

Who Gets a Hearing? Academic Freedom and Critique in Derrida's Reading of Kant

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Abstract

Today's debates about academic freedom in the US and the UK often echo arguments and counterarguments made by Kant and the sovereign who censored him around the time when the modern Humboldtian university would be founded on the twin principles of critique and institutional autonomy. This article considers the limits the criticist account by reading Derrida's deconstructive engagement with Kant's *Conflict of the Faculties* in the context of recent legislative developments and political interference which imperil these foundations. To do so, it makes a turn to the ear and to the multiple senses of 'hearing' as auditory perception, responsiveness, and judgement to explore an alternative basis for defending academic freedom that radicalizes Kant's position and liberates scholarly inquiry from its closures.

Bio

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When I drafted a new policy on academic freedom and freedom of expression for my institution, the senior counsel recommended during the process of legal review that 'the University' be

defined as the legal entity constituted and founded by Royal Charter in such-and-such a year. We could easily have become sidetracked into a lively conversation on what it meant to ‘constitute’ or ‘found’ a university, in what such founding consisted, and to what extent that founding provided the condition of possibility for academic freedom. We had already spent a good while, however, discussing whether a protected exercise of academic freedom of expression was necessarily based on reason and how reason need not be reasonable, and it still remained to agree the definition of ‘reasonably practicable steps’—a phrase in the UK Higher Education (Free Speech) Bill that was causing some consternation and disagreement among lawyers. So I swiftly concurred that the University could be defined by reference to its founding and kept to myself the worry that a university might exist only in its repeated re-founding and its necessarily possible un-founding, not to mention that a university in its regulation and policy was in no position to *define* its own founding whose conditions necessarily lay outside the walls of the university. There seemed to be bigger questions about the extramural to debate and bigger stakes to fight over. This was not a hill to die on, or perhaps, if I had in that moment been thinking more as a member of the faculty of philosophy and less as an administrator or member of the institution’s governing bodies negotiating with lawyers—if I were answerable to thought, to theoretical reason, and to truth rather than public practical reason—I would have staked my life or at least my profession on it.

In truth the policy would need to effect a well-worn fiction according to which academics answer only to the academic community embodied in the institution of the university, founded by the sovereign self-judgement and self-governance of the faculty—‘professors being as trustees [*als Depositeure*],’ as Kant puts it, ‘forming together a kind of common scientific entity [*eine Art von gelehrtem gemeinen Wesen*], called a *university* (or high school [*hohe Schule*]), and having autonomy (for only scholars [*Gelehrte*] can pass judgment on scholars as such.’¹ Accordingly I drafted the policy so that its operation and revision be subject to such collegial

self-governance. This would be embodied not in the legal entity of the University but more precisely in the Senate constituted by the same charter as the body responsible for the University's academic work and defined in the accompanying Statutes (in keeping with other university founding charters in the UK) as 'the supreme academic authority of the University.' The charter makes the Council and Senate subject to the powers of the other. For example, on the one hand, the Senate may confer degrees, exercising 'the autonomous power of *creating* titles,' in Derrida's gloss on Kant (M 84). On the other hand, its generative powers are circumscribed in other respects: it may establish degrees, faculties, or academic posts, institute fellowships, scholarships, or prizes, or appoint academic staff only with the supplementary power of the Council. While the powers reserved to the Council by statute concern financial management and institutional mission, insofar as the Council alone has the power to make the 'law' of the university by making statutes and ordinances, which prescribe the powers of Senate, only the former body can be said to exercise sovereign executive power (if there is such a thing). As Derrida observes in his comments on *Der Streit*, 'Kant is being precise' when he describes the university as 'authorized' to exercise its powers of conferment and so on for, as Derrida goes on to argue, 'the university receives its legitimate *authorization* from a power that is not its own' (M 84).

Within my institution only the Council is authorized by the founding charter to exercise the power to amend or repeal that charter and hence to re- and dis-establish itself and the university as a whole. And yet the new academic freedom and freedom of expression policy, which depends on amendments to one of the ordinances and hence may only be recommended by Senate for approval by Council, maintains the fiction of academic self-governance by reserving to the Senate the autonomous power of judgement of academics by academics, even if the Senate's stamp of approval for its reserving such power to itself demands the countersignature of the Council. Like the tympanum of the printing press and or the ear that

captures Derrida's imagination in *Marges de la philosophie* and in *Geschlecht III*, the university's self-government necessarily entails a double strike, the rebound of an echo.² The university's critical function, its capacity for *tympaniser* (to strike but also to ridicule or critique), including the critical scrutiny with which Senate is entrusted, is thus referred to an always-already redoubled origin, to the checks and balances of parliamentary government and opposition to which Kant in *Der Streit* likens to the respective faculties, to left and right, and to the sensory difference on which that distinction rests. This critical function includes the important right to express opinions on the affairs of the university or system—a freedom that is recognized in key international instruments on academic freedom and by the European Court of Human Rights in Strasbourg. It is no accident, I suggest, that this critical-democratic balance is figured in terms of sensory balance. I shall return to these questions of the relation between critical freedom, or the (un)freedom of critique, and sensory orientation because they promise to illuminate some of the asymmetries at play in debates over academic freedom and censorship.

I dwell on these seemingly arcane legalistic matters of institutional statute because they point to an issue whose import is far from insignificant for the future of our democracies: To whom or to what does an academic answer? If I have some responsibility as an academic, to whom or to what I am required to give a response? Which implies that there is someone or something to which I must already have lent my ear if I am to be in a position to respond. This means that academic freedom is not only, and arguably not even foremost, a power to speak or a freedom of expression as it is understood in the Strasbourg jurisprudence. Rather, it is a question of determining in what direction one must listen or whose ear one must have in mind when exercising one's freedom of expression.³

When Derrida introduces the eponymous concept of 'mochlos' towards the end of the talk, he appears primarily to be drawn to the podiatric metaphor of left and right feet or shoes, characterizing the *mochlos* as a lever or wedge on which one leans to force a certain

displacement and which he then likens to the take-off foot that steps forward first and plants itself in order to prepare for a leap. I want to come back to the notion of foundation as take-off and of embodied asymmetries at once to put some more pressure on and to loosen the aporetic character of sovereign power. For now, though, I wish to highlight that the phrase in French for the jump's preparation—*prenant un appel du pied*—already displaces itself from the podiatric to the aural, putting less a foot in the mouth than an ear in the foot. In leaning on the *mochlos* or *hypomochlium* to (re)found itself, the university is 'taking the call on one foot' (M 110), launching 'itself' in answering an interpellation. From where the call originates, whether this is in a single point, and whether it comes as a discrete invitation (*un appel du pied*) or a noisy summons, requires further exploration. The university does, though, have (at least) two ears for hearing it, if not a pair of ears. The issue of (un)pairedness that fascinates Derrida in his reading of Van Gogh's two shoes in *La vérité en peinture* referenced in 'Mochlos' rebounds on aurality, along with his reflections in various places on the proliferation and prostheticity of organs. The effect is to complicate any notion of straightforwardly stereophonic listening negotiated or balanced between left and right.

Kant attempts to settle these complications of multidirectional and differential responsibility by drawing a clean line—and from Derrida's point of view, unsustainably so—between a philosopher in their capacity as a thinker answerable solely, and with an ear especially attuned to, reason and truth, and two external domains. On the one hand, the philosopher is to be distinguished from the academics in the higher faculties (of law, medicine, and theology) that are closer to government and to practical reason. On the other hand, philosophical speech oriented towards the internal consistency of reason and truth within the domain of the faculty may be contrasted with the philosopher's speech when it has effects outside the walls of the university. Philosophers are today quite conspicuously among those engaged in contemporary debates and institutional work on academic freedom. So, to whom or

to what do I, not merely as an academic but as an elected academic member of Senate, answer? To whom or to what does the Senate answer if not to Council on all matters? And to whom or what does the university as a whole, embodied in the constitution of these twin instruments of power, answer? In what direction or directions does the university listen? Is it to open its left ear, its right, both, or neither? Can the university answer to its own founding—can it even have heard it? And if it cannot answer, by what power or authorization may it re- or un-found itself if it necessarily answers to some call or some injunction outside the self-affection of its own oral-aural circuit?

This line of questioning will lead Derrida in “Mochlos” to the idea that, if I may condense somewhat into a pithy syntagma exploiting a double genitive, the event *of* the university is not an event *of* the university. **That is to say, the** founding event that brings the university into existence (objective genitive) is not an event that belongs on the institution’s own intra-university calendar (subjective genitive), even if its anniversaries may be. Further, the event that founds and constitutes the university, according to a deconstruction of sovereignty that Derrida observes unravel in multiple contexts, does not belong and is not explicable or audible as rational expression within the logic that it founds (M 109–110). And yet Kant will continue to insist, despite all the conflicts and aporias this produces for him as he divides up the university in a bid to save its integrity, that the university *qua* university is able to hear only itself speak in phenomenological reduction even as it is at once subject to an injunction to the authorizing power without.⁴ This suggests that the university is *free* only to the extent that it hears *itself alone* speak and that *it alone* hears itself speak. And yet is the university really free to close its ear to the foghorn of government and retreat into the reverberations of its own inner ear? And what would be the power of a critical freedom authorized to the limits of its self-regulation, its ear turned irrepressibly towards the noise of a hostile outside and yet whose

rumblings are inaudible or muted outside its labyrinthine structures? But I may be talking to myself by this point...

If only certain politicians with a desire to put the academy, critical thinking, and the life of the mind on the back foot were talking to themselves! To probe further this question of the orientation of the university's ears, let us take three such letters addressed to educational institutions by the loudspeakers of government. Recent developments in the state of Florida will have escaped the attention of few educators. Public outcry—including from organizations such as the American Association of University Professors (AAUP), PEN America, the Foundation for Individual Rights in Education (FIRE), the American Civil Liberties Union (ACLU), the Association of University Presses (AUP), the American ACLU, and American Association of Comparative Literature (ACLA)—has been vociferous if not yet sufficiently tactical in its organization. The conduct of Governor Ron DeSantis and his revision for education reform have elicited comparisons with the autocratic actions of Viktor Orbán in exiling the Central European University from Hungary as part of a wider assault on the traditional bastions of liberalism and watchdogs of democracy, including press freedom and judicial independence. The latest salvo of interventions comes in the wake of the Stop Wrongs Against Kids and Employees (WOKE) Act which prohibits the inclusion in teaching or workplace training of a list of concepts relating to race (most pointedly the notions of institutional or structural racism or of white supremacy) and whose enforcement has been temporarily stayed in November 2022 on First Amendment grounds since it was likely to discriminate against expression based on viewpoint.

In his order in part granting motions for on preliminary injunction District Judge Mark E. Walker decried the law as 'doublespeak,' reciting the same passage from George Orwell's *1984* that Baroness Shami Chakrabarti had quoted in her intervention to the UK Lords debate on the

Higher Education (Freedom of Speech) Bill on in June 2022: ‘It was a bright cold day in April, with the clocks striking thirteen.’⁵ The court order added: ‘and the power in charge of (a State) public university system have declared the State has unfettered authority to muzzle its professors in the name of “freedom”.’ Drawing on precedent, Judge Walker ruled that the government speech doctrine which gave the State a right to make choices about the content of the curriculum did not extend to curtailing a professor’s freedom to express any particular viewpoint or opinion about curriculum content once set—a freedom that he found to be coextensive with the right to receive information, pointing to a right to hear as much as to speak. A further remark also suggested that it is not only whether the lends its ear to the wishes of the government to the state but moreover how the university is heard that is decisive: it is neither the case that professors are ‘simply the State’s mouthpieces’ nor that ‘so long as professors work for the State, they must all read from the same music.’

In more recent developments, DeSantis’s anti-intellectual vision has been behind what can only be described as a ‘hostile takeover’ of the New College of Florida, overhauling the membership Board of Trustees, paving the way for the sacking of the President and for a full-scale war on its faculty and its commitments to equity, diversity, and inclusion. His vision is also embodied in House Bill 999 tabled by Rep. Alex Andrade, which would build on the Stop WOKE Act effectively to abolish tenure, institutional autonomy, collegial self-governance, and affirmative action. The Bill has been criticized by Jeremy C. Young, PEN America Senior Manager of Free Expression and Education, as ‘perhaps the most draconian and censorious restrictions on public colleges and universities in the country.’⁶ If enacted, it would substitute the ideological beliefs of politicians for the critical questioning of academic inquiry. While House Bill 7 had sought to prevent students or employees from hearing anything that endorsed views contrary to state-sanctioned beliefs, the version of House Bill 999 filed in February 2023, vaguely drafted so as at once to increase a chilling effect and provide plausible deniability, went

further to outlaw ‘any major or minor in Critical Race Theory, Gender Studies, or Intersectionality or . . . or any derivative . . . of these belief systems,’ defined as any programme that ‘engenders beliefs’ in the race-related concepts listed in the Stop WOKE Act, along with any campus activities that espouse EDI or CRT rhetoric. An amended version filed in March 2023 was widely criticized and mocked for casting an even wider net to prohibit any “pedagogical methodology associated with Critical Theory,” adding to its non-exhaustive list of examples ‘Critical Race Studies,’ ‘Critical Ethnic Studies,’ ‘Radical Feminist Theory,’ ‘Radical Gender Theory,’ ‘Queer Theory,’ and ‘Critical Social Justice’. The clause has been further amended in April 2023 to censor any ‘theories [of] systemic racism, sexism, oppression, or privilege without naming any specifically.

The Bill’s provisions (in whatever variation) are inherently contradictory. On the one hand, the humanities are enjoined to ‘afford students the ability to think *critically*’ and general education courses ‘may not suppress or *distort* significant historical events’ (my emphases). On the other hand, House Bill 999 excludes from this critical, historically faithful education ‘identity politics’ and, in the February version, any thought that ‘defines American history as contrary to the creation of a new nation based on universal principles stated in the Declaration of Independence.’ This is recast in the most recent April version as any theories that systemic oppression or privilege ‘are inherent in the institutions of the United States or were created to maintain social, political, or economic inequities.’ These endeavours of critical questioning and inquiry are dismissed as ‘distortion.’ Similarly, general education is required to be ‘historically accurate’ and ‘high quality’ yet also ‘traditional’ so as to ‘promote the values necessary to preserve the constitutional republic.’ One of the most shocking and unenforceable provisions that still remains in the Bill furthermore bans from general education any ‘courses with a curriculum based on unproven theoretical, or exploratory content.’ In this way, the legislature is staking a claim to be able to determine what constitutes critical thinking, accurate knowledge,

or, put simply, the truth, thereby not only straying into the autonomous zone of the faculty of philosophy marked off by Kant but at the same time disqualifying the sphere of theoretical reason altogether. It is hard to imagine a plainer example of a breach of academic freedom's condition of possibility as it is understood in the criticist tradition which remains influential to this day.

This struggle over veracity or truth plays out in one of the letters that bear comparison. Written not to a university or an academic but to the College Board, a letter from the Florida Department of Education dated 7 February 2023 sets out a lengthy back-and-forth correspondence over the framework for a new AP courses African American Studies during the course of which the Department claims that the Bureau of Standards and Instructional Support (BSIS) had earlier raised concerns that the proposed programme of study may violate Florida law, specifically Instruction rule 6A-1.094124 requiring that 'instruction on required topics must be factual and objective and may not suppress or distort significant historical events.' In its response of 8 February 2023, denying that it caved to political pressure, the College Board observes: 'Your February 7, 2023 letter alludes to course topics that you characterize as "historically fictional," but does not specify which topics or why. We are confident in the historical accuracy of every topic included in the pilot framework, as well as those now in the official framework.'⁷

Recent developments in Florida centre on a kind of infidelity to or mishearing of not only the voice of the state but also truth or veracity that threatens to unsettle the appeal to truth as the foundation of academia's critical freedom. The focus on alleged distortion echoes a letter sent to Kant by Friedrich Wilhelm, King of Prussia in 1794 on the eve of the foundation of the Humboldtian university whose foundational principles are elaborated in *Der Streit*. The comparison also illuminates the limits of the criticist defence of academic freedom as it has been inherited through this model of the modern university and especially, though not

exclusively, in the context of attempts today to distort realities of inequality and oppression, historical and present, through the fictional prism of ‘culture wars,’ ‘cancel culture,’ and ‘wokery.’ As shadow plays that deflect attention from the debilitating political-economic wars of racial capitalism being waged, protested, and resisted, these theatrical scenes scripted by elite actors are no less powerful—perhaps even more so, as Derrida would say of the phantasm—for being conjuring tricks that engender the systemic group polarization they purport to describe.⁸ As Derrida observes in his final seminar about the phantasm of the big bad wolf,

This absence bespeaks at the same time power, resource, force, cunning, ruse of war, stratagem or strategy, operation of mastery. The wolf is all the stronger, the meaning of its power is all the more terrorizing, armed, threatening, virtually predatory for the fact that in these appellations, these turns of phrase, these sayings, the wolf does not yet appear in person but only in the theatrical persona of a mask, a simulacrum or a piece of language, i.e. a fable or a fantasy.⁹

Addressing the philosopher as ‘most learned, dear and loyal subject,’ the King nonetheless reproaches him in stringent terms, noting his ‘displeasure’ at how Kant has long misused his philosophy to distort and disparage” Christian teaching and the scriptures, thereby acting ‘irresponsibly’ in breach of his ‘duty as a teacher of the young and against our sovereign purposes’ (S 10–11). He demands that the philosopher account for himself and that, to avoid the ‘highest displeasure,’ he apply his reputation and talent to realizing that sovereign purpose, concluding with the threat of ‘unpleasant measures for [his] continuing obstinacy.’

There are certain illuminating similarities between the defences issued in response by Kant and the College Board. Both plead carefully circumscribed deference. Kant maintains his ‘most submissive obedience’ insofar as the exercise of his critical faculty is restricted to the enclosure or inner sanctum of the university and has not strayed beyond his scholarly competence (S 12–15). The College Board, meanwhile, protests that they ‘consider and

incorporate' any concerns or other input of any state if, but *only* if, 'it is academically valid' and that 'AP courses focus on a core set of facts and evidence where there is widespread agreement among academic experts.'¹⁰ Both appeal to the sanctity of academic competence. Kant is not guilty, he insists, because his interventions remain 'purely philosophical,' 'unintelligible' to the general public beyond the confines of the scholarly community for 'the people pay no attention to such matters in a practical way, even if they should hear of them' (S 14–15). The College Board's argument is somewhat different even as it maintains the sovereignty of academic judgment: in tune with today's rhetoric of impact as a way to defend the value of education and scholarship, they point to the benefits of AP courses for students of every background through the democratization of knowledge and lived experience from diverse histories and cultures. What, according to the AP Principles, guards against both censorship and indoctrination is, if not theoretical reason, then 'evidence and scientific method,' the capacity for independent thinking, assessing the credibility of sources, evaluating the quality of arguments, questioning multiple viewpoints including those different from students' own, and listening to whatever engages with evidence across the full range of perspectives and experiences—in short, a broadly critical disposition.

Both tend towards a position that articulates the value of criticality, and hence of the conditions of autonomy that enable the freedom for critique, as a social value or public good. As such, academic freedom is defended not by reference to the standards by which it judges and governs itself but by reference to its utility. This comes out especially strongly in Kant's text whereby autonomy is justified—or just *is*—insofar as it is instrumentalized. Kant's argument turns on making a number of distinctions which shall subject put into question and deconstruction in due course, not least among them between the public and private use of reason, which, as Derrida observes in *L'université sans condition*, is troubled by 'new techniques of communication, information, archivization, and knowledge production' that

transform public space and its relation to the university.¹¹ For Kant, it is not so much the exercise of academic freedom as its publication or publicity that threatens a conflict with government—a situation that reveals the fiction of academic freedom as an absolute and secluded freedom confined to the scholarly parliament. This precarious distinction between public and private overlaps without coinciding with that between philosophers or scholars and the technicians, practitioners, or businesspeople aligned with the higher faculties—which distinction Derrida observes becomes unequally untenable with the restructuring of the political economy of knowledge production. Kant argues that both officials trained by the higher faculties and also these faculties themselves on account of their proximity to government cannot publicly voice their objections to government opinion without betraying their public function or without usurping the role reserved to the lower faculty whose ear is uniquely attuned to reason and truth.

At the same time, Kant advances the notion that it is in the public interest for government to listen to the voice of reason as mediated by the internal conflict among the faculties. Subjecting the teaching of the higher faculties to critical scrutiny and public challenges serves the goals of demystification, ultimately protecting the public from its own tendency towards superstition and credulity when it comes to politicians, which tends to endow their promises with magical power and fabulous performative efficacy. In this way, critique, exceeding its own basis in the Kantian analytic of truth, guards against not only epistemic but also what Miguel de Beistegui analyses as *noetic* vices, protecting not simply knowledge and truth but the very capacity to *orient* towards them and to construct questions that precedes them.¹² It is to enable the top-down enlightenment of the people that the freedom of the faculty of philosophy to offer critiques of the higher faculties must be enjoyed publicly and unimpaired. As Hent de Vries astutely observes, it is not entirely clear whether, for Kant, the disinterested pursuit of truth is thereby subordinated to the goal of enlightening political leaders and hence to the public interest

or whether somewhat cunningly he means to insinuate that ‘the ultimate end of the political is disinterestedness par excellence.’¹³

On this point, one might turn to a third letter issued by the then Universities Minister Michelle Donelan to university Vice-Chancellors in the UK in June 2022, upbraiding them for potentially jeopardizing the freedom of scholarly inquiry on campus by subordinating that disinterested exercise of critical thinking and testing of lawful new and controversial ideas to the interests represented by external diversity benchmarking schemes such as the Race Equality Charter.¹⁴ The Conservative Party’s attacks on institutions is less crude than that of Republicans in the US and Donelan is careful to acknowledge that “universities and other HE providers are autonomous institutions,” all the while manoeuvring to re-position government as a necessary safeguard against the erosion of that autonomy through the capture of academia by a new orthodoxy that blunts not only viewpoint diversity but also criticality, and chastizing the sector for creating and reproducing an EDI PMC in conflict with the economic interests of students and taxpayers. She cites an earlier policy statement from two years before:

Where a university believes that membership of such schemes are genuinely the best way of addressing a matter, it is of course free to do so, but in general universities should feel confident in their ability to address such matters themselves and not feel pressured to take part in such initiatives to demonstrate their support for the cause the scheme addresses.

Unlike the College Board’s appeal to ‘a focus on primary documents and places where the historical record is clear’ and House Bill 999’s suspicion of what is unproven or exploratory, the UK Conservative government has preferred to place its emphasis on the libertarian foot to uphold the positive freedom to ‘offend, shock or disturb,’ as a leading Strasbourg case has it, more than a negative freedom from indoctrination stressed in the Florida legislation which is

also known as Individual Freedom Act. What each of these letters illustrates, however, whether focused on negative or positive liberty, is how the line between intra-university conflicts, which Kant deems legal yet infinite, and illegal conflicts between university and government is hard to sustain, the one always threatening to erupt into the other. On the one hand, while the government may sanction the teachings of the higher faculties, says Kant, it must meddle in affairs of the truth and to do so would undermine its dignity. On the other hand, there must exist a lower faculty independent of the government's command so that the truth may come to light, but it must refrain from prescribing teaching. So, on the one hand, there is prescription without (the) truth (of what it prescribes), and on the other, truth without (the power of) prescription. One wrong step, trespassing this boundary, and the *entente* falls apart.

Kant seeks to resolve this instability by way of an ingenious reference to the British Parliamentary system such that not only do the higher and lower faculties resemble government and opposition benches but, moreover, the university as a whole and government check and balance one another much as Ministers must answer to Parliament. While Ministers are deemed to be the mouthpiece of the monarch, it is necessarily possible, so as to safeguard the dignity of the monarch from the threat of errancy, that they mishear the voice that they amplify. This suggests an irreducible supplementarity or prostheticity at work in sovereign power. Oddly enough, critique reveals itself less as a challenge to power than the guarantor of its purity and sovereignty. 'The government must arrest its own power,' says Derrida, 'in the face of this freedom, must even guarantee it.' But does not Derrida's challenge to—if not critique of—transcendental thought consist precisely in showing that sovereign power arrests itself and guarantees an opposing power only and precisely so as to guarantee *itself* for if it were to remain unchecked it would overpower even itself—in short, that transcendental critique means that the transcendental has always already from the start been in the crosshairs of critique?

For this reason the subjection of academic freedom or critique to an outside always threatens to unravel at every frontier it attempts to erect. The point that Derrida makes in ‘Tympan’ is that there would be no philosophy without its eardrum already having been pierced, penetrated, ruptured from without, or—from the other side, if there is such a thing as sides here—there is nothing more inherently philosophical than to overflow the bounds of philosophy. Derrida’s main line of attack in reading Kant is to accuse him of wanting too rigidly to keep everything within the lines and thus, far from liberating critique, to engage it in an ever-proliferating and ever more labyrinthine set of oppositions or ‘invaginated’ folds with a spiralling or ‘intestinal’ division (M 106) drawn between illegal and legal, government and university, higher and lower faculties, within the faculty of philosophy between rational and historical sciences, between public and private, theoretical and practical reason, truth and utility, constative and performative, left and right.

At stake, then, in the critical freedom of the academy is how it *orients* itself in this forcefield of oppositions, in what directions it stretches its ears. One idea commonly encountered in discourse about academic freedom and freedom of speech on campus—one that often presents itself as if it were the middle way forward, a moderate orientation—is an appeal to the need to balance different viewpoints, as if it were the task of the university’s ear to find some equilibrium between left and right, and between inner and outer. This middle way nonetheless irks both those who do not wish to be challenged, who feel that the need for balance undermines the sovereignty and credibility of their thought, and also those who argue that there ought to be no duty to balance out certain ideas because the opposing argument has no scholarly merit, for example because it has no evidentiary basis, no rigour, but is pure dogma, sophistry, demagoguery, propaganda, or bullshit in Frankfurt’s sense. It is an attractive argument to make for those who wish to see campuses free from such bluster yet wish to resist more moralistic

denunciations. What distinguishes academic freedom from freedom of speech would be precisely the essential condition of criticality: that an idea be amenable to critique, that it be response-able in the sense of its being capable of a response, rebuttal, retort, and so on.

Accordingly, I have elsewhere wondered:

If closed-mindedness and dogma are inimical to academic freedom—which is instead predicated on its openness to refinement, critique, and correction—would there ever be an epistemic justification for excluding certain expressions of closed-mindedness on the grounds that they are harmful to the collective pursuit of knowledge?¹⁵

And yet there is perhaps nothing more dogmatic than to claim that one can escape or absolve oneself from all dogma. All critique is necessarily possibly a bit uncritical.

Kant seeks to resolve these dilemmas by partitioning the university into an ever more finely discriminating division of labour that balances itself: ‘the university will have to walk on two feet, left and right, each foot having to support the other as it rises and with each step makes the leap,’ as Derrida summarizes (M 111). And yet, far from planting its feet securely or weighing thought in a gentle oscillation, the university might in fact, as Dawne McCance speculates in reading this passage whether the university, ‘be a body that “squints or leaps”.’¹⁶ Kant’s own reference to the *hypomochlium* in a footnote reveals the asymmetry noting that infantry men put the left foot forward ‘in order to use the right side for the impetus of the attack, which they execute with the right foot [the one associated with government and business] against the left [philosophy, thought, reason]’.

In the second session of his final seminar, the second year of *La bête et le souverain*, Derrida addresses the question of what it means to orient oneself in the world by way of Kant’s 1786 *Was heißt: Sich im Denken orientieren?* Speaking this time of hands or gloves, rather than

feet, shoes, or ears, Kant attributes orientation to an embodied and subjective experience of sensory difference, without which there would be no logical justification for ‘sensory irreplacability (one cannot put one’s right hand in a left-hand glove even though there is no intelligible conceptual difference, nor even an objectively describable difference between the two gloves and the two hands, merely a difference of sensory orientation.’¹⁷ In a seminar that reads *Robinson Crusoe* alongside Heidegger’s *Die Grundbegriffe der Metaphysik*, Derrida characterizes Kant’s account as Robinsonian (BS2 99–101/60–61) in that its analysis proceeds on the basis of a pure solitary or sovereign body proper apparently in the absence of any objective or intersubjective point of reference. Accordingly, when Kant extends this subjective principle of orientation to the right of reason’s need and to thinking in general, the orientation of the university in the world becomes from a single, self-contained *point* of view. Derrida will draw out the ‘oceanic consequences’ of this ‘infinite leap’ into ‘the black night of the suprasensible’: the need of practical reason is unconditioned according to Kant and hence unconditionally privileged with respect to theoretical reason.

In ‘Mochlos,’ however, Derrida connects the question of symmetrical objects and orientation of left and right in the faculty parliament to his discussion of Van Gogh’s supposed pair of shoes in “Restitutions” in *La vérité en peinture* in which Derrida seeks to prise the two feet away from any subject. This is the text from which McCance borrows her idea of the limping university. Yet it is not just imbalance or asymmetry that bothers Derrida but the very unity of the two shoes or feet. His persistent line of questioning also puts the very assumption of pairedness in question: is it a pair of shoes?¹⁸ The context for Derrida’s harried questioning is itself a scene of academic conflict and as such an exercise of academic freedom. Meyer Shapiro and Heidegger may disagree on much—including on to whom the shoes belong—but on this much they agree in a “a pairing-together in the difference of opinion” (R 300/263): the shoes belong to a subject and to one another. Besides detaching the shoes from a purported

subject outside the frame of the painting whose feet would fill them, Derrida moreover detaches the two shoes from one another, questioning the shared assumption that they form a pair and instead conducting what he calls a “spectral analysis,” drawing out the various ways in which the sovereign or the pair are haunted by other others:

As soon as they are detached, abandoned, unlaced, they may no longer be a pair.

The pair separates. What is then the spectrum of possibilities of the possibility of specters? The shoes can be unpaired, each of them can belong to another pair by which they continue to let themselves be haunted. But in this first case of unmatchedness, things can still function [*aller*] or at least walk [*marcher*] if the shoe size and the double orientation (right and left) permit . . . although the unpairedness, indicated by other traits, makes limp or squint the disturbed experience that we have in this case. The second possibility: one single shoe. . . . Is it one shoe amputated from the pair to which it belongs? Is it haunted by the other one? Triumphant and sovereign, alone at last, and capturing for itself the whole of the fetishist investiture? . . . The third possibility (I’m sure I’m going to forget some): two right shoes or two left shoes. . . . Each one is strangely the double of the other. . . . This third possibility divides in two: (1) the two right shoes or two left shoes can belong to two different pairs, and thus to an origin that continues to inhabit them even if they are detached from it. . . . (2) The two right or left shoes are exactly alike, for they belong to two pairs (separated one from the other and from themselves) which have no difference between them except a numerical one.

(R 427–29/374)

Deconstruction thus radically reconfigures the orientations of critique, suggesting that the university is irreducibly haunted by the excess of its criticality that cannot safely be contained

into pairs of oppositions between its left and right or between its inner and outer orientation or ear. A few pages before this spectral analysis he has raised the spectre of Van Gogh's severed ear, but equally dismisses the suggestion that he should compare a pair of shoes to an ear and yet "Restitutions" is described as a "polylogue for n+1 voices" (R 292/256) whose exchange of voices he suspects speed up, the debate becoming increasingly vociferous and interlaced, precisely in order to not to hear Derrida's persisted question about the pair and to keep its threat of prosthetic proliferation at a distance (R 298/261). Elsewhere in *Otobiographies*, though, Derrida rehearses, in an expressly aural register, similar arguments about the spectral character of sensory orientation in a trenchant critique of the footing of the university and of academic freedom. He begins by noting that the path of philosophy is destined to a doubling that divides between left and right, whether one is talking of, for instance, Hegelianism, Nietzscheanism, or Marxism. Whispering into his audience's ear, Derrida seeds the notion of a doubling that haunts the ear and renders it irreducibly 'uncanny.' Arguing that academic freedom is always somewhat constrained in its liberties, somewhat bound to the conventions and canons of disciplines even as it dissents and innovates,¹⁹ he points to another haunting:

Behind 'academic freedom' one can discern the silhouette of a constraint which is all the more ferocious and implacable because it conceals and disguises itself in the form of *laisser-faire*. Through the said 'academic freedom,' it is the State that controls everything.²⁰

Academic freedom and institutional independence are thus, in Derrida's view, a 'ruse of the State' which promotes acquiescence and deference in the illusion of autonomy and self-regulation and which must be displaced from a fiction of thought's enclosure onto its border and exposure to the world, even if he recognizes the minimal necessity of the Kantian gesture. The state is a 'hypocritical hound'—it has a mask of criticality—who

whispers in your ear through his educational systems, which are actually acoustic or acroamatic devices. Your ears grow larger and you turn into long-eared asses when, instead of listening with small, finely tuned ears and obeying the best master and the best of leaders, you think you are free and autonomous with respect to the State. You open wide the portals [*pavilions*] of your ears to admit the State, not knowing that it has already come under the control of reactive and degenerate forces. Having become all ears for this phonograph dog, you transform yourself into a high-fidelity receiver, and the ear—your ear which is also the ear of the other—begins to occupy in your body the disproportionate place of the ‘inverted cripple.’ Is this our situation? Is it a question of the same ear, a borrowed ear, the one that you are lending me or that I lend myself in speaking? Or rather, do we hear, do we understand each other already with another ear? The ear does not answer.²¹

The issue is not simply that the ear becomes insufficiently discerning, wide open rather than finely tuned. Rather, Derrida seeks to break open the ipseity of the ear. There is not one ear of the *logos* that gathers what is heard and that is shared by speaker and audience. The suggestion, though it is not set out explicitly here, is that not even two ears, yours and mine, left and right, would be sufficient to overcome this indoctrination (or balance it out) but that hearing one another always requires *yet another ear*. A hearing is stretched not just between my ear and the ear of the other but moreover haunted by the ear of the other other. This is how we are to understand the severed ear to detached shoe/foot: every other as every bit other (*tout autre est tout autre*) so that not only is the other not reduced to the inner hearing of the same but also others in the plural are not homogenized to *the* other. This is, for Derrida, the limit of criticalists critique which prefers to resolve the infinite proliferation and differentiation of criticality by dialectizing or opposing, and thus in the end shoring up sovereignty defined in relation to ‘its’ outside. The unlaced shoes and third ear point to the fact that sovereignty is

always irreducibly haunted by an outside, by a critical freedom that it cannot master or make its own. This means that the hearings called for in the forcefields of academic freedom and critical inquiry are not merely stereophonic, determined by the subjective sensory orientation of left and right. The ‘interaural difference’ to which Peter Szendy appeals in a bid to prise opening the enclosure of the gathering logos does not go far enough in the direction of the unconditionality of which Derrida speaks.²² Such topographic binaurality or echolocation remains *hypocritical* in the sense of being a shadow or mask of critique is the binaural to the extent that it remains strung between a pair of ears rather than putting that pairedness into question and opening it to an outside field of tension of vibrating rhythms and intonations. It ‘still lacks the famous “third”,’ as Szendy notes.²³ Even if we are in a situation with two ears, they need not be a pair. Elsewhere in a footnote, Szendy quotes a remark in ‘Restitutions’: ‘[Heidegger] speaks of two ears, of a pair of ears perhaps, apparently undetachable, but whose *being-double* permits the stereophony of the void to let itself be heard’ (R 433/379).²⁴ But for Szendy deconstruction takes place in ‘the distance or distension between ears *that do not form a pair*.’²⁵

Moreover, this third ear, Derrida suggests in *Otobiographies*, opens up a hearing beyond accountability (it ‘does not answer’ to the question of its difference) or that at least problematizes the aud(it)ability of difference. The proliferation of aural difference I am proposing at the heart of academic freedom thus also promises to transform its responsibility from the horizon of the sovereign performative ‘as if’ and of ideality to what Derrida will distinguish in *L’université sans condition* and elsewhere as the unconditionality of an event whose arrival exceeds prediction, calculation, and any power that can be appropriated to subjective mastery in the guise of an ‘I can’ and with it any power or freedom of critique:

For deconstruction, if something of the sort exists, would remain above all, in my view, an unconditional rationalism that never renounces—and precisely in the name

of the Enlightenment to come, in the space to be opened up of a democracy to come—the possibility of suspending in an argued, deliberated, rational fashion, all conditions, hypotheses, conventions, and presuppositions, and of criticizing unconditionally all conditionalities, including those that still found the critical idea, namely, those of the *krinein*, of the *krisis*, of the binary or dialectical decision or judgment.²⁶

Going beyond simply choosing the performative of practical reason over the constative of theoretical reason, this unconditionality exceeds any ruse of reason by which it conceals from itself the unheard-of that would take it by surprise. As an instance of hearing, it goes beyond and unravels the effect of what speech-act theorists call ‘uptake’ and which, upon most interpretations, falls within the teleology of expectation, even if securing it cannot be guaranteed in advance. To displace the criticist notion of critique, the hearing of the university, the hearing that it is due and that it lends, must open itself up to an altogether more uncertain *impuissance* that Hélène Cixous often likens to the ‘take-off [*coup d’aile*]’ of writing.²⁷ And if the responsibility of academic freedom is to exceed the performative profession of commitment, however important that is, it will be founding listening on one foot.

NOTES

¹ Immanuel Kant, *Der Streit der Fakultäten/The Conflict of the Faculties*, translated by Mary J. Gregor (New York: Abaris Books, 1979), 22–23; hereafter S. I follow the translation in Jacques Derrida, “Mochlos, or The Conflict of the Faculties,” translated by Jan Plug, in *Eyes of the University: Right to Philosophy 2* (Stanford, CA: Stanford University Press, 2004), 83–112, at 84; hereafter M.

² Jacques Derrida, “Tympan,” in *Marges—de la philosophie* (Paris: Minuit, 1972); ‘Tympan,’ in *Margins of Philosophy*, translated by Alan Bass (Chicago: University of Chicago Press,

1990), I–XXV/x–xxix; hereafter T. Jacques Derrida, *Geschlecht III*, edited by Geoffrey Bennington, Katie Chenoweth, and Rodrigo Therezo (Paris: Seuil, 2018); *Geschlecht III: Sex, Race, Nation, Humanity*, edited by Geoffrey Bennington, Katie Chenoweth and Rodrigo Therezo and translated by Katie Chenoweth and Rodrigo Therezo (Chicago: University of Chicago Press, 2020), 41n/9n10.; hereafter GIII.

³ On the intimate link between audibility and accountability in the notion of responsibility (or response-ability) via the figure of the ‘audit,’ see Simon Morgan Wortham, ‘Auditing Derrida,’ in *Counter-Institutions* (New York: Fordham University Press, 2006), 85–118.

⁴ For a reading of ‘Mochlos’ and *L’université sans condition* that links autonomy as unconditional sovereignty to Derrida’s earlier reading in *La voix et le phénomène* of Husserl and the *s’entendre parler* in the inner ear of phenomenological idealization, see Dawne McCance, *Medusa’s Ear: University Foundings from Kant to Chora L* (Albany, NY: State University of New York Press, 2004).

⁵ *Pernell et al. v Florida Board of Governors of the State University System*, No. 4:2022cv00304, Document 63 (N.D. Fla. 2022), November 17, 2022.

⁶<https://pen.org/press-release/proposed-new-florida-law-would-place-the-most-draconian-and-censorious-restrictions-on-higher-education-in-the-country-says-pen-america>.

⁷ <https://allaccess.collegeboard.org/college-board-responds-florida-department-education>.

⁸ C. Thi Nguyen, ‘What is Polarization or Propaganda?’ *Journal of Philosophical Research* 46 (2021):173–191.

⁹ Jacques Derrida, *Séminaire La bête et le souverain I (2001–2002)*, edited by Michael Lisse, Marie-Louise Mallet, and Ginette Michaud (Paris: Galilée, 2008); *The Beast and the Sovereign, Volume I*, translated by Geoffrey Bennington (Chicago: University of Chicago Press, 2009), 25/6.

¹⁰ <https://allaccess.collegeboard.org/college-board-responds-florida-department-education>.

¹¹ Jacques Derrida, *L'université sans condition* (Paris: Galilée, 2001); 'The University Without Condition,' in *Without Alibi*, edited and translated by Peggy Kamuf (Stanford, CA: Stanford University Press, 2002), 13/203–4.

¹² Miguel de Beistegui, *Thought under Threat: On Superstition, Spite, and Stupidity* (Chicago: University of Chicago Press, 2022).

¹³ Hent de Vries, 'State, Academy, Censorship: The Question of Religious Tolerance,' in *Religion and Violence: Philosophical Perspectives from Kant to Derrida* (Baltimore: John Hopkins University Press, 2002), 38.

¹⁴<https://wonkhe.com/wp-content/wonkhe-uploads/2022/06/Letter-Regarding-Free-Speech-and-External-Assurance-Schemes-1.pdf>.

¹⁵ Naomi Waltham-Smith, 'Take it or Leave It: The Political and Epistemic Effects of Academic Freedom,' *The Philosopher* 109, no. 4 (Autumn 2021): 81.

¹⁶ McCance, Medusa's Ear, 109.

¹⁷ Jacques Derrida, *Séminaire La bête et le souverain II (2002–2003)*, edited by Michael Lisse, Marie-Louise Mallet, and Ginette Michaud (Paris: Galilée, 2010); *The Beast and the Sovereign, Volume II*, translated by Geoffrey Bennington (Chicago: University of Chicago Press, 2011), 98–99/59; hereafter BS2. See also Immanuel Kant, "What Does It Mean to Orient Oneself in Thinking? (1786)," in *Religion and Rational Theology*, translated and edited by Allen W. Wood (Cambridge: Cambridge University Press, 1996), 1–18.

¹⁸ Jacques Derrida, 'Restitutions,' in *La vérité en peinture* (Paris: Flammarion, 1978); 'Restitutions,' in *The Truth in Painting*, translated by Geoffrey Bennington and Ian McLeod (Chicago: University of Chicago Press, 1987), 411/360; hereafter R.

¹⁹ On this point, see Morgan Wortham, 'Auditing Derrida,' 94–95.

²⁰ Jacques Derrida, *Otobiographies. L'enseignement de Nietzsche et la politique du nom propre* (Paris: Galilée, 1984); 'Otobiographies,' translated by Avital Ronell, in *The Ear of the Other:*

Otobiography, Transference, Translation, edited by Christie McDonald (New York: Schocken Books, 1985), 104/33.

²¹ *Ibid.*, 107/34–35.

²² Peter Szendy, ‘The Auditory Re-Turn (The Point of Listening),’ in *Thresholds of Listening: Sound, Technics, Space*, ed. Sander van Maas (New York: Fordham University Press, 2015), 27–29. See also Szendy, *Of Stigmatology: Punctuation as Experience*, translated by Jan Plug (New York: Fordham University Press, 2018), 55–58.

²³ Cf. also Jacques Derrida, ‘La main de Heidegger (*Geschlecht II*),’ in *Psyché: Invention de l’autre II* (Paris: Galilée, 1987); ‘Heidegger’s Hand (*Geschlecht II*)’ in *Psyche: Invention of the Other, Volume II*, edited by Peggy Kamuf and Elizabeth Rottenberg, translated by John P. Leavey Jr and Elizabeth Rottenberg (Stanford, CA: Stanford University Press, 2008), 302n13: ‘I just spoke of the ear of the other as a third ear. That was not only to multiply to excess the examples of pairs (feet, hands, ears, eyes, breasts, etc.) and all the problems they should pose to Heidegger. It is also to underscore that one can write on the typewriter, as I have done, with three hands between three tongues.’

²⁴ Szendy, *Of Stigmatology*, 118n13.

²⁵ *Ibid.*, 55; my emphasis.

²⁶ Jacques Derrida, *Voyous: deux essais sur la raison* (Paris: Galilée, 2003); *Rogues: Two Essays on Reason*, translated by Pascale-Anne Bault and Michael Naas (Stanford, CA: Stanford University Press, 2005), 197/142.

²⁷ See, for example, Hélène Cixous, *Jours de l’an* (Paris: des Femmes, 1990); *First Days of the Year*, translated by Catherine A. F. MacGillivray (Minneapolis: University of Minnesota Press, 1998), 139/119.