

Academic freedom, education, and ‘the gender wars’: a response to Suissa and Sullivan

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ABSTRACT

Judith Suissa and Alice Sullivan’s 2021 paper ‘The Gender Wars, Academic Freedom and Education’ holds that activism associated with the slogan ‘trans women are women’ harms progress towards the goals of shared learning and knowledge production. They hold that shared learning and knowledge production ground the value of the university. In response, we point out that academic freedom is not absolute, and that its contribution to learning and knowledge production is only part of a host of academic goods. Given the hostile environment faced by trans people in the UK, absolute academic freedom in relation to questions about sex, gender, and gender identity should not be taken for granted. The focus of this article is on the following: (1) academic freedom is not absolute and should be responsibly curtailed when it causes harm, or hinders other educational goods; (2) public perceptions of ‘gender debates’ in the UK cause harm and hinder other educational goods; (3) academic debates about sex, gender, and gender identity could contribute to this harm and hindrance and should be undertaken only with care.

KEYWORDS: free speech, academic freedom, gender, educational goods, transgender

INTRODUCTION

This article is written to provide a counterbalance to Judith Suissa and Alice Sullivan’s paper, ‘The Gender Wars, Academic Freedom and Education’ (2021). Perhaps the best way of thinking about our response is that it offers insights from the other side of the so-called ‘front line’. Our response is that academic freedom should be tempered by context, other educational goods, and the potential harms to which academic freedom can contribute. This is particularly pertinent

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in the case of questions about sex, gender, and gender identity in the current climate in the UK.

To clarify some terms being used, Stonewall, a prominent LGBTQ+ charity describes the term ‘trans’ as ‘an umbrella term to describe people whose gender is not the same as, or does not sit comfortably with, the sex they were assigned at birth’. This is in contrast with ‘cisgender’ or ‘cis’, defined as ‘someone whose gender identity is the same as the sex they were assigned at birth’ ([Stonewall 2023](#)). In terms of current legislation, people in the UK need to apply for a Gender Recognition Certificate to legally change gender. This involves ‘the Gender Recognition Panel [looking] at your application. This panel is made up of people with legal or medical qualifications’ ([gov 2023](#)). The Equality Act 2010 sets out gender reassignment as a ‘protected characteristic’. This means that public authorities must protect people who have been through or are in the process of gender reassignment from ‘discrimination, harassment or victimisation’ ([Legislation.gov.uk 2010](#): p. 96). At the same time, the Act defines a woman as a ‘female of any age’ (p. 212). When Suissa and Sullivan say that they fully support trans rights which are ‘already protected under current UK legislation’ (pp. 55–6) they are referring to the right not to be discriminated against, harassed, or victimized.

Suissa and Sullivan frame their paper as a discussion of how academic freedom plays out in practice. They use ‘questions regarding sex, gender and gender identity’ as examples of issues at the ‘front line’ of ‘real conflicts playing out in contemporary universities’ ([Suissa and Sullivan 2021](#): 55). They choose to use sex, gender, and gender identity as examples to illustrate what they see as the harm caused by the ideological position summed up by the claim ‘trans women are women’ to the remit of universities. They identify two aspects of this remit: ‘(a) the importance of engagement with others and of sharing ideas and evidence for a community of scholars and students, and (b) the importance of knowledge as a public good in a democracy’ (p. 56). They illustrate how activism associated with the campaigning slogan ‘trans women are women’ has damaged both of these areas’ academic goods.

Despite their claim that questions of sex, gender, and gender identity have been selected merely as examples, their paper focuses heavily on them. Suissa and Sullivan pick out instances of campaigners’ work as particularly undermining the pursuit of truth and open debate. They describe the claim ‘trans women are women’ as absolutist, and as shutting down rational debate. They go through a long list of instances of what they title ‘the suppression of academic freedom on sex and gender’, which feed into their discussion of academic freedom. Their paper draws on worries that have arisen in the course of research they have conducted. Sullivan’s work on the use of the terms ‘sex’ and ‘gender’ in the UK census is an example. Here, Sullivan argues that allowing respondents to self-identify their gender, without also collecting data on biological sex, erodes ‘the ability to understand differences and to design evidence-based policies tackling problems facing girls and boys, women and men’ ([Sullivan 2021](#): 523). In ‘The Gender Wars’, they present a case against activists who might object to research like Sullivan’s.

Suissa and Sullivan do not go into much detail about what they mean by academic freedom. They discuss why it is valuable, but not how it stands in relation to other social and educational goods provided by universities. Further, they do not engage in existing scholarly debates about sex, gender, and gender identity in the paper. In particular, they make no mention of the large body of work on these questions by feminists and trans scholars. This reflects a trend described by Pearce et al. where ‘gender critical’ writers have moved away from ‘mainstream feminist thought’ which ‘has generally seen the relationship between feminism and trans phenomena as a locus for enquiry into the construction and manifestation of gender relations and systems’ (Pearce et al. 2020: 683). Instead, Pearce et al. hold that ‘trans-exclusionary feminists have generally sat outside decades-long trans/feminist productivity, partially due to convictions that (biological) notions of shared “femaleness”/ “womanhood” are necessary for feminism, and trans bodies and subjectivities pose a threat to these notions’ (p. 683). Suissa and Sullivan’s work can be interpreted as following this pattern of sidelining mainstream academic feminist thought.

The result is that their paper at times reads like a list of bad things that trans activists have done to academics, highlighting the view that trans activists are enemies of rational debate. In this article, we describe some of the ways that trans people have been treated in recent public discussions, highlighting the possibility that trans activists are motivated to protect trans people in a hostile environment. We argue that Suissa and Sullivan’s paper contributes to the hostile environment faced by trans people in the UK. It is not necessary to title a paper that is about academic freedom with something as sensationalist as ‘gender wars’. The impact of this title is reflected in the high Alt-metric score of the paper and the attention it has drawn on social media. Academic freedom does not interact with an ideal world of rational debate. In this case, it enters a highly charged existing context, which at this time in the UK can be described as harmful to trans people. Trans activists protesting the promotion of Suissa and Sullivan’s work would have justified ends in mind: to prevent further escalation of a very public debate that can have a negative impact on trans people’s day-to-day lives.

Suissa and Sullivan conclude with the claim that ‘this paper has focussed on the threat to academic freedom in the case of sex and gender, not because it is a hard case, but because it is an easy one, with implications across the disciplines. If we cannot defend academic freedom in such a case, we cannot defend it at all’ (Suissa and Sullivan 2021: 77). Our conclusion is that the case of sex and gender is a particularly hard case because of the current context in the UK and its associated harms.

ACADEMIC FREEDOM AND THE ROLE OF THE UNIVERSITY

In this section, we discuss academic freedom and the role of the university. We reject an account of academic freedom where freedom is conceived as absolute. Instead, we hold that academic freedom should be subject to the same restraints

as freedom of expression, namely that it should not cause harm to others. While the definition of harm is itself difficult to pin down, we will review examples of harm caused by so-called 'gender wars' later in the article. Furthermore, we argue that academic freedom is just one part of university life, and universities are responsible for distributing a range of further educational goods, not just the pursuit of knowledge for the sake of democracy, as identified by Suissa and Sullivan. In this view, Suissa and Sullivan cast academic freedom too simplistically. Constraints exist which mean that sometimes academic debates about sex, gender, and gender identity should be restrained. We call for responsible academic freedom, rather than absolute academic freedom.

In a paper published in 2009, Robin Barrow argues for the absolute 'freedom to hold any belief and espouse it in an appropriately academic manner' (Barrow 2009: 178). In doing so, he outlines a series of views that he thinks should be within the remit of academic freedom. Amongst these are: 'Research shows that blacks on average have lower I.Q.s than whites' (p. 184); 'European culture is in various ways superior to Inuit culture' (p. 184); and '6 million Jews were not murdered in the holocaust, this figure being a great exaggeration' (p. 185). However, in our view each of these statements has the potential to cause harm to a social group. If Barrow is right and academic freedom is absolute, then this harm does not need to be considered. This seems counterintuitive. Following J. S. Mill, there is a long tradition of curtailing freedom of expression when it causes harm. One way of interpreting Barrow is that he holds that academic freedom is less constrained than ordinary non-academic freedom of expression.

In contrast, Anthony O'Hear sees academic freedom as a subset of freedom of expression with additional constraints arising from the role of the university and academic norms. He states that 'academic freedom, if it is to be distinguished at all from freedom of speech, cannot be discussed outside the context of the university, for it is a value which pertains directly to the university' (O'Hear 1988: 13). Mill's view is that silencing freedom of expression deprives the human race of 'the opportunity of exchanging error for truth', or, if there is no need to correct initial views, of 'the clearer perception and livelier impression of truth produced by its collision with error' (Mill 1978: 17). In the context of Mill's work on liberty, this comes with the caveat that it should not cause harm to others. Like freedom of expression, academic freedom is concerned with truth and lively debate. Like Mill's general conception of liberty, there are few reasons to think that academic freedom should not also be constrained by potential harm to others.

If academic freedom is a subset of freedom of expression, with additional constraints related to the role of universities, then academic freedom should not excuse speaking freely when harm might be caused. If anything, the words of academics who hold privileged epistemic positions should be held to greater account than those of non-academics. While it may be possible to engage in rational debate about all of the statements that Barrow mentions, it does not seem responsible to do so. Barrett Emerick makes this point when he argues that 'rights to the freedom of thought and expression are not absolute or unrestrained; there are real limits to

which epistemically responsible actors ought to hold themselves. That conclusion obtains even more strongly for scholars whose special social status as experts makes their exercise of those rights all the more potentially perilous' (Emerick 2021: 148). He argues that the sorts of claims made by Barrow harm some people, and in doing so impoverish the marketplace of ideas that freedom of expression is meant to create by excluding some voices.

The suggestion that academic freedom is not absolute is not new; academic freedom has never been unbounded. Philip Altbach describes academic freedom as historically referring to 'the freedom of the professor to teach without external control in his or her area of expertise, and it has implied the freedom of the student to learn' (Altbach 2001: 206). He points out that while this was more freedom than was afforded to other citizens, 'professors whose teachings conflicted with the doctrines of the Roman Catholic Church were sometimes sanctioned, and loyalty to the civil authorities was also expected' (p. 206). In comparison, academic freedom in the UK today is relatively healthy, particularly when compared to countries where academic freedom is more explicitly limited (p. 214). Still, even today universities regulate their research with harm and responsibility in mind. Research ethics panels determine whether research should go ahead based on potential harm to participants. This self-regulation of academic freedom could be extended to the impact of non-empirical research on vulnerable social groups without violating any existing principles. If ethics review panels are commonly considered a reasonable constraint on academic freedom, then regulating non-empirical research could be, too. This is not something that we necessarily advocate, but it illustrates that in practice academic freedom is regulated, often for good reasons.

Shannon Dea claims that 'academic freedom evolved alongside universities. The canonical expressions of academic freedom capture the needs of the particular university contexts for which they were developed' (Dea 2021: 201). Academic freedom is determined by the role of the university, or as Dea puts it, it is a 'group-differentiated' freedom as opposed to an individual freedom like freedom of expression. Suissa and Sullivan only discuss one dimension of the role of the university: learning and knowledge production. Dea chooses a similar role: 'to seek truth and advance knowledge and understanding' (p. 205). If universities are only concerned with knowledge production and dissemination, then academic freedom can be conceived as absolute. However, universities have many other important social roles, and as Emerick (2021) points out, responsible academic freedom might serve knowledge production better than absolute freedom if absolute freedom restricts potential contributions to debates by marginalizing certain groups of people.

In his discussion of academic freedom, O'Hear draws on F. R. Leavis' view of the roles of the university: 'to explore the means of bringing the various essential kinds of specialist knowledge and training into effective relation with informed general intelligence, humane culture, social conscience and political will' (O'Hear 1988: 15). He concludes that 'if universities are to be centres for the cultural task being suggested here, academic freedom, which we shall now define as the freedom of qualified academics to teach and research in a secure environment, is highly

desirable, if not practically indispensable. This is because the task is one that requires both mature and disinterested reflection and some commitment to the ethos of the university as a focus of collaborative endeavour and teaching' (p.16). In O'Hear's case, academic freedom needs to be compatible with a humanistic vision of liberal education, not just with its scholarly aims of knowledge production.

The closest that O'Hear comes to discussing the sorts of issues that Suissa and Sullivan are interested in is a discussion of political activism by university lecturers. He holds that this is not in the spirit of liberal education described by Leavis. Perhaps, he would also disagree with students engaging in political activism in the way described by Suissa and Sullivan. However, academic freedom, conceived as the interaction between specialist knowledge and 'informed general intelligence, humane culture, social conscience and political will', does seem to require some social responsibility and the protection of people from harm. As we go on to argue, trans people are faced with a particularly hostile environment in the UK which has the potential to harm them. Promoting a humane culture and social conscience within universities is going to be particularly important for the inclusion of trans students in those spaces. Furthermore, universities are a means of shaping society, and should act responsibly to prevent an escalation in media rhetoric by being careful about the sorts of events and publications they produce and promote.

Suissa and Sullivan use Hannah Arendt to define academic freedom, with the following quote: 'no one can adequately grasp the objective world in its full reality all on their own, because the world always shows and reveals itself to them from only one perspective, which corresponds to their standpoint in the world and is determined by it' (Arendt cited in [Suissa and Sullivan 2021](#): 64). This fits with O'Hear's vision of the university, emphasizing humane society. Despite this, Suissa and Sullivan focus on the value of academic freedom as related to '(a) the importance of engagement with others and of sharing ideas and evidence for a community of scholars and students and (b) the importance of knowledge as a public good in a democracy' (p. 56). It appears that they are only talking about a limited selection of many of the different roles that universities play. On this account, absolute academic freedom in pursuit of knowledge seems justified because it does not come into conflict with anything else. But, when other educational goods are taken into account, the argument for absolute academic freedom begins to dissolve as tensions emerge.

In *Educational Goods*, Harry Brighouse, Helen Ladd, Susanna Loeb, and Adam Swift set out a plurality of goods that educational institutions provide. Educational goods 'help people's lives go well—and what matters, ultimately, is the creation and distribution of opportunities for people to flourish' ([Brighouse et al. 2018](#): 21). These opportunities are defined as the capacity for economic productivity, personal autonomy, democratic competence, healthy personal relationships, treating others as equals, and personal fulfilment (p. 23). Universities are, to a large extent, educational institutions. In the UK, 39 per cent of school leavers attend universities ([UCAS 2021](#)), and so universities also play a role in helping a large number of young people's lives to go well.

Absolute academic freedom could damage some students' abilities to flourish. The systematic and public questioning of the validity of trans lives in the UK might undermine personal autonomy, personal relationships, equality, and personal fulfilment for some students. University students are often young people leaving home for the first time, making new friends, and possibly grappling with their gender identity. They are vulnerable and still require the sort of nurturing captured by the language of educational goods, even if they are no longer technically children. Discussions about the validity of trans lives could be threatening, particularly if held publicly at a student's own university by their own lecturers. Furthermore, if universities are understood as playing a public and civic role, then this harm can extend beyond those students attending the universities in question. Engaging in public debates about sex, gender, and gender identity can provide an academic seal of approval to harmful media discourses, examples of which will be outlined in the next section.

If academic freedom is governed by ordinary concerns about harm to others, and more specific concerns about the educational aims of the university, then academic freedom and socially responsible restrictions on absolute freedom of expression are compatible. Academic freedom does not mean the absolute right to discuss anything, but rather the right to conduct responsible research and teaching activities supported by the university and academic community. In this case, a trans activist who holds academics to account for what the activist considers problematic or harmful work is not necessarily attacking academic freedom, but drawing attention to its constraints. The position that harmful content should be curtailed is compatible with the position that academic freedom should be promoted. This is because academic freedom does not include the freedom to cause harm and should be judged with other educational goods in mind. This is paralleled by the view of ethics review panels that academics are free to conduct empirical research so long as it does not harm participants. Responsible academic freedom is not the same as absolute academic freedom. It is curtailed by ordinary concerns about harm to others, and by the more specific educational and social aims of the university.

In this section, we have outlined the difference between absolute academic freedom and responsible academic freedom. We argue that the latter is not only more appropriate, but is also borne out in academic practices such as the work of ethics review panels. We have also argued that universities have duties that extend beyond promoting learning and knowledge production. Academic freedom is a feature of universities as institutions, and is bounded by the purposes that universities serve. It is constrained by ordinary concerns about harm, and further constrained by other educational goods. This leaves no space for absolute academic freedom.

QUESTIONS ABOUT SEX, GENDER, GENDER IDENTITY, AND HARM

Suissa and Sullivan argue that the work of trans activists damages academic freedom. However, if the academic freedom in question is causing harm, then trans

activists have a valid point. They are not objecting to academic freedom itself, but rather to absolute academic freedom. In this section, we show why we think that academic work on questions about sex, gender, and gender identity can cause harm.

The connection between academic work on questions about sex, gender, and gender identity, and harm to trans people is not direct or obvious. Academic work on sex, gender, and gender identity has been ongoing for a long time, and includes rigorous engagement from trans scholars. For example, Janice Raymond's *The Transsexual Empire* described 'transsexuals' as raping 'women's bodies by reducing the real female form to an artifact, appropriating this body for themselves' (Raymond 1994: 110), which prompted a robust response by one of the trans women described in Raymond's book, Sandy Stone, in *The Empire Strikes Back* (1987). This exemplifies how academia has acted as a space for polarized discussions of sex, gender, and gender identity to be held in the past. It also illustrates the ongoing dangers of such debates. As Cristan Williams explains, Stone was subject to credible death threats at the time (Williams 2016: 256). We argue that the contemporary climate in the UK means that these debates continue to be likely to cause harm, or to be perceived as harmful by trans activists.

When discussing the context that public debates about trans identities enter into, we start by discussing the case of Lucy Meadows, who was a teacher at a school in Accrington, Lancashire. A letter was sent out to parents of pupils containing a number of routine announcements, and one of these announcements was that a teacher until then known as Mr Upton was transitioning to live as a woman, and would be returning after the Christmas break to teach as Miss Meadows (Wikipedia 2019). The story was picked up first by local news, and then the national press. Lucy, and those around her, including her former partner, her former parents-in-law, and parents of school pupils, suddenly became a topic of interest for journalists from across the country, with the story being published in national papers and online. Ruth Smith, Lucy's former partner, described how the press had, 'appeared, *en masse*, to besiege Lucy in her home' (*The Independent* 2017). Journalists knocked on Lucy's door at all hours of the day, and targeted Smith's parents, offering money and asking for comments, pictures, and interviews. Smith developed a habit of looking outside her door before leaving to check whether or not there were journalists waiting for her. Her son had to be picked up from the school office, fifteen minutes after the school day had finished.

Lucy Meadows herself had to leave her house by the back door, arrive at school early, and leave late, to avoid the press. Journalists offered parents of pupils money for pictures of Lucy. Many parents offered supportive, positive comments about Lucy, but these were not published, with attention instead being paid to one parent who had started a petition after claiming his child had been confused by Lucy's transition. The media circus surrounding Lucy came to a head with an opinion piece published in the *Daily Mail* by Richard Littlejohn entitled 'He's not only in the wrong body ... he's in the wrong job' (*Daily Mail* 2012). The article contains a number of pictures of Lucy Meadows from before her transition, and uses her birth name and male pronouns throughout. In the piece, Littlejohn writes, 'he is putting

his own selfish needs ahead of the well-being of the children he has taught for the past few years ... if he cares so little for the sensibilities of the children he is paid to teach, he's not only trapped in the wrong body, he's also in the wrong job'.

Despite Lucy pleading for privacy, her story was published in numerous national media outlets on a regular basis following the announcement in the school newsletter (*The Guardian* 2013). In March of 2013, Lucy was found dead at her home, having committed suicide. At the inquest into her death, presiding coroner Michael Singleton criticized the media for the handling of the case, calling it 'character assassination' (BBC 2013). Singleton called on the government to tighten media guidelines, and warned that 'unless action is taken, it could lead to further fatality'.

Lucy Meadows died in 2013, but the issues leading to her death are as relevant now as they were then. Writing in 2017 about the burgeoning 'trans debate', Ruth Smith, Lucy's former partner, said, 'A major English newspaper has decided that the ideology of some of its columnists now counts for more than the health of some of the most vulnerable people in society. It is ... happening all over again. And this time, I will not be silent' (*The Independent* 2017).

Unfortunately, the Lucy Meadows case is not an isolated incident. Rates of suicide in trans people are significantly higher than amongst cis people, with one study revealing that 'across all comparisons both LGB and Trans young people were shown to have higher rates of the majority of indicators, in some cases with double or more of the rates of their comparison groups' (Nodin et al. 2015: 71). Another study, referenced in a government document aimed at helping nurses prevent suicide in young trans people, found that 34.4 per cent of trans adults had attempted suicide at least once, and almost 14 per cent had attempted suicide more than twice (Public Health England 2015). The document attributes this higher risk of suicide to stigma, transphobia, and bullying, and states that 'these negative experiences occur in many trans individuals' everyday lives, whether at home, work or school. This stigma and discrimination, and the fear of it happening, can make individuals in this situation feel unable to reach out for help when they need it.'

Trans people are not just at higher risk of suicide; they are also at risk of murder and violence, and that risk is growing. The year 2021 was the deadliest on record for anti-transgender violence in the USA. Human Rights Watch attributes this increase in violence directly to the perceived legitimacy of the 'trans debate', stating that 'recent debates over transgender rights have increased the visibility of transgender rights, but have increased hostility towards transgender people as well, with law-makers and media personalities unfairly demonizing transgender individuals' (Human Rights Watch 2021). Hate crimes against trans people are on the rise in the UK, too. In 2019, there was an increase of 81 per cent, demonstrating what Stonewall called the 'consequences of a society where transphobia is everywhere' (BBC 2019). In 2020, statistics showed a further increase of 25 per cent (BBC 2020). In 2021, the increase was 16 per cent (BBC 2021a). According to Stop Hate UK, this number is likely to be an underestimate, as the National LGBT Survey showed that 88 per cent of transgender respondents did not report the most serious types of incidents (Government Equalities Office 2018).

We highlight death and violence first, not to paint trans people as victims, nor to engage in what Tuck calls ‘damage-based research’ (2009), but to make a point about the most severe forms of harm that can arise from the ‘trans debate’, and to demonstrate that these are not abstract hypotheticals—they are legitimate concerns. They are, however, far from the only forms of harm that trans people face.

Another arena for harm is through legislation. In early 2022, it was leaked that the British Government had shelved plans to ban conversion therapy. The government quickly clarified its position; the conversion therapy ban would go ahead, but it would not cover trans people (BBC 2022). Less than a month later, the Equality and Human Rights Commission (EHRC), a non-departmental body responsible for promoting and enforcing equality legislation, published guidance on the Equality Act 2010 that contained what *Pink News* called a ‘how-to guide on excluding trans people’ (*Pink News* 2022). One example in the guidelines allows businesses the option of banning trans people from the appropriate toilet for their gender, instead instructing them to use a separate gender-neutral facility, or ‘the toilet for their biological sex’. The guidance defends its use of ‘biological sex’ by claiming that ‘this is how legal sex is defined under the Equality Act for people who do not have a Gender Recognition Certificate’ (*Pink News* 2022).

This is incorrect, as the phrase ‘biological sex’ does not appear in the Equality Act (Equality Act 2010). The Act only states that ‘a person has the protected characteristic of gender reassignment if the person is proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning the person’s sex by changing physiological or other attributes of sex’. Despite the guidance existing to clarify provisions contained within the Equality Act, a spokesperson for Stonewall is reported as responding that ‘it appears to go against the core presumption of the act, which is that inclusion should be the starting point, and shifts the focus towards reasons trans people, and specifically trans women, can be excluded’ (*The Guardian* 2022). The EHRC guidance sought to clarify the law in response to an issue that had only arisen due to the debate surrounding trans rights, and in doing so, undermined pre-existing legal protections for trans people.

The next site of danger for trans people is media debate over trans rights. The framing of trans rights as a ‘debate’ has fostered a climate in which many trans people feel unable, or unsafe to engage in discussions. In 2018, Channel 4 aired a live debate on the topic, with a number of panellists including Monroe Bergdorf, Caitlyn Jenner, Germaine Greer, and Sarah Ditum. While not an academic arena, the programme demonstrated that the framing of the issue as a ‘debate’ has made it difficult for trans voices to be heard, even as critics argue that trans voices are the loudest in the conversation. Transgender panellists were harassed throughout the televised debate, with audience members shouting, ‘you have a penis’ and ‘you are a man’ at them (*The Independent* 2018). Trans people are regularly ridiculed in the media, under the guise of debate. Piers Morgan, who presented ITV’s ‘Good Morning Britain’ from 2015 to 2021, was known for treating trans people with derision and disrespect. In 2019, he declared, ‘the world has gone nuts’, and that ‘I’m going to say that now I am identifying as a penguin and I demand to be allowed into the

penguin enclosure at the aquarium and live with the penguins' (*The Sun* 2019). Morgan followed this by referring to trans people and claiming that 'these people ... want you fired, expunged, sacked'.

This last claim of Morgan's is not an uncommon one. In a consistent attempt to paint trans people and those that support them as the villains of the 'culture war', stories are regularly published in the media claiming that trans people are 'silencing' those who wish to explore trans issues (*The Guardian* 2020), or 'closing down discussion' of transgender concerns (*The Guardian* 2019). Those who claim to have been silenced do so from platforms in the national media, where their concerns are voiced to thousands of people. Trans people, in contrast, do not fare as well in the media. This is tangentially related to the idea that trans people are often portrayed as deceivers. Bettcher describes a common 'rage at having "been deceived"' at play in 'transphobic hostility ... More generally, the persistent stereotype of transpeople as deceivers' (Bettcher 2007: 47). This tendency to blame and mistrust trans people is often played out in the media.

Further, the media often appears more concerned with publishing sensationalist stories than accurately reporting facts or providing balanced discussions. Examples include false claims by the *Daily Star Sunday* reporting that 'Child killer Ian Huntley wants a sex change' (Bazaara 2018), a story that ran for years until in 2019 the *Daily Star Sunday* was forced to admit the claims were false. Similarly, the BBC article 'The Lesbians who Feel Pressured to have Sex and Relationships with Trans Women' (2021c) relied on the words of Lily Cade, who reportedly made explicit and disturbing statements about trans people. These include threats to 'execute every last one of them personally' and the claim that 'if my grandfather and all his brothers who stood up to Hitler were still here they would rip the still-beating hearts from every last one of these paedophile monsters in public' (*Newsweek* 2021). By the time the BBC removed reference to Lily Cade and apologized, the damage had already been done.

J. K. Rowling, no stranger to involvement in the 'trans debate', has criticized the climate of fear surrounding it, saying 'the climate of fear served nobody well, least of all trans people' (*New York Post* 2020). Rowling was speaking in reference to gender-critical feminists, and women who are 'concerned about the challenges to their fundamental rights posed by certain aspects of gender identity ideology' who are 'afraid to speak up because they fear for their jobs and even for their personal safety'. What she neglected to consider is how afraid some trans people are in the same climate. As we have discussed, hate crimes against trans people are rising, and the 'trans debate' has given a platform to people like Lily Cade reportedly calling for the gratuitously violent deaths of trans women.

It is not just trans people who are affected, but their allies as well. In 2021, the Sussex branch of the University and College Union (UCU) made a statement in support of trans students at Sussex University. In response to this statement, members of the group's executive body received personal threats, and had their identities and contact details published against their will (*The Guardian* 2021a). By standing as allies to the trans community, the Sussex branch of the UCU made its members targets for attacks

from anti-trans activists. Kathleen Stock, the professor at Sussex University around whom much of the controversy revolved, claimed that her career had been ‘effectively ended’ by the UCU statement. The UCU statement made no mention of Stock and made ‘clear its opposition to the harassment and bullying of staff and students’ (UCU 2021). UCU simply called for an investigation. Academic freedom does not mean freedom from having one’s work investigated. Stock resigned in October 2021, despite the university saying that ‘no substantive allegations of wrongdoing’ had been made against her (*The Guardian* 2021b). In a BBC Radio 4 interview, Stock described the fear she felt during her final days on campus (BBC 2021), but little attention was given to the members of Sussex’s UCU branch who also received threats.

The existence of a public, media-driven ‘trans debate’ in the UK is fraught with threat for trans people. This provides reason for thinking that some ways of debating sex, gender, and gender identity can cause harm. The climate in the UK creates circumstances where even a statement of support for trans people becomes the taking of sides in a ‘gender war’ and therefore an attack on those who have differing viewpoints. Suissa and Sullivan critique the slogan ‘trans women are women’ as shutting down rational debate; they say that ‘the slogan functions ... as a demand to adhere to the ontological position that claims about people’s gender identity trump claims about their biological sex. Gender identity is in this sense, absolutist, demanding that we ignore material evidence of the relevance of sex in any context’ (Suissa and Sullivan 2021: 57). This interpretation may look valid from their side of the debate, but from the other, the slogan can be interpreted as an affirmation of trans people’s right to live a flourishing life in the face of challenging contexts.

ACADEMIC FREEDOM AND QUESTIONS ABOUT SEX, GENDER, AND GENDER IDENTITY

So far, we have argued that academic freedom is not absolute, and we have demonstrated that the context within which academic discussions about sex, gender, and gender identity are couched is emotionally charged in ways that can negatively affect trans people. In this section we will explore whether academic freedom can contribute to this harmful environment.

Suissa and Sullivan’s vision for ideal academic debate is one that we share. They hold that ‘the viability of the world as a shared space to create, to improve and to live in’ includes the importance of being able to think ‘out loud in seminar rooms and lecture halls’ (Suissa and Sullivan 2021: 65). We share their fear of speaking out on this particular topic as we ourselves are ‘junior staff ... and young women at the start of their career’ (p. 65). We are far from being immune to the threats involved. We agree that ‘this state of affairs is not only profoundly anti-intellectual and anti-democratic, but educationally disastrous’ (p. 66). Yet we disagree about the origins of this state of affairs, and the solutions to it. Pushing ahead with public debates about these gender in an attempt to bulldoze opposition is a potentially damaging response, in tension with the notion of responsible academic freedom and in tension with other educational goods.

This is demonstrated all too clearly by an event at the Taliesin Centre, an independent venue located on campus at Swansea University in March 2023. Here, a talk by Jo Phoenix, Suissa, and Sullivan called ‘Silencing Women: Academic Freedom and Unthinkable Thoughts’ was organized by the group ‘Outspoken Women’. Predictably, this faced a backlash from activists, with posters being placed around campus denouncing transphobic hate at the university’s arts centre. A petition set up in response claimed that the work they have published ‘has a negative effect on societal attitudes towards trans people’ and would ‘encourage transphobia’ (*Wales Online* 2023). This is an example of the sort of response that Suissa and Sullivan are concerned about. However, a Mumsnet thread about the event illustrates the other side of the issue.

Participants in the thread describe the Welsh Government as brainwashing ‘thousands of Welsh children into thinking they are trans’; they describe the head of Welsh gender services as ‘gender mad’, and having found ‘the adoration and prestige she craves’. They describe the petition mentioned above as defying logic ‘like a TRA bingo card’ and the venue as ‘under siege by frothing TRAs’. They also claim to be creating a register of ‘trans-allied academics’ at Welsh universities: ‘we’ve contacted hundreds of academics at Welsh universities and now we have the beginning of a list of trans-allied academics at Welsh institutions because a number of those we invited have sent us aggressive replies calling us hateful and threatening legal action if we contact them again’ (*Mumsnet* 2023). This illustrates how academic discussions can combine with a hostile environment to create threats to trans people and their allies. Whether or not the same can be said for the speakers and event’s audience is beside the point. Harm does not disappear if it is evenly distributed in both directions.

The talk went ahead, accompanied by peaceful protests. The university cited its conflicting duties to both protect its staff and students and promote freedom of expression. One student poignantly wrote in the petition: ‘I’m a current student [here] ... I am trans ... My lecturers have always made me feel safe. Other students have always made me feel safe. But seeing the university with a claimed commitment to the rights of people like me hosting unchallenged talks by people who oppose my right to exist, who fuel the moral panic driving hate crimes against people like me, is chilling’ (*Wales Online* 2023). Whether or not the content of the talk really did oppose trans people’s rights to exist is secondary to the simple presence of the event on campus that made some students feel deeply uncomfortable and threatened. We believe that this is a form of harm that should be taken into consideration.

Running an event called ‘Silencing Women’ promoting views that feel threatening to trans people, and publishing a paper that refers to ‘gender wars’ does not seem to us to be instances of harm-free, educationally conducive, academic freedom. These actions have the potential to harm a vulnerable social group, and this has been pointed out repeatedly by the trans activists whom Suissa and Sullivan describe as stifling rational debate. These actions, combined with the current environment in the UK, also pose a threat to other educational goods including ‘economic participation, personal autonomy, democratic competence, healthy

personal relationships, treating others as equals, and personal fulfilment' (Brighouse et al. 2018: 23). This means that questions about sex, gender, and gender identity do not support the 'easy' case for academic freedom that Suissa and Sullivan claim they do.

One possible solution is to turn to Sigal Ben-Porath's work on free speech on university campuses. She discusses the tension between providing spaces where students feel safe to express their views, and the corresponding need to restrict the expression of harmful views. Here, 'the values that inform the guidelines that schools develop in this domain should be informed by inclusive freedom: an unwavering commitment to an inclusive environment that supports all of its variety' (Ben-Porath 2023: 105). However, given the strength of harmful rhetoric in the public media in the UK at the moment, it is hard to imagine how a campus could create an environment where students feel safe to express their views. Either way, aggravating existing 'debates' in the name of academic freedom does not seem like a useful contribution to creating an inclusive environment either on campus or off it.

CONCLUSION

Suissa and Sullivan conclude that the case of gender and sex 'is an easy one ... If we cannot defend academic freedom in such a case, we cannot defend it at all' (Suissa and Sullivan 2021: 77). We disagree with this conclusion. The case of sex and gender is one of the most difficult cases to defend at this particular point in time in the UK. Trans people are under frequent attack by the media, and whether or not they are genuinely under threat, it would be very reasonable for trans people to feel that way. Suissa and Sullivan's paper, which focuses on the idea that academic freedom is being stifled by trans activists, adds fuel to this very public fire. Their claim paints the concerns of activists as either unreasonable, or secondary to the importance of academic freedom. While we agree that academic freedom is an important ideal, we do not think that academic freedom is absolute or exempt from contextual considerations. These include the harm that it might cause, and the educational purposes that academic freedom supports. Since academic debates about sex, gender, and gender identity come into conflict with the promotion of a full range of academic goods and have the potential to cause harm to trans people, we hold that the activists Suissa and Sullivan condemn are often justified in holding academia to account.¹

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¹ The authors recognize there have been changes to the conditions referenced in this article since it was first submitted for publication, and we ask that readers consider it in the context that it was written.

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