

CHAPTER 9

Freedom for All

Academic Freedom in a Pluralistic Society

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As *Mad Men*'s Don Draper once said, "If you don't like what's being said, change the conversation." This is what Afrodescendant people have wanted since the abolition of slavery. But how does one "change the conversation" when the racial contract continues to perpetuate the dominance of some groups over others,² notably by invoking academic freedom to shield remnants of the past?

SOCIAL CONTEXT: UNIVERSITIES AS WHITE SPACES

The white space, or *White Space*,³ is composed of all the elements of a society in its material and symbolic dimensions. It is a space in which racism is reproduced by the professional class—those who systematically privilege, in discursive and sometimes coercive ways, Eurodescendants over nonwhites.⁴

¹ The author thanks Professor Frédéric Mégret (McGill University) and Me Mireille Fournier (Sciences Po) for their insightful comments, and Nicolas Kamran for the translation.

² Charles W. Mills, *The Racial Contract* (Ithaca: Cornell University Press, 1997), 3.

³ Elijah Anderson, *Black in White Space* (Chicago: Chicago University Press, 2022), 14–15, 251–252.

⁴ Amanda Carlin, "The Courtroom as White Space: Racial Performance as Non-credibility," *UCLA Law Review* 63 (2016): 462.

Universities have been active participants in the theoretical development of racial hierarchy.⁵ Some say that they are the institutions where “prejudices were legitimized through deliberately biased studies.”⁶ Power there was concentrated in the hands of men of European descent,⁷ who developed the principles and norms applicable to their institutions. It would therefore be hard to claim that the values governing universities are neutral or objective. As white spaces, they tend instead to ignore the very effects of their whiteness, which then allows them to position their norms as exercises in neutrality and reason—all while reinforcing the establishment of a white space. Jurist Barbara Flagg has named this process “the transparency phenomenon.”⁸ The culture of whiteness and the privileges that flow from it remain, paradoxically, omnipresent but invisible.

Although universities now have programs for diversity, equity, inclusion, and even antiracism, substantive change is still long overdue and carries its share of institutional risk. One need look no further than the mistreatment of Harvard’s former president for proof of this. Claudine Gay was the first Black woman to head this institution, and her appointment was hailed as a major step forward in terms of “diversity.”⁹ Yet her downfall was brutal and abrupt, something akin to a social death.¹⁰ Gay was forced into resignation following mounting criticisms of her defense of academic freedom on campus, a result of pressure from government, faculty, and alumni.¹¹ In

- 5 Efram Sera-Shriar, “Race,” in *Historicism and the Human Sciences in Victorian Britain*, ed. Mark Bevir (Cambridge: Cambridge University Press, 2017), 70.
- 6 Ijeoma Oluom, *Mediocre* (New York: Seal Press, 2020), 97.
- 7 Isabelle Hachey, “Ça va trop loin (ou pas),” *La Presse*, April 1, 2022, www.lapresse.ca/actualites/chroniques/2022-04-01/ca-va-trop-loin-ou-pas.php.
- 8 Flagg notes that “transparency often is the mechanism through which white decisionmakers who disavow white supremacy impose white norms on blacks [namely the requirement to assimilate Black people in the pursuit of pluralism].” Barbara J. Flagg, “‘Was Blind, but Now I See’: White Race Consciousness and the Requirement of Discriminatory Intent,” *Michigan Law Review* 91 (1993): 450, cited in Carlin, “The Courtroom as White Space,” 450, 453, 459.
- 9 Stephanie Saul and Vimal Patel, “Harvard Names a New President, an Insider and Historic First,” *New York Times*, December 15, 2022, www.nytimes.com/2022/12/15/us/harvard-president-claudine-gay.html.
- 10 Zaire Z. Dinzey-Flores, “This Is How Black Women Leaders Do Not Survive,” *The Griot*, January 4, 2024, <https://thegrio.com/2024/01/04/this-is-how-black-women-leaders-do-not-survive/>: “Even when you have all the accolades, all the knowledge, all the skills and attributes, it is hard to know the way forward. How is success achievable when the scrutiny is so vast and extensive? This is how we die, even if it may have felt for a moment that we triumphed.”
- 11 Claudine Gay, “Claudine Gay: What Just Happened at Harvard Is Bigger Than Me,” *New York Times*, January 3, 2024, www.nytimes.com/2024/01/03/opinion/claudine-gay-harvard-president.html.

many ways, she was collateral damage for the broad backlash against diversity, equity, and inclusion (DEI) in the United States.¹² Once more, we must remain cognizant of the fact that “[when] a Black woman enters a leadership position, she is under immediate suspicion that she is going to focus on particular issues (e.g., DEI) regardless of the position she is in. [They] are more often questioned about the projects or activities (they) want to pursue, and don’t always get the institutional support that others take for granted.”¹³

Claudine Gay’s “story reflects a pattern of adversity suffered not merely by her, but also countless other Black women in leadership positions.”¹⁴ Black women who have dared to occupy positions of power in white spaces have seen their presence characterized as deserving of suspicion. In those spaces, their credibility is quickly called into question, while intersectional sexism and racism, such as misogynoir,¹⁵ only accentuate the racist treatment they face. Gay had been moving in circles of power in white spaces for years, constantly required to adduce evidence of her belonging within them. More evidence was required of her this time. This is part of the context in which the analyses of academic freedom must take place.

THE RACIAL CONTRACT AT THE HEART OF SOCIAL INTERACTION

Held to the outer limits of knowledge and “civilization,” Black people have been historically excluded from universities. Defined by the otherness,¹⁶ they have been greeted with suspicion. Statistics show that the presence of Black

12 Charles Blow, “The Persecution of Harvard’s Claudine Gay,” *New York Times*, January 2, 2024, www.nytimes.com/2024/01/03/opinion/harvard-claudine-gay-politics.html.

13 Nadia E. Brown, “The Challenges Facing Black Leaders,” *Good Authority*, January 12, 2014, <https://goodauthority.org/news/challenges-facing-black-leaders-claudinegay-harvard/>.

14 Kimberly Bryant, “Claudine Gay and the Black Girlboss Paradox,” *Boston Globe*, January 9, 2024, www.bostonglobe.com/2024/01/09/opinion/claudine-gay-black-girlboss-paradox/.

15 Janice Gassam Asare, “Academia Is Failing Black Women: Examining Misogynoir within the Academy,” *Forbes*, January 16, 2024, www.forbes.com/sites/janicegassam/2024/01/16/academia-is-failing-black-women-a-brief-examination-of-misogynoir-within-the-academy/?sh=3cfbd9213adc; Janelle Benjamin, “Harvard’s Dr. Claudine Gay: Misogynoir on Full Display,” *All Things Equitable*, January 5, 2024, www.allthingsequitable.ca/blog/harvard-president-claudine-gay-misogynoir-full-display.

16 Toni Morrison, *The Origin of Others* (Cambridge: Harvard University Press, 2017); Martha R. Mahoney, “Whiteness and Women—In the Practice and Theory: A Reply to Catherine Mackinnon,” *Yale Journal of Law and Feminism* 5 (1993): 220.

intellectuals in Canadian universities remains sparse,¹⁷ with Ibram X. Kendi noting how their credentials¹⁸ are often contested through campaigns aimed at destroying their credibility.¹⁹

The notion of white space is not dissimilar to what Fanon called the space of the colonizer as opposed to that of the colonized.²⁰ The space of colonizer allows them to be seen and heard, but also to claim agency—a privilege denied to the colonized:

Power is first and foremost the power to see or to not see—and in the latter case, to expunge reality, to strike it out, to blot it out, to bracket it, to de-realize. ... Seeing is therefore a foundational issue for the constitution of a common life and the recognition of likeness or, on the contrary, the entrenchment of difference. We might also say that seeing is at the root of all human interaction. But there is also a relationship between being driven into invisibility and remaining silent.²¹

As described by Charles W. Mills, this absence of recognition and representation is explained by the racial contract to which universities are party as social actors. This contract presupposes a degree of *white ignorance*, which disguises an unjust social order that maintains certain nonwhite subjects as socially “incapable” due to their subordination, a context in which the social construction of race plays an important role. White people are thus ignorant of Black people and race relations. For Raúl Pérez, this epistemological ignorance “[marginalizes] the history and memory of white racial domination and its impact on the present by putting white racism out of sight and out of mind.”²²

17 Frances Henry et al., *The Equity Myth: Racialization and Indigeneity at Canadian Universities* (Vancouver: University of British Columbia Press, 2017), 5.

18 Adria R. Walker, “‘Racist, Vicious’: Academics Decry Right-Wing Attacks on Claudine Gay,” *The Guardian*, January 3, 2024, www.theguardian.com/education/2024/jan/03/racist-rightwing-attacks-claudine-gay-former-harvard-president.

19 Ibram X. Kendi, “The Crisis of the Intellectuals,” *The Atlantic*, March 22, 2023, www.theatlantic.com/ideas/archive/2023/03/intellectualism-crisis-american-racism/673480/.

20 Frantz Fanon, *Les damnés de la terre* (Paris: La découverte, 2002), 42–45.

21 Achille Mbembe, “De la scène coloniale chez Frantz Fanon,” *Rue Descartes* 58 (2007): 37–55.

22 Raúl Pérez, *The Souls of White Jokes How Racist Humor Fuels White Supremacy* (Stanford: Stanford University Press, 2022), 37.

The racial contract is defined as “that set of formal or informal agreements or meta-agreements ... between the members of one subset of humans, henceforth designated by ... ‘racial’ ... criteria ... as ‘white.’”²³ The subset of human beings categorized as “nonwhite” is assigned a different and inferior moral status. They are construed as “subhuman,” subordinates within the white political system. As such, only white people have the capacity to define social rules. Since they are considered to be deficient citizens, amoral or immoral people, bereft of reason, Black people are excluded from the social contract and do not stand to benefit from the political and moral contracts.

The moral and legal rules governing the conduct of white people in their mutual social interactions do not apply to their relationships with non-whites, or only slightly. This racial contract grants privilege to white people.²⁴ In those societies that are infused with the legacy of slavery, of which all forms of racism are a manifestation, those benefiting from the racial contract consider themselves as the only moral and rational citizens. As such, this contract enables white people to seize and retain power by controlling the bodies, resources, and land of racialized and colonized peoples.

In short, the social contract consolidates white privilege. Politically speaking, the social contract envisions “abstract men without race” who are white, while the racial contract reveals how the social construct of race is deployed by white people to preserve their power and maintain their privilege.

UNIVERSITIES IN LIGHT OF THE RACIAL CONTRACT

By ignoring or denying the effects of the racial contract, universities perpetuate historical oppression. Notions of neutrality, objectivity, and reasonableness (*common sense*) cloak privilege, rendering discriminatory and racist acts invisible to the naked eye.²⁵ In particular, universities embrace “democratic racism,” which may be defined as an ideology in which democratic values such as justice, equality, and fairness can coexist with racism.²⁶

23 Mills, *The Racial Contract*, 11.

24 Peggy McIntosh, “White Privilege: Unpacking the Invisible Knapsack,” *The National SEED Project*, 1989, <https://nationalseedproject.org/key-seed-texts/white-privilege-unpacking-the-invisible-knapsack>.

25 Frances Henry and Carol Tator, *The Colour of Democracy: Racism in Canadian Society*, 3rd ed. (Toronto: Nelson Thomson, 2006), 18.

26 Henry and Tator, *The Colour of Democracy*, 22.

Scheurich and Young have identified certain expressions of racism in the academic world, noting how “racism in the academy goes beyond the individual, institutional and societal manifestations to also incorporate the epistemological and ontological constructs of racism.” The authors note further “that epistemological racism is drawn from [broad] civilizational structures, the level that encompasses the deepest assumptions about the nature of reality (ontology) the ways of knowing that reality (epistemology), and (axiology) presumption about the real, the true and the good.”²⁷ One way in which racism is stratified is through the Western Canon of “Great Works,” uncritically taught in universities as if they represented an objective form of knowledge about the human condition. Discussions surrounding academic freedom cannot take place in the abstract, that is, by erasing the power dynamics at play. This freedom has a political dimension. Arguments in the matter carry the risk of obscuring how academic freedom unwittingly protects privilege.

ACADEMIC FREEDOM

The Supreme Court of Canada’s holding in *McKinney* presents the university as a largely autonomous community in law, for academic freedom²⁸ is

27 Scheurich and Young quoted by Frances Henry and Carol Tator, “Theoretical Perspectives and Manifestations of Racism in the Academy,” in *Racism in the Canadian University: Demanding Social Justice, Inclusion, and Equity*, ed. Frances Henry and Carol Tator (Toronto: University of Toronto Press, 2009), 35.

28 The debate rages on in the United States. In March 2023, Dean Jenny Martinez of Stanford Law School took a stand in an open letter, stating that a “commitment to diversity, equity, and inclusion can and should be implemented in ways that are consistent with its commitment to academic freedom and free speech,” a position grounded in the Chicago Statement. See Jenny S. Martinez, “SLS Memorandum on Academic Freedom,” *Stanford Law School*, March 22, 2023, <https://law.stanford.edu/wp-content/uploads/2023/03/Next-Steps-on-Protests-and-Free-Speech.pdf>. Cornell University president Martha E. Pollack (pictured in her office with a photo of Nelson Mandela in prison) took the same position a few days later, rejecting a student resolution calling for trigger warnings to be issued in class when necessary. President Pollack believed such warnings risked encroaching on professors’ freedom to select and present course material as they saw fit; see Katherine Rosman, “Should College Come with Trigger Warnings? At Cornell, It’s a ‘Hard No,’” *New York Times*, April 12, 2023, www.nytimes.com/2023/04/12/nyregion/cornell-student-assembly-trigger-warnings.html. This position has a blind spot: the marketplace of ideas. See Francis Dupuis-Déri, *Panique à l’université: Rectitude politique, wokes et autres menaces imaginaires* (Montreal: Lux Editeur, 2022), 157–160. As noted by Herbert Marcuse, the market is hardly ever a level-playing field; see Herbert Marcuse, *Tolérance répressive, suivie de Quelques conséquences sociales de la technologie moderne* (Paris: Homnisphères, 2008), 80–81. Academic freedom could thus be considered through this angle. Without this insight, reinstituting those traditions developed before the

“essential to our continuance as a lively democracy.”²⁹ With that said, there is no universally accepted definition of academic freedom.³⁰ Historically speaking, two sources have helped define the notion, namely the declarations from the American Association of University Professors (AAUP) and the University of Chicago. The AAUP defined academic freedom within its 1915 and 1940 Statements of Principle on Academic Freedom and Tenure, setting forth how professors should be free to conduct their research and teaching as experts seeking to advance human knowledge.³¹ The 1902 Chicago Declaration established the principle of complete free speech on all subjects as fundamental, a “principle [that] can neither now nor at any future time be called in question.”³²

With this being said, universities in this same period were persistently denying admission to prospective students on the grounds of race, ethnicity, sexual orientate, gender, and religion. One has no choice but to acknowledge how universities protected the interests of the dominant group (white men), thus ensuring that certain ideas could not be placed into proper context or fully challenged—and thus maintaining the racial contract. This state of affairs doubtlessly influenced dominant interpretations of academic freedom, interpretations that remain influential in contemporary academia.

emergence of ideas like Critical Race Theory and the racial contract will only maintain a devastating status quo.

29 *McKinney v University of Guelph*, 1990 CanLII 60 (SCC), [1990] 3 SCR 229 at 286–287.

30 Michel Bastarache, “Rapport du Comité sur la liberté académique de l’Université d’Ottawa,” 2021, <https://fr.scribd.com/document/537258893/Rapport-du-Comite-sur-la-liberte-academique-de-l-Universite-d-Ottawa#>.

31 AAUP, “1915 Declaration of Principles on Academic Freedom and Academic Tenure,” in *American Association of University Professors: Policy Documents and Reports*, ed. H.-H. Tiede (Washington, DC: American Association of University Professors, 2015); AAUP, “1940 Statement of Principles on Academic Freedom and Tenure with 1970 Interpretive Comments,” in *American Association of University Professors: Policy Documents and Reports*, ed. H.-H. Tiede (Washington, DC: American Association of University Professors, 2015).

32 Office of the Provost, University of Chicago, “Report of the Committee on Freedom of Expression,” 2014, <https://provost.uchicago.edu/sites/default/files/documents/reports/FOECommitteeReport.pdf>. In 2014, it was further emphasized that “the freedom to debate and discuss the merits of competing ideas does not, of course, mean that individuals may say whatever they wish, wherever they wish. The University may restrict expression that violates the law, that falsely defames a specific individual, that constitutes a genuine threat or harassment, that unjustifiably invades substantial privacy or confidentiality interests, or that is otherwise directly incompatible with the functioning of the University ... But these are narrow exceptions to the general principle of freedom of expression, and it is vitally important that these exceptions never be used in a manner that is inconsistent with the University’s commitment to a completely free and open discussion of ideas.”

This is why it is important to conceptualize academic freedom in light of the international instruments that offer new parameters for interpreting and circumscribing it.

*THE UNESCO RECOMMENDATION CONCERNING THE STATUS OF
HIGHER EDUCATION TEACHING PERSONNEL (1997)*

The Supreme Court of Canada has recognized the use of international instruments in interpreting legislation,³³ but they are also useful for better understanding the scope of the protections afforded by “rights” or “freedoms” such as academic freedom. At the outset, I will turn my attention to the 1997 UNESCO Recommendation concerning the Status of Higher Education Teaching Personnel (Recommendation), which recognizes that “the right to education, teaching, and research can only be fully enjoyed in an atmosphere of academic freedom and autonomy for institutions of higher education and that 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.”³⁴

The Recommendation refers to other UNESCO instruments, including the Convention against Discrimination in Education (1960),³⁵ “which recognizes that UNESCO has a duty not only to proscribe any form of discrimination in education but also to promote equality of opportunity and treatment for all in education at all levels.”³⁶ It applies to “all those persons in institutions or programs of higher education who are engaged to teach and/or to undertake scholarship and/or to undertake research and/or to provide educational services to students or the community at large.”³⁷

33 *Baker v Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817 at para. 71: “The principles of the Convention and other international instruments place special importance on protections for children and childhood, and on particular consideration of their interests, needs, and rights. They help show the values that are central in determining whether this decision was a reasonable exercise of the H & C power.”

34 UNESCO, “Recommendation Concerning the Status of Higher Education Teaching Personnel,” 1997, preamble.

35 Convention against Discrimination in Education, December 14, 1960, 429 UNTS 93 (entered into force May 22, 1962). Note that Canada is not a party to the convention.

36 UNESCO, “Recommendation Concerning the Status of Higher Education Teaching Personnel,” preamble.

37 UNESCO, “Recommendation Concerning the Status of Higher Education Teaching Personnel,” Art. 1(f).

The Recommendation states that institutions should uphold academic freedom as well as fundamental rights. In particular, students must be “treated fairly and justly, and without discrimination.”³⁸ Institutions must ensure that professors “are not impeded in their work in the classroom or their research capacity by violence, intimidation or harassment.”³⁹ Policies and procedures must therefore be established to “ensure the equitable treatment of women and minorities and to eliminate sexual and racial harassment.”⁴⁰

INTER-AMERICAN COMMISSION ON HUMAN RIGHTS: THE INTER-AMERICAN PRINCIPLES ON ACADEMIC FREEDOM AND UNIVERSITY AUTONOMY (2021)

December 2021 saw the publication of the Inter-American Commission on Human Rights’ Inter-American Principles on Academic Freedom and University Autonomy, which aims to facilitate the development of normative and legal frameworks for academic freedom in the Americas.⁴¹

Inspired by the Universal Declaration of Human Rights,⁴² these principles emphasize the importance of nondiscrimination in interpreting academic freedom. Indeed, this freedom should promote, protect, and guarantee “equally and without discrimination on any ground, including political or other opinions, ethnic-racial origin, nationality, age, gender, sexual orientation, gender identity and expression, language, religion, cultural identity, social origin, socioeconomic status, educational level, situation of human mobility, disability, genetic characteristics, mental or physical health condition, including those of infectious or contagious disease, mental impairment, and any other.”⁴³

Under these principles, academic freedom “encompasses the freedom of workers, employees, and students in academic institutions to express themselves with respect to said institutions and the educational system.”⁴⁴ This

38 UNESCO, “Recommendation Concerning the Status of Higher Education Teaching Personnel,” Art. 22(f).

39 UNESCO, “Recommendation Concerning the Status of Higher Education Teaching Personnel,” Art. 22(h).

40 UNESCO, “Recommendation Concerning the Status of Higher Education Teaching Personnel,” Art. 22(g).

41 Inter-American Commission on Human Rights, “Inter-American Principles on Academic Freedom and University Autonomy,” 182nd Session, December 6–7, 2021.

42 Universal Declaration of Human Rights, GA Res 217A (III), UNGAOR, 3rd Sess., Supp. No 13, UN Doc A/810 (1948) 71.

43 Inter-American Principles on Academic Freedom and University Autonomy, principle III.

44 Inter-American Principles on Academic Freedom and University Autonomy, principle I.

recognition enables students to denounce those biases and behaviors that help consolidate the racial contract.

These principles take the *common good* as the core justification for academic freedom, which “enables the consolidation of democracy, pluralism of ideas, scientific progress, human and societal development.”⁴⁵ Academic freedom is defined as a fundamental human right, related to the right to education, freedom of expression and association, and equality before the law. As such, “no discriminatory rule, act or practice based on such criteria suspected of discrimination, whether by state authorities or by private individuals, may in any way diminish or restrict the rights of a person in the exercise of his or her academic freedom.”⁴⁶

The convention sets forth a “proportionality” procedure when relevant rights conflict with one another, “[implying] that the adoption of any of these measures⁴⁷ must pursue aims that are not only legitimate under the American Convention on Human Rights, but also compelling.”⁴⁸

ACADEMIC FREEDOM AND FREEDOM OF SPEECH

In Canada, the scope of academic freedom encompasses the autonomy of universities and faculty from external pressures, including those levied by the State. Academic freedom is notably guaranteed by collective agreements and memoranda of understanding negotiated between faculty associations and university administrations. Although freedom of expression is not explicitly included within academic freedom, these freedoms are of course linked, and one cannot afford to ignore their similarities in scope and content.⁴⁹ With this said, academic freedom is complex: “It is a cluster of freedoms associated in various ways with various scholarly personnel and institutions. Freedom of expression is just one of those subsidiary freedoms.”⁵⁰

45 Inter-American Principles on Academic Freedom and University Autonomy, preamble.

46 Inter-American Principles on Academic Freedom and University Autonomy, principle III.

47 Measures restricting protected rights.

48 Inter-American Principles on Academic Freedom and University Autonomy, principle III.

49 Bastarache, “Rapport du Comité sur la liberté académique de l’Université d’Ottawa,” 19–27.

50 Shannon Dea, “First Dispatch: Academic Freedom and the Mission of the University,” *University Affairs*, September 5, 2018, www.universityaffairs.ca/opinion/dispatches-academic-freedom/first-dispatch-academic-freedom-and-the-mission-of-the-university/.

In *Zundel*, the Supreme Court underlined the core objectives pursued by freedom of expression, which are “promoting truth, political or social participation, and self-fulfillment.”⁵¹ Per the Alberta Court of Appeals, freedom of expression and academic freedom pursue similar aims:

Academic freedom and freedom of expression are inextricably linked. There is an obvious element of free expression in the protection of academic freedom, whether limited to the traditional conception of academic freedom as protecting the individual academic professional or applied more broadly to promote discussion in the university community as a whole ... In my view, there is no legitimate conceptual conflict between academic freedom and freedom of expression. Academic freedom and the guarantee of freedom of expression contained in the Charter are handmaidens to the same goals; the meaningful exchange of ideas, the promotion of learning, and the pursuit of knowledge.⁵²

Academic freedom has some similarities with freedom of expression.⁵³ As such, academic freedom is also subject to those reasonable limits that can be justified in a free and democratic society.⁵⁴ Bearing in mind that academic freedom is not absolute, how should it be deployed in a social context that recognizes the importance of DEI?

DEI POLICIES

In the wake of the social movements sparked by the murder of George Floyd, the lack of representation of Black people in universities became the object of increased attention. Commitments were taken to remedy the situation and give concrete institutional expression to policies of DEI.⁵⁵

DEI programs are not just human resources policies. Rather, they can be characterized as a means of implementing measures to redress the histori-

⁵¹ *R v Zundel*, [1992] 2 SCR 731 at 753.

⁵² *Pridgen v University of Calgary*, 2012 ABCA 139 at paras. 113–117.

⁵³ Jean-François Gaudreault-DesBiens and Léa Boutrouille, “Les libertés universitaires dans une université inclusive,” *Université de Montréal*, March 2020, www.umontreal.ca/public/www/images/diversite/documents/RAPPORTFINAL-LIBUNIV-JFGDLB-MARS_2020.pdf.

⁵⁴ Linda McKay-Panos, “Freedom of Expression at Canadian Universities: A Difficult Compromise?” *Law-Now*, July 4, 2019, www.lawnow.org/freedom-of-expression-at-canadian-universities-a-difficult-compromise/.

⁵⁵ See, e.g., McGill University, “Equity, Diversity & Inclusion (EDI) Strategic Plan 2020–2025,” 2020, www.mcgill.ca/equity/files/equity/mcgill_strategic_edi_plan_2020-20251.pdf.

cal wrongs of discrimination.⁵⁶ Assumed to take on organizational change through the creation of more inclusive university campuses, DEI policies only take effect if they alter the structures in which they operate.

As potentially questioned by Diana, “How does the University in which so many are committed to diversity manage to achieve so little on its behalf? ... The university has nothing whatsoever against diversity, as long as it doesn’t interfere with the white masculinity status quo.”⁵⁷ For DEI policies to be fully effective, the racial contract’s effects must be countered through an exercise in decolonization so as to ensure the well-being of Black students—who inherit historical traumas with intergenerational consequences.

This is why universities must listen to the stories of those who have lived through anti-Black racism: their narratives can compensate for the epistemological deficit of universities.⁵⁸ Critical Race Theory teaches us this crucial insight.⁵⁹ To be truly transformative, DEI must take racial justice into account. From then on, it may become a policy of justice (social and racial), equity, diversity, and inclusion (JEDI), which would require deliberate action aimed at dismantling systemic racism to enable structural change. Only racial justice can allow racialized people to flourish within universities.

THE EXPERIENCES OF BLACK UNIVERSITY STUDENTS AND FACULTY

TRACES OF HISTORY

The mobilization of Black students against racism at the university is nothing new. In 1969, six Black students attending Sir George Williams University filed complaints alleging that they faced discrimination from one of their

56 The Hon. Rosalie Silberman Abella, *Report of the Commission on Equality in Employment* (Ottawa: Human Resources and Skills Development Canada, 1984), 1–9.

57 Diana Relkel quoted by Henry and Tator, “Theoretical Perspectives and Manifestations of Racism in the Academy,” 15–16.

58 Aurélie Lancôt and Jean-François Gaudreault-DesBiens, “‘Si on m’avait écouté dès le début, si on avait écouté mon récit,’ Le narrativisme comme legs de la Critical Race Theory dans la pensée juridique Canadienne,” *Droit et société* 108 (2021): 337–350.

59 Richard Delgado and Jean Stefancic, *Critical Race Theory: An Introduction* (New York: New York University Press, 2001), 7; Carol A. Aylward, *Canadian Critical Race Theory: Racism and the Law* (Halifax: Fernwood, 1999); Kimberlé Crenshaw, “Twenty Years of Critical Theory: Looking Back to Move Forward,” *Connecticut Law Review* 117 (2011): 1255.

professors.⁶⁰ The dismissal of their complaints led to the largest student protest in Canadian history at the time. Over two hundred students occupied the school's computer lab in an event that has since been erroneously characterized as a "riot," when in fact the mobilization sought to obtain justice.⁶¹

Fifty years on, it is now time for universities to seriously consider the concerns of their Black students and time to decolonize universities so as to better consider their multiracial and multicultural contexts. Black students are leading the way toward a vision of academic freedom more sensitive to their experiences and perspectives.⁶²

THE EXPERIENCES OF BLACK UNIVERSITY STUDENTS

Universities must create an environment that is conducive to the pursuit of knowledge, but also to the development of those analytical tools upon which critical thinking can be based.

While Canada's professoriate is homogeneous,⁶³ its students are remarkably diverse. Yet the privileged position of university faculty, often white, risks obscuring the violence concealed in certain institutional stances. Most white students come from a homogeneous social background and have rarely interacted with racialized people. And even when they do, their failure to understand racial (and therefore power) dynamics prevents them from fully grasping the experiences of Black students. This gap in understanding is at the root of social interactions marked by stereotyping and racism, leaving Black students to feel isolated and excluded.⁶⁴

60 Sir George Williams University was the site of violent protests and a fourteen-day sit-in against racism. The events leading to the protest began in earnest in the spring of 1968, during which six Caribbean students accused their professor, Perry Anderson, of racist grading practices. See David Austin, *Nègres Noirs, Nègres Blancs* (Montréal: Édition Lux, 2015), 45–47, 168–198. See also Rinaldo Walcott, *On Property* (Windsor: Biblioasis, 2021), 79; Rinaldo Walcott and Idil Abdillahi, *BlackLife: Post-BLM and the Struggle for Freedom* (Winnipeg: Arbeiter Ring, 2019), 61–63.

61 In October 2022, Concordia University (formerly known as Sir George Williams) issued an official apology. Lucas Marsh, "Concordia Officially Apologizes for Mishandling 1969 Black Student Protests," *The Concordian*, November 7, 2022, <https://theconcordian.com/2022/11/concordia-officially-apologizes-for-mishandling-1969-black-student-protests/>.

62 Marlon Bailey et al., "Unsung, Underpaid, and Unafraid Black Graduate Students' Response to Academic and Social Anti-Blackness," in *Making Black Lives Matter: Confronting Anti-Black Racism*, ed. Kevin Cokley (San Diego: Cognella Academic Publishing, 2021).

63 "Canadian Universities Fall Short on Diversity," *Nature* 556 (2018): 399.

64 Marlon Bailey et al., "Unsung, Underpaid, and Unafraid Black Graduate Students," 241.

Anti-Black racism foments a sense of withdrawal among Black students, which can lead to dropping out of school. It should also be noted that Black women in universities face overlapping and intersectional forms of oppression.⁶⁵ Their limited presence in universities leaves them vulnerable to feelings of inadequacy, which then pushes Black students to constantly seek out the approval of others for the sake of proving their legitimacy.⁶⁶ This feeling of hypervigilance can affect one's academic performance, mental health, and interpersonal relationships. Their minority status on campus hinders their capacity to implement systemic changes and makes it more difficult for them to be heard.

In this environment, beyond experiencing a double consciousness⁶⁷ and carrying a racial burden,⁶⁸ Black students undergo race-related stress⁶⁹—stress that can be vicarious in nature, such as the stress felt at the murder of George Floyd. The racial violence lived through racist incidents, or the mention of the N-word carries their share of race-related stress for those involved.

To survive, Black students involve themselves in the antiracist education of white students, resulting in an emotionally taxing experience that can have adverse effects on their academic performance.⁷⁰ Linked to their experience of otherness, this “tax” can also have negative effects on their physical and psychological health.

It should be further noted that the slim presence of Black faculty has repercussions on the dynamics of intragroup support, an element of social

65 These injustices must also be recognized; see Laurenda McKinney, Daphne Halkias, and Leah Hollis, “Vicarious Bullying and Career Progression of African American Women Academics: An Integrative Literature Review,” *SSRN*, September 2, 2021, <https://dx.doi.org/10.2139/ssrn.3916282>; Wendi S. Williams and Catherine Lynne Packer-Williams, “Frenemies in the Academy: Relational Aggression among African American Women Academicians,” *Qualitative Report* 24 (2019): 2009.

66 Marlon Bailey et al., “Unsung, Underpaid, and Unafraid Black Graduate Students,” 243.

67 W. E. B. Du Bois, *Les âmes du peuple Noir* (Paris: La découverte, 2007), 11; Magali Besson and Mathieu Renault, *W. E. B. Du Bois, double conscience et condition raciale* (Paris: Éditions Amsterdam, 2021), 41, 49.

68 According to Laurentian University sociology professor Rachid Bagaoui, a person facing stigmatization can feel the racial burden. See Francesca Mérentié, “La charge raciale et la diversité ethnoculturelle,” *Ici Radio-Canada*, September 1, 2019, <https://ici.radio-canada.ca/nouvelle/1282296/charge-raciale-discrimination-racisme-diversite-ethnoculturelle-capsule-connaiss-ton-voisin>.

69 Association for Behavioral and Cognitive Therapies, “Race-Based Traumatic Stress,” www.abct.org/fact-sheets/race-based-traumatic-stress/.

70 Dnika J. Travis et al., “Emotional Tax: How Black Women and Men Pay More at Work and How Leaders Can Take Action,” *Catalyst*, 2016, www.catalyst.org/wp-content/uploads/2019/01/emotional_tax_how_black_women_and_men_pay_more.pdf.

capital. These professors are overburdened with the work related to the support of Black students. This situation only increases the risk of burnout and professional alienation that stems from a racially toxic work environment.⁷¹

In their efforts to create a more hospitable environment, students, armed with their ability to think critically, challenge certain stances taken by their university and professors. They also challenge traditional understandings of academic freedom. It is within this context that we propose to analyze the use of the N-word in the setting of Quebec universities—and touch upon a debate that eventually led to the enactment of a provincial law on academic freedom.

ACADEMIC FREEDOM IN THE QUEBEC CONTEXT

In 2021, the Act Respecting Academic Freedom in the University Sector was enacted in the province of Quebec.⁷² Some have claimed that this law runs counter to the fundamental principles underlying academic freedom. Indeed, the law has the effect of undermining university and faculty autonomy,⁷³ notably by transforming academic freedom into a political tool.⁷⁴

While the Act's preamble refers to the aforementioned Recommendation and recognizes that the full exercise of academic freedom requires institu-

71 Zawadi Rucks-Ahidian, "The Inequities of the Tenure-Track System," *Inside Higher Ed*, June 7, 2019, www.insidehighered.com/advice/2019/06/07/nonwhite-faculty-face-significant-disadvantages-tenure-track-opinion.

72 An Act Respecting Academic Freedom in the University Sector, RLRQ c L-1.2.

73 "Mieux protéger la liberté académique," report presented by the University of Montreal as part of the Committee on Citizen Relations' public consultation on Bill 32, May 9, 2022, 3. More recently, the Quebec government blocked the appointment of a professor to the board of the Institut national de la recherche scientifique, despite the professor having been nominated for the position by her colleagues at the institution. The government rationale for denying her the position hinged on the professor's alleged links to Adil Charkaoui, an Imam suspected and formerly detained by the Canadian government for terrorism. Her colleagues in the Quebec university sector have been steadfast in her defense, with the Teachers' Union accusing the government of "political interference," and the Quebec Federation of University Professors claiming that the government's decision was in violation of provincial law; see Marie-Michele Sioux, "Une prof de l'INRS disqualifiée en raison de 'liens' avec Adil Charkaoui, selon Québec," *Le Devoir*, January 26, 2024, www.ledevoir.com/politique/quebec/806073/prof-inrs-disqualifiee-liens-adil-charkaoui-selon-quebec. See also Frédéric Nadeau, "La belle ironie, ou quand la CAQ s'ingère dans les affaires universitaires," *Le Devoir*, January 26, 2024, www.ledevoir.com/opinion/libre-opinion/806008/libre-opinion-belle-ironie-ou-quand-caq-ingere-affaires-universitaires.

74 François Lemieux, "Mot en 'N': François Legault veut 'défendre la liberté d'expression," *Métro*, February 13, 2021, <https://journalmetro.com/actualites/national/2615784/francois-legault-defense-liberte-dexpression/>; Alex Mahoudeau, *La panique woke, anatomie d'une offensive réactionnaire* (Paris: Éditions textuel, 2022), 124.

tional autonomy, the Act fails to mention the Recommendation's measures on antidiscrimination. Though Canada is a signatory to the Inter-American Principles, no mention is made of them. Such omissions should give rise to some serious questions, especially considering how the very impetus for this piece of legislation was to respond to Black student discontent with a professor's use of the N-word.

This Act ignores the social context set out earlier, ignoring in particular how universities are becoming increasingly diverse.⁷⁵ Yet this demographic shift should be prompting us to ask more questions. As per the Act's preamble, why are some forms of discourse deemed "ideological" and others not?⁷⁶ We can note the effects of the racial contract and the transparency phenomenon. The traumatic experiences of Black students and the race-related stress they suffer are a blind spot for this law.

One of this Act's effects is to give academic freedom precedence over other fundamental rights, such as freedom from discrimination and the right to a healthy learning and work environment. In this context, one should note that the Act prohibits universities from requiring "trigger" or "content warnings"⁷⁷ from their professors.⁷⁸ As such, minorities' (a vulnerable group protected by the constitution) demands are ignored, running counter to the very foundations of academic freedom and the democracy it is supposed to protect.⁷⁹ This is despite how minority issues "play a central role in political life and permeate the functioning of all institutions and constitutional law."⁸⁰

75 Report presented by McGill University as part of the Committee on Citizen Relations' public consultation on Bill 32, May 9, 2022, 3.

76 The Act's preamble "defines the right to university academic freedom as the right of every person to engage freely and *without doctrinal, ideological or moral constraint* in an activity through which the person contributes to carrying out the mission of such an educational institution."

77 On racial trauma, triggers, and their consequences on the brain, see Janée M. Steele and Charmeka S. Newton, *Black Lives Are Beautiful, 50 Tools to Heal from Trauma and Promote Positive Racial Identity* (New York: Routledge, 2023), 25–27.

78 An Act Respecting Academic Freedom in the University Sector, RLRQ c L-1.2, Art. 4(5).

79 Many academic freedom policies drafted in compliance with the Act only reinforce this harmful situation for Black students. See, e.g., "McGill Draft Policy on Academic Freedom," February 2, 2023, www.mcgill.ca/provost/files/provost/mcgill_universitys_draft_policy_on_academic_freedom.pdf; "Statement on McGill University's Draft Policy on Academic Freedom," *McGill Black Faculty & Staff Caucus*, April 12, 2023, www.blackfacultycaucus.mcgill.ca/statements.

80 José Woehrling, "Les trois dimensions de la protection des minorités en droit constitutionnel comparé," *Revue de droit de l'Université Sherbrooke* 34 (2003): 93.

Black student demands for the prohibition of the N-word seek to build upon the evolution of human rights, particularly with regard to the social constructs of race and gender. Legal interpretations of academic freedom must take the racial contract into account if racial justice is to become a tangible reality. In fact, the common good justifies an interpretation of academic freedom that is supportive of social cohesion in a pluralist democracy. A relationship based on mutual listening must be at the heart of racial justice policy.

We must ask whether professors and the institutions in which they work can use academic freedom to counter the demands of students from historically excluded groups. The use of academic freedom as an excuse to ignore their demands for racial justice reveals how certain discourses, certain historically charged words, are valued to the detriment of equality rights, running counter to the Recommendations and Principles set out earlier.

THE N-WORD: A CASE STUDY

"I believe that words are things ... I think they stick on the walls, they go into the upholstery, they go into your clothes, and finally, into your very body."⁸¹

The N-word is rooted in a system of racial hierarchy and privilege, a system that enables dehumanization. After the abolition of slavery, the N-word became a racial slur, remaining a part of an enduring power structure.⁸² As noted by Raúl Pérez, the power of words is part of "how race and racism worked as a political and ideological tool for ruling-class whites in power by creating and maintaining social division and control within white-dominated societies."⁸³ As a vector for stereotypes transmitted from generation to generation, its mention is an act of violence that revives trauma and enforces the racial contract.⁸⁴ Alluding to the N-word in reference to a Black person

81 Lynn Okura Bey, "Maya Angelou on the Dangerous Power of Racist Words," *Huffpost*, August 11, 2016, www.huffpost.com/entry/maya-angelou-dangerous-words_n_57ab8af3e4boba7ed23ed49b.

82 Ijeoma Oluo, *So You Want to Talk about Race* (New York: Seal Press, 2018), 134–141.

83 Pérez, *The Souls of White Jokes*, 6.

84 Kevin Cokley, "The Psychological Impact of Racist Slurs: The Painful History and Consequences of the Weaponization of the N-Word," *Psychology Today*, May 13, 2021, www.psychologytoday.com/us/blog/black-psychology-matters/202105/the-psychological-impact-racist-slurs#:~:text=The%20leson%20to%20be%20learned%20here%20is%20simple%3A,to%20the%20cumulative%20racial%20trauma%20of%20Black%20people.

has consequences not only for the person targeted by the racial epithet but also for those who hear the word.

Even today, Black people are forced to confront this word and the attitudes that derive from it. Being called the N-word or living in a space in which the word is used corresponds to an “N-word moment,” that is, a moment in which the lack of respect owed to Black people can have detrimental effects on one’s life.⁸⁵ Continuing to use the N-word allows an oppressive world to stand firm in its rights and privileges. As an institution, the university should neither participate in nor defend such violence.

Allowing the use of the N-word in an academic context is to entrench racially charged conversation in a space where systemic racism has yet to be erased.⁸⁶ Moreover, regardless of the context in which it is used, tolerating this word has serious repercussions on the university’s institutional culture.

Yet this is exactly what happens when academic freedom is invoked to justify the use of the N-word. On the one hand, we allow students to suffer direct or indirect racial violence within the university. On the other hand, the university imposes a supplementary form of violence by preventing students from denouncing this racial violence—imposing upon them a silence “in support of academic freedom.”

VALLIÈRES’ WHITE N*****S OF AMERICA

Pierre Vallières’ *White N*****s of America*⁸⁷ is at the heart of this controversy. If it is brought up so often, it is due to the important role of the book in shaping the “Quebec subconscious.” It is time to puncture its myths once and for all.

Having since become a classic of Quebec literature, Vallières’ *White N*****s of America* was published in 1968, advancing a thesis that continues to influence Quebec politics today. If this book is problematic, it is not only due to its hyperbolic title. It is also because the book sets forth an implausible interpretation of lived experience in Quebec, failing to consider the existence of a French Canadian elite and the experiences of Black people in

85 Anderson, *Black in White Space*, 18–19.

86 Elsa Dorlin, *Se défendre. Une philosophie de la violence* (Paris: Zones, 2017), 175.

87 Pierre Vallières, *Nègres blancs d’Amérique* (Montréal: Typo, 1994).

Quebec since the early seventeenth century.⁸⁸ By ignoring Quebec's colonial history, Vallières feeds into a pernicious myth: that there was no slavery in New France or the British colony of Quebec. He omits the enslaved people Olivier Lejeune⁸⁹ and Marie-Angélique Joseph,⁹⁰ *N***** Rock*,⁹¹ and the basic fact that the articles of the Capitulation of Montreal determined the fate of enslaved people living in eighteenth-century Quebec.⁹²

Vallières defines Quebec identity by drawing upon the struggles of American enslaved people, but equates the Quebec worker's status to that of a "N*****": "The liberation struggle by the Americans blacks nevertheless arouses growing interest among the French-Canadian population, for the Quebec workers are aware of their condition as N****, as exploited, as second-class citizens. Have they not been, even since the establishment of New France in the seventeenth century, the servants of the imperialists, the white N**** of America?"⁹³ Although the lived experiences of the Québécois resemble those of second-class citizens, designating them as "N*****" ignores how the systemic racism experienced by Black people differs from the discrimination faced by Québécois, who, as whites, have always benefited from some degree of privilege, namely that of never having been chattel. In short, slavery is much more than poverty or being confined to low-paying work: it is the absence of freedom, being considered as an object to be owned by others and never as a subject of rights.

Vallières uses "race," or the word "N*****," to speak of social class—but it is impossible to deracialize the word "N*****," which has been constructed as central to racial and colonial power dynamics. In doing this, Vallières empties "N*****" of its historical meaning, erasing the history of anti-Black racism in Quebec. As such, his "amalgamative drive and the settler commonsen-

88 Fernande Roy, "Nègres blancs d'Amérique," *Mythes 1959–2009* 51 (Septembre 2009): 34–52; Austin, *Nègres Noirs, Nègres Blancs*, 23–30; Marcel Trudel, *Deux siècles d'esclavage au Québec* (Montréal: Biblio Québécoise, 2009).

89 Olivier Lejeune, "Répertoire du patrimoine culturel du Québec," www.patrimoine-culturel.gouv.qc.ca/rpcq/detail.do?methode=consulter&id=27849&type=pge.

90 Afua Cooper, *La pendaison d'Angélique* (Montréal: Les éditions de l'homme, 2007); Denyse Beaugrand-Champagne, *Le procès de Marie Joseph Angélique* (Montréal: Libre expression, 2004).

91 Rolland Viau, *Ceux de N***** Rock* (Montréal: Libre Expression, 2003).

92 Capitulation of Montreal 1760, Art. 47, <https://ville.montreal.qc.ca/memoiresdesmontrealais/files/article-47-de-la-capitulation-de-montreal-1760>.

93 Pierre Vallières, *White N*****s of America: The Precocious Autobiography of a Quebec Terrorist*, trans. Joan Pinkham (Toronto: Monthly Review Press and McClelland & Stewart, 1971), 21.

sicality of his class-conscious humanism and antiracism simply add a series of shades to his de-racialized and '(br)otherly' catalog of nè***s; Vallières thus remains firmly rooted in the white supremacist, antiblack, and settler colonial logic of his original appropriative gesture."⁹⁴

Even as he draws inspiration from the Black Panthers, influenced as much by Frantz Fanon as by Malcolm X, Vallières leeches off the Black experience and appropriates it for his own ends. It is one thing to draw inspiration from the Black freedom struggle, but quite another to reclaim their history for one's own myth-making purposes.⁹⁵ It is through his silences and omissions that Vallières is complicit in the consolidation of racial hierarchies.⁹⁶ With his privileged status as a white man, he gets to decide who figures most prominently in history. He marginalizes Black people once again, relegating them to a mere footnote in history, censoring their narratives.

Vallières has paved the way for a sort of generalized amnesia in Quebec, a province whose motto is "Je me souviens" ("I remember"). This amnesia is a political choice: "the wilful and selective process of sifting and filtering to find the memories that fit the narrative you are committed to" and, for the rest, "excising, negating and delegitimizing" those who contradict the national narrative.⁹⁷ Even today, racialized Québécois suffer the consequences of this truncated history. The premier's refusal, on behalf of the Quebec government, to acknowledge systemic racism is only a manifestation of a history entangled in the Vallières myth.

This position taken by Quebec, which has consistently advocated for its recognition as a nation, is particularly embarrassing when considering the availability of clear definitions for system racism against Africans and people of African descent, most notably the one proposed by the UN High Commissioner for Human Rights. This definition of systemic racism, "including as it relates to structural and institutional racism, is understood

94 Bruno Corneiller, "The Struggle of Others: Pierre Vallières, Québécois Settler Nationalism, and the N-Word Today," *Discourse: Journal for Theoretical Studies in Media and Culture* 39 (2017): 50.

95 Wendell Nii Laryea Adjetei, *Cross-Border Cosmopolitans: The Making of a Pan-African North America* (Chapel Hill: The University of North Carolina Press, 2023), 167.

96 Michel-Rolph Trouillot, *Silencing the Past: Power and the Production of History* (Boston: Beacon Press, 2015).

97 Gary Younge, "Lest We Remember: How Britain Buried Its History of Slavery," *The Guardian*, March 29, 2023, www.theguardian.com/news/ng-interactive/2023/mar/29/lest-we-remember-how-britain-buried-its-history-of-slavery.

to be the operation of a complex, interrelated system of laws, policies, practices, and attitudes in State institutions, the private sector, and societal structures that, combined, result in direct or indirect, intentional or unintentional, de jure or de facto discrimination, distinction, exclusion, restriction or preference on the basis of race, color, descent or national or ethnic origin. Systemic racism often manifests itself in pervasive racial stereotypes, prejudice, and bias and is frequently rooted in histories and legacies of enslavement, the transatlantic trade in enslaved Africans, and colonialism.”⁹⁸ It is clear that the N-word is clearly a manifestation of “pervasive racial stereotypes, prejudice, and bias and is frequently rooted in histories and legacies of enslavement.”

THE CASE OF VERUSHKA LIEUTENANT-DUVAL: A MORAL PANIC

During one of her lectures, the University of Ottawa lecturer Verushka Lieutenant-Duval uttered the N-word in reference to Vallières and his book. As a contract-based employee of the university, she was soon suspended from her position. A moral panic-fueled media storm swept through Quebec, as Black students were said to have “attacked” a vulnerable teacher.⁹⁹ This event also highlighted the notion of a “hierarchy of credibility” as defined by sociologist Howard Becker, a hierarchy that results in “our propensity to believe those with the power or higher status.”¹⁰⁰

Everything had to be done to protect this woman, preserve the established order of things, and maintain the status quo—and all this within a media context that is not or only performatively representative of Quebec diversity. When racialized minorities are included in media, they rarely hold anything more than a marginal influence on news content.

The case of Lieutenant-Duval has come to symbolize the “attack” on academic freedom. Public discourse, fueled by the government, forged a social crisis out of thin air. The incident was depicted as a transgression of domi-

98 United Nations High Commissioner for Human Rights, “Promotion and Protection of the Human Rights and Fundamental Freedoms of Africans and of People of African Descent against Excessive Use of Force and Other Human Rights Violations by Law Enforcement Officers,” UN Doc A/HRC/47/53 (2021), para. 9.

99 Judith Lussier, *Annulé(e): réflexions sur la cancel culture* (Montréal: Cardinal, 2021), 43–63.

100 Victor Ray, *On Critical Race Theory* (New York: Penguin Random House, 2022), 85.

nant values. This is a moral panic based primarily on a fear of “racial” and cultural differences.

Moral panics have been theorized by Stanley Cohen and Stuart Hall.¹⁰¹ According to Cohen, they tend to emerge out of those power struggles in which facts are manipulated to bolster the dominant position. Per Hall, this kind of panic illustrates how elites “consciously and deliberately fabricate moral panics, both to reinforce and justify social control mechanisms and to divert attention away from important issues and problems.”¹⁰²

Putting this panic into motion ostracized those Black students who had merely asked that their professor not use the N-word, even as their calls for racial justice only sought recognition of their dignity and of their right to a safe and healthy learning environment.¹⁰³ For some, all calls for social or racial justice are either expressions of “cancel culture,”¹⁰⁴ or an assault against “academic freedom” by historically marginalized groups.

This case illustrates how the individual realities and interests of elites influence media coverage and government responses to social issues. This state of affairs corresponds to how Henry and Tator’s description of the links between the media outlets and the political, economic, and cultural elites that dictate media coverage and legislative responses.¹⁰⁵ Building upon van Dijk’s work, these authors have found that editorials are aimed at elites, particularly politicians. A nonrepresentative media therefore influences the legislative agenda.

THE DISCOURSE OF VICTIMHOOD

Lieutenant-Duval has been portrayed as the victim of an attack perpetrated by a horde of Black students: the collective unconscious longs to protect this woman from Black bodies—an impulse not unlike the one underlying the practice of lynching, punishments once reserved for the Black men who dared to even speak to a white woman.¹⁰⁶ Ironically, by advancing the discourse of victimhood as a counter to demands for justice and emancipa-

101 See Dupuis-Déri, *Panique à l’université*, 51.

102 Dupuis-Déri, *Panique à l’université*, 52.

103 Mahoudeau, *La panique woke*, 21.

104 Lussier, *Annulé(e)*, 27–37.

105 Frances Henry and Carol Tator, *Discourses of Domination: Racial Bias in the Canadian English-Language Press* (Toronto: University of Toronto Press, 2002), 26, 235.

106 Timothy B. Tyson, *The Blood of Emmet Till* (New York: Simon & Schuster, 2017).

tion, the media and the State have marginalized those who make demands for racial justice as radicals, enemies of universalism, or activists hijacking the antiracist movement. Paradoxically, the use of this counterdiscourse by members of the majority (Eurodescendants) presents themselves as victims.

ON CENSORSHIP

For some, asking for the N-word to not be uttered is not only an attack on Vallières' work but an act of censorship. These people forget that censorship requires power. As Éric Fassin has noted, "The term censorship is misleading: to prohibit, one must have the power to prohibit. Thus, 'the ultimate recourse of minorities, beyond simple interpellation, is rather a boycott' and not an act of censorship. It's about using their weight to accredit or discredit, value or devalue, legitimize or delegitimize. In short, it's about playing the democratic game of values. Let's not reduce this politicization to a challenge to freedom of expression. On the contrary, it widens the circle of those who are entitled to this fundamental right."¹⁰⁷

Brandishing "censorship" aims to silence those who already have little or no voice. Discourses of censorship, victimhood,¹⁰⁸ moral panic,¹⁰⁹ "us" and "them,"¹¹⁰ and national identity only aim to preserve a status quo in which the majority remains free to oppress.¹¹¹ All these discourses run counter to the values upheld by academic freedom and its central place in democracy. Furthermore, deploying the moral panic of "wokeness" when describing the students' demands leaves much damage in its wake. In addition to demonizing a liberation movement (the Black American Woke movement), concrete policies have been marshaled in service to this moral panic. Indeed, the media's treatment panic of "wokeness" is akin to "[ridiculing] important issues."¹¹² As noted by Alex Mahoudeau, referring to the moral panic of "wokeness" as but a means to counter "any change that challenges or denat-

107 Dupuis-Déri, *Panique à l'université*, 163; Éric Fassin, "Qui annule qui? Contextualiser la polémique contre le cancel culture," *Médipart*, August 28, 2020.

108 Frances Henry and Carol Tator, *The Colour of Democracy: Racism in Canadian Society*, 4th ed. (Toronto: Nelson Education, 2009), 13.

109 Henry and Tator, *The Colour of Democracy*, 14.

110 Henry and Tator, *The Colour of Democracy*, 14.

111 Henry and Tator, *The Colour of Democracy*, 17.

112 Mahoudeau, *La panique woke*, 138.

uralizes social hierarchies”¹¹³ warns us against overlooking the ever-growing “phenomenon of institutionalizing moral panics.”¹¹⁴

THE N-WORD: A WORD THAT WOUNDS

The discourse of racism denial is brandished to silence the voices of Black people, thus perpetuating an imbalance of power.¹¹⁵ By discrediting their trauma (racial gaslighting),¹¹⁶ the suffering of Black students gets erased. Yet words create worlds. Though archaic, the N-word still carries the charge of hatred.¹¹⁷ The word is not a word. It is at best a concept, and at worst an assault on peoples’ psychological integrity.

As the standard bearer of white supremacy and the racial contract, this word only reinforces Black peoples’ sense of exclusion or self-exclusion.¹¹⁸ The word ultimately acts as an obstacle to the presence of Black people in universities and society.

I was told that during the University of Ottawa incident, the only Black professor in a Montreal university’s faculty was verbally abused by his colleagues. He broke down in tears. Against the academic freedom invoked by his white colleagues, this Black professor’s dignity held little weight. Although the N-word was not used against him, some of his colleagues saw fit to mount a defense of existing power structures. The use of the N-word became a source of collateral damage. These professors ignored the institutional privileges that had allowed them to consider their experiences as “universal,” thereby discrediting the experiences of “others” and extending their privilege.¹¹⁹ By refusing to grasp the racist significance of the N-word, pro-

113 Mahoudeau, *La panique woke*, 139.

114 Mahoudeau, *La panique woke*, 133–135.

115 Henry and Carol Tator, *The Colour of Democracy*, 11.

116 Sheila Wise Rowe, *Healing Racial Trauma, the Road to Resilience* (Downers Grove: Intervarsity Press, 2020), 15; V. E. Johnson et al., “It’s Not in Your Head: Gaslighting, ‘Splaining, Victim Blaming, and Other Harmful Reactions to Microaggressions,” *Perspectives on Psychological Science* 16 (2021).

117 Tamara Thermitus, “L’excellence ne met pas à l’abri du racisme,” *Pivot*, July 18, 2022, <https://pivot.quebec/2022/07/18/lexcellence-ne-met-pas-a-labri-du-racisme/>.

118 Christian Prince, “How Saying the N-Word Keeps White Supremacy Alive,” *Medium*, February 28, 2023, <https://medium.com/@cprincejr/how-saying-the-n-word-keeps-white-supremacy-alive-b72891b867a8>.

119 Harris analyzes Whiteness as the consolidating social force of White power. Cheryl I. Harris, “Whiteness as Property,” *Harvard Law Review* 106 (1993): 1707.

fessors at that university engaged in Whitesplaining.¹²⁰ Ignoring the experiences of blacks is a hermeneutical injustice: “when a gap in collective interpretative resources puts someone at an unfair disadvantage when it comes to making sense of their social experience.”¹²¹ This type of injustice is “caused by structural prejudice in the economy of collective hermeneutical resources.”¹²²

For some professors, the use of the N-word as an insult should be prohibited and sanctioned. However, if reference is made to a work or historical document containing the word, its use should be permitted, since its use is tied to the subject matter being taught. Such an approach overlooks how, at the time these works were created, racism was socially acceptable; to use the word today is to replicate this state of affairs. Moreover, this approach refuses to see how using this word can have vicarious or ripple effects on others.

David Raban, the student who filed a complaint against University of Chicago law professor (and noted free speech advocate) Geoffrey Stone when the latter used the N-word, noted how his professor, “as a white man, repeated a word used by white people to perpetuate the subjugation of Black Americans for hundreds of years. He trivialized the world’s history and the lived experience of Black students. He employed the word to highlight a white student’s reprehensible treatment of a Black student. He lent credence to the false stereotype that Black men are prone to violence.”¹²³

For Raban, Stone’s use of the N-word showcased what some call the *stereotype threat*,¹²⁴ that is, the detrimental impact on performance that occurs when an individual’s poor performance is at risk of confirming a task-relevant stereotype.¹²⁵ Black students targeted by this threat, who are led to believe that they only represent their racial group, conclude on some level that they have no agency—which is ultimately dehumanizing.

The case of Geoffrey Stone is quite interesting. He no longer uses this word when teaching. He finally recognized that using the N-word was caus-

120 Catriona Elder, “‘Whitesplaining’: What It Is and How It Works,” *The Conversation*, September 30, 2015, <https://theconversation.com/whitesplaining-what-it-is-and-how-it-works-48175>.

121 Miranda Fricker, *Epistemic Injustice: Power and the Ethics of Knowing* (New York: Oxford University Press, 2007), 1.

122 Fricker, *Epistemic Injustice*, 1.

123 David Raban, “Racism Thrives at the Law School,” *Chicago Maroon*, March 5, 2019, <https://chicagomaroon.com/26727/viewpoints/op-ed/racism-thrives-law-school/>.

124 Kristal Hines Shelvin et al., “Stereotype Threat in African American Children: The Role of Black Identity and Stereotype Awareness,” *Revue internationale de psychologie sociale* 27 (2014): 175–204.

125 Rokhaya Diallo, *Ne reste pas à ta place* (Vanves: Marabout, 2019), 75.

ing real harm to his students, whether white or Black. Now a grandfather of Black children, Stone is able to grasp the unsettling effects of the N-word. Through his experience, he seems to have become aware of his blind spots and privileges. With that being said, this example is ultimately one of how members of a group sharing the same social capital or “race” struggle to grasp the full scope of racism.¹²⁶

THE REPERCUSSIONS OF USING THE N-WORD

The notion of “words that wound” has been analyzed by Judith Butler and subsequently by Claire Oger, who notes how “the power of a name to wound [is grounded in] the sedimentation of the uses of the name that freezes its repetition.”¹²⁷ For her part, Mari J. Matsuda highlights the suffering experienced by the victim of a racist remark like the N-word.¹²⁸ She notes that to avoid their exposure to racist interactions, Black people sometimes quit their jobs, leave their homes, and avoid certain public spaces. She underscores how the N-word creates “inner turmoil.”

One should not lose sight of how the mere rejection of a racist mark does not prevent it from being stored in one’s psyche: this is what gives rise to internalized racism. From the victim’s perspective, the wounds inflicted by the N-word are neither random nor isolated. The word supplements and overlaps with the multiple forms that racism can take, reinforcing the existing conditions of racial domination. Just like blackface, the N-word is “more than the denigration and dehumanization of Blackness. It [is] also a powerful form of racism that player a key role in the formation of a sense of ‘whiteness.’”¹²⁹

Racism is an experience of psychic destruction that robs Black people of their dignity and humanity. It inflicts personal, psychological, and spiritual wounds. The use of the N-word contributes to this “spirit murder.”¹³⁰

126 Julie W. de Sherbinin, “White Professors Can Help Uproot Racism,” *Chronicle of Higher Education*, May 7, 2004, www.chronicle.com/article/white-professors-can-help-uproot-racism/.

127 Claire Oger, “Judith Butler, Le pouvoir des mots. Politique du performatif,” *Mots. Les langages du politique* 81 (2006): 125–129.

128 Mari J. Matsuda, “Public Response to Racist Speech: Considering the Victim’s Story,” *Michigan Law Review* 87 (1989): 2320.

129 Pérez, *The Souls of White Jokes*, 17.

130 Patricia Williams, “Spirit-Murdering the Messenger: The Discourse of Fingerprinting as the Law’s Response to Racism,” *University of Miami Law Review* 42 (1987): 127.

CAN ACADEMIC FREEDOM JUSTIFY THE USE OF THE N-WORD?

Considering the devastating effects of this word, could a Black person's right to fully participate in the academic experience be sacrificed in the name of allowing dominant groups to use the N-word? No. Such an interpretation of things, which ignores the rights and freedoms of Black people, must be rethought in light of the need to implement JEDI within universities.

The Black student and faculty demand to prohibit the use of the N-word goes to the very heart of education. They have the right to a healthy learning and work environment, and the right to demand that their search for knowledge do not contribute to their further alienation.

CONCLUSION

For universities to fully grasp the advances in knowledge regarding the social construction of race, the ramifications of the racial contract within the various structures of these institutions must be understood. This exercise is necessary if our democratic ideals are to become a reality for the Black students and faculty, who are the most burdened by the N-word's harmful effects. There is no intellectual duty to use dehumanizing words. On the contrary, universities must take student trauma into account and move with tact and sensitivity to foster a healthy work environment for racialized people.

The racial contract reveals the social contract's blind spots. Emancipation viewed from the faulty perspective of a decontextualized academic freedom will only benefit white people. This is what the racial contract reveals. Armed with this critical insight, we must then approach academic freedom within its proper context and deconstruct it in order to dismantle the racial contract. In this sense, Black professors and students cannot be present in merely symbolic or performative functions. With the lived experience of racism, they can instead elucidate the full consequences of the racial contract and explain to their fellow professors and students how white supremacy and systemic racism emerge within their institutional contexts.

These narrative experiences make up a wealth of knowledge that can be used to inform pedagogical approaches, which is why institutions must therefore make every effort to avoid assimilating their students and censoring their stories. Academic freedom cannot be used to silence or further

marginalize the voices of Black and other minority students and faculty, but must instead be interpreted in its proper context so as to guarantee all members of the community full participation in academic life.

Since universities have actively participated in the social and political construction of racial hierarchy, is it not time to truly remedy the historical exclusion of Black people from universities? Is it not time to foster the kind of environment that allows Black people to live out their academic experiences without being exposed to trauma? Advancing history means actively working against racism. As Sven Lindqvist writes in *Exterminate All the*

Brutes. “You already know enough. So do I. It is not knowledge we lack.

What is missing is the courage to understand what we know and to draw conclusions from it.”¹³¹

¹³¹ Sven Lindqvist, *Exterminate All the Brutes* (New York: New Press, 1996), 1.