Freedom at American Universities: Constitutional Rights, Professional Norms, and Contractual Duties* (Lanham, MD: Lexington, 2015), 85, citing the 11th Circuit Court's opinion in *Bishop vs. Aronov*, 926 F. 2d 1075 (11th Cir. 1991): "We do not find support to conclude that academic freedom is an independent First Amendment right."
- ²⁰ See Jones, *Protecting Intellectual Freedom*, 18–19; and Lee, *Academic Freedom*, 145–46.
- ²¹ Lee, *Academic Freedom*, 145.
- ²² Henry Reichman, "Academic Freedom and the Common Good: A Review Essay," *Journal of Academic Freedom* 7 (2016): 1–19.
- ²³ Robert Post, cited in *ibid.*, 4n4.
- ²⁴ On the differences between an institutional and individual "right" to academic freedom, see Mary Kandiuk and Harriet M. Sonne de Torrens, "Librarians in a Litigious Age and the Attack on Academic Freedom," in *Current Issues in Libraries, Information Science and Related Fields*, edited by Anne Woodsworth and W. David Penniman, *Advances in Librarianship* 39 (Bingley, UK: Emerald, 2015), 11–12.
- ²⁵ It is worth noting that, in fact, students do not have academic freedom per se. See Reichman, "Academic Freedom," 18.
- ²⁶ Jones, *Protecting Intellectual Freedom*, 16.
- ²⁷ *Ibid.*, 36–37.
- ²⁸ Danner and Bintliff, "Academic Freedom," 21.
- ²⁹ *Ibid.*, 21–29.
- ³⁰ On the ABoR, see Byrne, "Constitutional Academic Freedom after *Grutter*," 939; Danner and Bintliff, "Academic Freedom," 21–22; and Jones, *Protecting Intellectual Freedom*, 20–22.
- ³¹ See ALA, "Resolution in Support of Academic Freedom," (January 25, 2006), <http://www.ala.org/advocacy/intfreedom/statementspols/ifresolutions/academicfreedom>; accessed December 6, 2016.
- ³² Danner and Bintliff, "Academic Freedom," 23.
- ³³ ALA, "Intellectual Freedom Principles," no. 2, <http://www.ala.org/advocacy/intfreedom/librarybill/interpretations/intellectual>.

³⁴ Jones, *Protecting Intellectual Freedom*, 25.

³⁵ ALA, "Intellectual Freedom Principles," no. 3,
<http://www.ala.org/advocacy/intfreedom/librarybill/interpretations/intellectual>.

³⁶ S. David Mash, "Libraries, Books, and Academic Freedom," *Against the Grain* 14, no. 6 (2002): 22.

³⁷ ALA, "Intellectual Freedom Principles," no. 6,
<http://www.ala.org/advocacy/intfreedom/librarybill/interpretations/intellectual>.

³⁸ Arko-Cobbah, "Intellectual Freedom and Academic Freedom," 5, no. 3 (no pagination).

³⁹ Emily J. M. Knox has called this "codification and institutionalization." See Knox, "Supporting Intellectual Freedom: Symbolic Capital and Practical Philosophy in Librarianship," *Library Quarterly* 84, no. 1 (2014): 11–14. Most of the leading programs in Library and Information Science (e.g., University of Illinois, University of Washington, Rutgers University) include classes on intellectual freedom. I thank the anonymous reviewer who emphasized this point.

⁴⁰ See Lester Asheim, "Selection and Censorship: A Reappraisal," *Wilson Library Bulletin* 58, no. 3 (1983): 180–84.

⁴¹ Knox, "Supporting Intellectual Freedom," 19.

⁴² ACRL, "Statement on Academic Freedom" (approved June 2015),
<http://www.ala.org/acrl/standards/academicfreedom>.

⁴³ Danner and Bintliff, "Academic Freedom," 29.