

Stanley Fish, Free Speech, and the Job of the University

Stanley Fish is a professor, a leading public intellectual, an author, a literary critic, and a passionate enemy of bad writing and bad arguments. Fish earned his B.A. from the University of Pennsylvania, and went on to earn his M.A. and Ph.D. from Yale University. He has taught English and Law at more than a dozen universities and law schools, including the University of California, Berkeley, Johns Hopkins University, the University of Southern California, Duke University, the University of Illinois at Chicago (UIC), Florida International University—and he is currently the Floersheimer Distinguished Visiting Professor of Law at the Yeshiva University Cardozo School of Law. In addition to his teaching, Fish has served as Chairman of the Department of English at Duke, Executive Director of Duke University Press, Associate Vice Provost of Duke, and Dean of the College of Liberal Arts and Sciences at UIC. His writings on academia draw on his experiences as a professor and the realities he learned as an administrator.

Fish has had a dual career—on the one hand a devoted literary scholar and academic, and on the other a noted public intellectual and thinker with writings on a great multitude of subjects. He has published volumes on the poetry of John Skelton, *Paradise Lost*, Seventeenth Century literature, George Herbert, literary and legal theory, free speech, and academia. Fish has appeared on *The O'Reilly Factor*, *NBC Nightly News*, *Larry King*, NPR, and been profiled in the *New Yorker*. From 1995 to 2013, Fish contributed over 300 columns to the *New York Times*—though he insists, “they are not, for the most part, opinion pieces.”¹ He estimates that, over the last thirty or so years, there have been more than two hundred articles, books, parts of books, dissertations, and reviews concerning his work.²

In short, Stanley Fish is many things—even the *Chicago Tribune*'s 2003 Chicagoan of the Year for Culture. However, as Professor Fish's talk is entitled “Micro-aggressions, Trigger Warnings, Cultural ‘Appropriations’ and History: What's Happening on Campus?”, this paper will focus on the aspects of his work that pertain to this topic—and leave his writings on literary theory for another time. Of course, Fish has produced a mountain of writing even in this relatively narrow area. In multiple books and many articles, Fish applies his scathing eye for a weak argument and his unwavering devotion to a particular notion of academia to paint a picture of the professor as simultaneously narrowly professional and extraordinarily empowered.

While Fish is unabashedly outspoken, his opinions tend to have more to do with the process of argumentation and writing than they do with advancing any particular ideology. His concern with methodology is such that he often lambastes arguments for positions he admits to agreeing with. In the introduction to *Think Again*, a book of his writing for the *New York Times*, Fish explains, “There are two judgments one might make on a position: (1) the arguments put forward in support of it are weak and incoherent, and (2) it is wrong. These judgments, I contend, are logically independent of each other.”³ Fish judges traditionally conservative and liberal arguments with similar ferocity. His criticism is something of an anomaly in the modern intellectual sphere. Fish pointedly and repeatedly stops short of endorsing a side in many arguments, and refrains from engaging in rote displays of ideological opining. Instead, Fish sticks to what he knows: academia and writing. On these two subjects, he is brashly argumentative and deeply opinionated.

¹ Stanley Fish, *Think Again* (Princeton: Princeton University Press, 2015), xi.

² Stanley Fish “Curriculum Vitae.” *Law School*. Florida International University, n.d. Web. 11 Feb. 2016.

³ *Think Again*, xi.

Fish on Academia

In his half-century of experience in one ivory tower or another, Fish has written extensively on academic freedom, professorial conduct, and the value of the liberal arts. His opinions are rooted in a deep respect for the university, and for the broader pursuit of academia. However, Fish is unrelenting in his insistence that professors restrict themselves to their jobs as academics and teachers. Professors have professional responsibilities—to their employer, to their students, and to academia at large.

Fish's writing on academia must be considered in light of his love for the liberal arts, and for academics writ large. Fish is a true believer in the inherent value of the humanities, and a liberal arts education: "A good liberal arts course is good because it introduces you to questions you did not know how to ask and provides you with the skills necessary to answer them, at least provisionally."⁴ It is from this appreciation, and from his belief in the sanctity of education, that Fish's criticisms of academia stem. He writes about the university, and the job of the professor, with passion and urgency.

Professors have a limited, but difficult and extremely important job. To do their job properly—which is what Fish consistently demands—professors need academic freedom. However, they should not need expansive academic freedom. Academic freedom should be as expansive as the job of an academic: "The limited freedom academics do enjoy follows from the task they perform. That task—extending the boundaries of receiving knowledge."⁵ Academic freedom is absolutely vital in that it aids professors in extending the boundaries of receiving knowledge—but it should not be confused with more amorphous freedoms, like freedom of expression. Fish explains, "Academic freedom is a useful notion only if it is narrowly defined."⁶ When it becomes too broad, and covers actions beyond the purview of academia, academic freedom becomes contestable and contentious.

So, what is academic freedom? Fish cites 2015 Hugo Black Lecturer Robert Post in clarifying his definition:

In Post's view—a view I share—academic freedom is best understood "as the unimpeded application of professional norms of inquiry."...Were universities unable to hold faculty members to professional standards, they "could not function"; for absent such standards, there would be no bounds to the freedom of faculty members and the university as a coherent and cohesive unit would fly apart.⁷

The most important aspect of Fish's academic freedom is that it is part of "professional standards." Fish insists on the professionalism of professors. This entails absolute devotion to their trade, and absolute avoidance of other trades. Fish explains, citing University of San Diego Professor of Law Larry Alexander, "If 'academics are functioning not as academics, but as political advocates, then they do not merit academic freedom.' Exactly!"⁸ Academic freedom is a

⁴ Stanley Fish, *Save the World on Your Own Time* (Oxford: Oxford University Press, 2008), 52.

⁵ *Ibid.*, 81.

⁶ Stanley Fish, "Sex, the Koch Brothers, and Academic Freedom." *New York Times* 16 May 2011 in *Think Again* (Princeton: Princeton University Press, 2015), 389.

⁷ Stanley Fish, *Versions of Academic Freedom: From Professionalism to Revolution* (Chicago: University of Chicago Press, 2014), 52.

⁸ *Ibid.*, 19.

freedom of academic inquiry, of teaching in an academic way, and of criticism. It is not an absolute freedom for professors to do as they please.

However, Fish describes instance after instance of professors overstepping their bounds and then defending themselves by claiming academic freedom. Fish dubs his thinking on what professors should do, and how academia should function, “the ‘It’s just a job’ school.” In this school, “the academic work/politics distinction is built into the specification of what the task is; it doesn’t have to be added on or sought in philosophy.”⁹ In short, Fish scolds overreaching professors, it’s really not that difficult to understand academic freedom in his limited sense. All it requires is an understanding of what professors are paid to do—and they are most certainly not paid to be political advocates.

Fish shows no remorse in his criticism of those who dare to politicize the classroom. Fish exhorts his colleagues: “Improving the world is a good thing and I would dissuade no one from the effort. Just don’t do it as a substitute for what you are paid to do. Just do your job.”¹⁰ Just do your job becomes a mantra for Fish. Improving the world is outside of the purview of the professor—just do your job. He explains that the job of the academic is simply to interpret: “Marx famously said that our job is not to interpret the world, but to change it. In the academy, however, it is exactly the reverse: our job is not to change the world, but to interpret it.”¹¹ Interpretation may not change the world, but it is a noble pursuit—both in that it drives academia forward and that it is the mark of a truly professional professor. A dedicated professional should be capable of separating his political views from his actions as a professor.

Fish bemoans the frequency with which academic freedom is invoked to defend unprofessional behavior in the classroom. Academic freedom should not justify preaching from the podium, or pushing a controversial viewpoint on one’s students. Instead, he urges academia to consider an alternate definition:

Academic freedom urges the interrogation of all propositions and the privileging of none, the equal right of all voices to be heard, no matter how radical or unsettling, and the obligation to subject even one’s most cherished convictions to the scrutiny of reason. What academic freedom excludes is any position that refuses that obligation, any position which rests, for example, on pronouncements like “I am the way” or “Thou shalt have no other gods before me.”¹²

So, it is a professor’s job to discuss, critique, and explain the possibility of the Israeli BDS movement—and academic freedom should prevent a pro-Israeli university president from stopping this discussion. However, academic freedom should not allow, and certainly should not protect, a professor’s right to insist to his students that BDS is the right course of action—or that it is the wrong course of action.

It is vitally important, though, that professors teach controversial topics, and pursue morally and politically complicated issues. In these instances, professors who act as professionals, and not as figures of intellectual and moral authority in the classroom, must

⁹ *Ibid.*, 30.

¹⁰ Stanley Fish, “Tip to Professors: Just Do Your Job.” *New York Times* 22 Oct. 2006 in *Think Again* (Princeton: Princeton University Press, 2015), 310.

¹¹ Stanley Fish, “Why We Built the Ivory Tower.” *New York Times* 1 May 2006 in *Think Again* (Princeton: Princeton University Press, 2015), 301.

¹² Stanley Fish, *The Trouble With Principle* (Cambridge: Harvard University Press, 1999), 40.

embrace the many questions that will arise. Fish explains, “What you have to do is regard them as objects of study rather than as alternatives you and your students might take a stand on.”¹³ Of course, objects of study are not born equal, and some may have greater merit than others in a given evaluative framework—but there is a difference between weighing evaluative frameworks (which may include moral judgments) and moralizing.

Universities have an obligation to present and critique evaluative frameworks, and to use them to discuss controversial, moral, subjects. They must not, however, attempt to teach morality:

No doubt, the practices of responsible citizenship and moral behavior should be encouraged in our young adults—but it’s not the business of the university to do so, except when the morality in question is the morality that penalizes cheating, plagiarizing, and shoddy teaching, and the desired citizenship is defined not by the demands of democracy but by the demands of the academy.¹⁴

Fish is particularly disturbed by the idea that universities should shape students into good democratic citizens, as this implies an explicit and insidious politicization of the classroom. Though it may be universally accepted (and it certainly is not) that democracy is the best form of government, and that democratic citizens are the best kind of citizens, the university has no business encouraging their students to fit into any political structure. Democracy is, perhaps, a core value of western society, but the academy should not cater to it.

Thus, academic freedom should not justify boycotts, or other activism in the name of democracy, or western, democratic values. In asserting this, Fish is not arguing against democracy as a form of government. He is simply insisting that western intellectuals acknowledge that democracy is not factually great—it is an idea and a reality to be contested and examined just as any other political philosophy. Fish warns,

Even the apparently innocuous tying of academic freedom to democracy leads to an alteration in the direction of justification; for rather than asking how a proposed project contributes to the furthering of knowledge, one asks how the project furthers the goals of democracy. Sooner or later, that question will be seen as legitimizing any action taken by academics in the name of social justice, and boycotting Israeli universities will be regarded as the fulfillment of academic freedom rather than as its violation (precisely the argument of the boycotters).¹⁵

Such is the power of prevalent misuse—it has the potential to change the definition of academic freedom that Fish insists is vital to academia. Thus, professors must disengage with an eye to the future.

Of course, professors are citizens themselves, and may hold strong political convictions. It is a professor’s job to teach without revealing any of them. Fish ridicules the practice of professors giving disclaimers at the start of a class, revealing their political biases to their students in the name of transparency:

¹³ “Tip To Professors: Just Do Your Job,” 308-309.

¹⁴ “Why We Built the Ivory Tower,” 302.

¹⁵ *Versions of Academic Freedom*, 118.

Some teachers think they can have their politics and eat it too by flagging their views up front. They say, I let my students know where I stand on the political issues of the day so that they can discount my biases. The “It’s just a job” school regards this strategy as particularly dishonest. It’s like an advance get-out-jail-free card, a claimed immunization from a virus it in fact introduces, or like a parent saying to a child, “Now don’t be influenced by my opinion just because I’m your mother.” Every child and student knows what he or she is supposed to do next: come to the preapproved conclusions while pretending that they have been arrived at independently. Announcing your political preferences as a supposedly prophylactic gesture is a sure way to surrender the classroom to politics.¹⁶

In short, announcing potential biases is the lazy way of attempting to remove bias from the classroom. The better way, the right way, is to be harshly self-reflective, and to attempt to stamp out biases through professional conduct and self-censorship. However, Fish warns, many professors make no attempt to do so.

This, understandably, leads Fish to consider the future of academia. Fish’s stance on academic freedom and the limited role of professors stems from a respect for academia and the liberal arts—as well as the fears he has for its future. He argues that academia should embrace the idea of the “ivory tower,” and thus clearly demarcate its territory—keeping unwanted influences out. In *Think Again*, Fish asserts,

The distinctiveness of the humanities and liberal arts education rests on their inutility, on their fostering a mode of thought that does not lead (at least by design) to the “practical solution of real-world problems but to a deeper understanding of why there are problems in the first place and why they may never be resolved. That distinctiveness is compromised whenever the liberal arts dance to the tunes of politics, economics, citizen-making, or anything else.¹⁷

Fish’s love of this distinctiveness, which comes through clearly in his personal reflections on teaching, is perhaps the primary reason he so fiercely condemns academics who open the university to non-academic pursuits. The sanctity of the university is Fish’s highest value, and his criticisms of the politicized classroom stem from a fear that politicization only invites more politicization.

However, de-politicizing the classroom does not mean removing the necessarily preferential facets of critical academic analysis. Political ideas simply cannot and should not be represented equally in the university. Making political ideas the subject of academic discussion entails separating the wheat from the chaff. If a point of view does not stand up to academic criticism, there is absolutely no reason it should receive equal airtime in the classroom. In fact, if professors do try to give every opinion a seat at the table, they only further politicize the classroom:

Requiring intellectual diversity—understood as the demand for proportionate political representation—will do nothing to improve the educational experience; but it will mandate the presence of certain partisan perspectives in the classroom. In short,

¹⁶ *Ibid.*, 36.

¹⁷ *Think Again*, xix.

intellectual diversity is finally nothing more than a program of affirmative action for conservatives. There is nothing intellectual about it.¹⁸

Fish focuses, with palpable revulsion, on the slow creep of overtly conservative ideals into the classroom. Because intellectual diversity is a widely accepted norm, the claim that the university is dominated by liberals and liberal ideology pressures academics to teach conservative ideas even when they may not merit discussion. Thus, professors who attempt to give every idea equal representation fail in their jobs in multiple ways. They politicize the classroom, though they do not intend to, they normalize the trend of token intellectual diversity, and they fail in their duty to apply academic criticism in the classroom.

Moreover, professors who politicize the classroom harm academia as a whole. In Fish's mind, they invite other people to tell them how to do their jobs by attempting to do other people's jobs:

Higher education loses, because it is precisely when teachers offer themselves as moralists, therapists, political counselors, and agents of global change rather than as pedagogues that those who are on the lookout for ways to discredit higher education (often as a preliminary to taking it over) see their chance.¹⁹

When professors overstep their bounds, they receive media coverage, prompt outrage from whichever groups oppose their views, and draw attention to their unprofessional, un-academic actions. Thus, it is up to academics, and academia as a whole, to ensure that professors do not engage in politicizing the classroom, and thus do only their job—which should be more than enough work when done correctly.

Fish shows disdain when discussing academics who fail to do their job—because of the esteem in which he holds university education, and because of the harm that they do to academia. In Fish's mind, politicizing the classroom is not only wrong, it is the sign of a bad, or lazy, teacher: “Only bad teaching is a political act.”²⁰ A good teacher should impart knowledge and tools of criticism—which could lead to political judgments of any informed kind—without needing to resort to political statements. Professors who teach like this reflect badly on themselves, and on their profession: “Teachers who prefer grandiose claims and ambitions to that craft are the ones who diminish it and render it unworthy.”²¹ Here, again, Fish implicates the entire professoriate in self-policing and encouraging a culture of non-political, wholly academic, professionalism.

When we think of academics as professionals, and not as intellectuals or thinkers of a special class, we are prompted to hold them to higher standards. Fish points out that many people in many professions are asked to leave their politics at the door. So, professors should be able to do so as well: “We are perfectly capable of acting in accordance with the norms that belong to our present sphere of activity, even if our ‘take’ on those norms is inflected somewhat by norms we affirm elsewhere.”²² This is what any professional should do, and so it should come as no surprise that Fish thinks academics should be able to do so as well. In fact, academics should be

¹⁸ *Versions of Academic Freedom*, 72.

¹⁹ *Save the World on Your Own Time*, 14.

²⁰ *Ibid.*, 70.

²¹ *Ibid.*, 53.

²² *Ibid.*, 23.

able to leave their politics at the door more easily than most—as they should be well trained in recognizing their biases.

Of course, professors may be led astray by unprofessional aspects of the current academic culture—which is corrupted in part by universities that claim to do more than they ought to. In *Save the World on Your Own Time*, Fish examines Wesleyan’s mission statement (which has since changed). He focuses on Wesleyan’s intention to “foster awareness, respect, and appreciation for a diversity of experiences, interests, beliefs and identities.”²³ These are exactly the platitudes that Fish so enjoys picking apart. They are impossible, by their very nature and by their expression in reality, to uphold. Fish asks,

why should students be taught to “respect” a diversity of interests, beliefs, and identities in advance of assessing them and taking their measure? The missing word here is “evaluate.” That’s what intellectual work is all about, the evaluation, not the celebration, of interests, beliefs, and identities; after all, interests can be base, beliefs can be wrong, and identities are often irrelevant to an inquiry.²⁴

In point of fact, Wesleyan—and every other university—does not respect or appreciate a diversity of interests, beliefs, and identities. That is the nature of the university. Were it to exist in a vacuum, with no society surrounding it, no students with outside experiences, and no history, then perhaps it could respect and appreciate impartially. However, that it exists in a democratic nation, in the West, with a general culture formed by the institution, the students, and the faculty, means that it has collective opinions, biases, and prejudices. A white man with a Confederate flag would likely be accosted at Wesleyan, and that’s not necessarily a bad thing.

The mere promotion of diversity is a political act on the part of Wesleyan, or any university. Fish reminds us that, “As long as respect for the culture, religion, and ideology of the other is a contested ethic rather than a universal one, a university that requires it or attempts to inculcate it is engaged not in educational but in partisan behavior.”²⁵ This contested ethic is not necessarily a bad one, and is perhaps a valuable mindset for students to have. However, that does not mean that the university should treat this ethic as truth. It should be taught, examined, and criticized just like any other ethic. If, at the end of the day, students decide to adopt it after careful consideration and academic criticism, then the university has, methodologically speaking, done its job.

Now, if the university should not advocate for cultural respect, then there are other ideas, which have become a part of the fabric of liberal university culture, that we must reconsider as political. Fish points out that universities are too often considered places not only for learning, but also for free expression and ideological, political discourse:

The university is primarily a place for teaching and research. The unfettered expression of ideas is a cornerstone of liberal democracy; it is a prime political value. It is not, however, an academic value, and if we come to regard it as our primary responsibility, we will default on the responsibilities assigned us and come to be what no one pays us to be—political agents engaged in political activity.²⁶

²³ Ibid., 10-11.

²⁴ Ibid., 10-11.

²⁵ Ibid., 68.

²⁶ Ibid., 20.

The academic pursuit requires an unfettered examination of an unlimited amount of ideas—but we should not confuse these duties with acts of overt political expression. Academic freedom dictates that a class should be able to carefully, critically, and academically discuss the Israeli occupation of Palestinian land. It does not mean that the university must guarantee that protestors on campus can preach about the evils of the “Israeli Apartheid”.

Fish applies these same principles to the recent events at Yale and the University of Missouri, where student protesters have argued that their speech is protected by academic freedom. Fish argues that such a stance is incorrect, both because students do not receive academic freedoms (as apprentices in academia, not actual practitioners) and because academic freedom does not entail freedom of speech. He explains that, when faced with incidents of students claiming to have been harmed by micro-aggressions, universities cannot follow a normative process. Rather, their responses must be prudent, in keeping with their role as strictly academics—not political actors.²⁷

Fish on Liberal Ideology

Stanley Fish is never afraid to criticize liberal ideology. In fact, he seems to delight in puncturing the arguments so often floated by progressives. Fish embraces the contrary position, and goes against convention. But he does so without bragging about it. Fish conveys no sense of contrarianism for contrarianism’s sake. Rather, his arguments are so rooted in logic and simple reasoning that they leave the reader wondering why his opinion is not more widely embraced. Oftentimes, Fish arrives at a liberal policy conclusion through a novel and illiberal form of reasoning.

Fish embraces identity politics—but denies that they should be tribal. This may seem like a contradictory position, but Fish explains his distinction: “identity interests, as long as they are ideological and not merely tribal, constitute a perfectly respectable reason for awarding your vote.”²⁸ Thus, someone may vote for, say, a woman for President because having a female President would be good for changing gender dialogues in America. In this case, the vote is given due to the identity of the candidate, but for reasons beyond merely, “I am a woman and so is she.” That, says, Fish, is not good enough for a smart democratic voter.

While Fish doesn’t support the blind tribalism of identity politics, he embraces favoritism: “Favoritism—giving more than an even break to your own kind—is not a distortion of judgment, but the basis of judgment.”²⁹ This view is rooted in a deep—some would say cynical—sense of realism. Favoritism will not go away—it is simply too hardwired in humanity. Moreover, favoritism is a potentially powerful tool for minorities and other groups that rely on identity politics to thrive and assert power.

But, of course, favoritism is not fair. Fish has no use for fairness: “Fair is a weak virtue; it is not even a virtue at all because it insists on a withdrawal from moral judgment.”³⁰ Too often,

²⁷ Stanley Fish. “It’s Not About Free Speech or Academic Freedom.” *Huffington Post*. Huffington Post, 23 Nov. 2015. Web. 11 Feb. 2016.

²⁸ Stanley Fish, “When ‘Identity Politics’ is Rational.” *New York Times* 17 Feb. 2008 in *Think Again* (Princeton: Princeton University Press, 2015), 148.

²⁹ Stanley Fish, “Favoritism Is Good.” *New York Times* 7 Jan. 2013 in *Think Again* (Princeton: Princeton University Press, 2015), 129.

³⁰ Stanley Fish, “Two Cheers for Double Standards.” *New York Times* 12 Mar. 2012 in *Think Again* (Princeton: Princeton University Press, 2015), 128.

progressive thinkers try to have it both ways with fairness—insisting on a fairness modulated by moral judgments. But that is not fair. Fairness is like equal representation of ideas in the classroom. It is an absolute principle. Fairness modulated by morality is not fairness—and it is a problem when it pretends to be so. Fish accepts that dismissing fairness means embracing some fairly unattractive possibilities:

It amounts to an apology for identity politics. It elevates tribal obligations over the universal obligations we owe to each other as citizens. It licenses differential and discriminatory treatment on the basis of contested points of view. It substitutes for the rule “don’t do it to them if you don’t want it done to you” the rule “be sure to do it to them first and more effectively.” It implies finally that might makes right. I can live with that.³¹

Fish’s point is that progressives can use these unfair tools just as easily as the more reactionary groups they often associate them with. In the strict sense of fairness that Fish insists we use, affirmative action is not fair. It is, indeed, discriminatory—but that might not be a bad thing. Maybe we don’t have to be fair about free speech—maybe groups like the Westboro Baptist Church do not merit fair free speech rights. Indeed, if might makes right, then perhaps cultural might—like that behind accepting LGBTQ rights or gun control laws, could make right and dictate unfair policies or positions in the name of a greater good than fairness. Now, Fish doesn’t necessarily scorn fairness because he wants to advance these progressive causes. His point is that insisting on fairness when your policy preferences are anything but fair is ridiculous.

Fairness, in the way it is misused in American politics, also dictates “fair and balanced” news media. Fish, of course, insists that such a pursuit is not only bound to fail—but not worth the trouble. Every news story, simply by virtue of the information that is necessarily included and excluded, is subjected to the bias of those who report it. This is not a bad thing—it is an opportunity for political speech, thinking, and opinion:

Spin—the pronouncing on things from an interested angle—is not a regrettable and avoidable form of suspect thinking and judging; it is the very content of thinking and judging. No spin means no thought, no politics, no debating of what is true and what is false.³²

While Fish has no interest in political debating of what is true or false in academia, he is harshly critical of attempts to pretend to be part of a liberal pursuit of “truth” and an objective portrayal of an inherently subjective reality. True discourse, of a productive variety, requires opinionated speech—it requires spin. Fish insists, then, that we not only speak with an opinion, but that we acknowledge that it is impossible not to do so.

However, modern progressive norms so often aspire to neutrality and fail to acknowledge that they cannot do so. Fish particularly criticizes the idea of multiculturalism, explaining that it is its own form of discrimination:

³¹ Ibid., 128.

³² Stanley Fish, “The All-Spin Zone.” *New York Times* 6 May 2007 in *Think Again* (Princeton: Princeton University Press, 2015), 141.

the watchwords of multiculturalists are difference and diversity. But just as neutrality and impartiality mandate the exclusion from their circle of strong religious views, so do difference and diversity mandate the exclusion from their circle of views alleging racial superiority or the immorality of homosexuals. Liberal neutrality and multiculturalism are both engines of exclusion trying to fly under inclusive banners.³³

This is the inherent contradiction of multiculturalism: the cornerstone of so many cultures is exclusivity and hostility.

So, sometimes multiculturalists simply embrace other cultures on a surface level, doing little to actually engage with them ideologically. Fish calls this brand of multiculturalism “boutique”:

Boutique multiculturalism is the multiculturalism of ethnic restaurants, weekend festivals, and high-profile flirtations with the other in the manner satirized by Tom Wolfe under the rubric of “radical chic.” Boutique multiculturalism is characterized by its superficial or cosmetic relationship to the objects of its affection.³⁴

This sort of multiculturalism, whether it be in Coldplay videos or a poorly made bowl of *pho*, is the sort most often accused of cultural appropriation. Fish gets to the root of the problem, explaining, “A boutique multiculturalist does not and cannot take seriously the core values of the cultures he tolerates.”³⁵ If we take cultural appropriation to be use of a culture without serious thought or reflection, by a more powerful group, then it seems that Fish has correctly identified boutique multiculturalism as the ideology behind appropriation.

Fish acknowledges that there are multiculturalists who take other cultures seriously, and attempt to really value them. These, he terms “strong” multiculturalists. Fish identifies the politics of difference as a prime, and problematic, example of strong multiculturalism:

The politics of difference is the equivalent of an endangered species act for human beings, where the species to be protected are not owls and snail darters but Arabs, Jews, homosexuals, Chicanos, Italian Americans, and on and on and on. The politics of differences is what I mean by strong multiculturalism. It is strong because it values differences in and for itself rather than as a manifestation of something more basically constitutive.³⁶

Here, we return to the contradiction inherent in multiculturalism. What is a strong multiculturalist to do when faced with a primarily exclusionary, racist, sexist, or otherwise discriminatory culture? Fish concludes that the strong multiculturalist generally:

condemns the core intolerance of that culture...in which case he is no longer according it respect at the point where its distinctiveness is most obviously at stake....Indeed, it turns

³³ *The Trouble with Principle*, 44.

³⁴ *Ibid.*, 56.

³⁵ *Ibid.*, 57.

³⁶ *Ibid.*, 60.

out that strong multiculturalism is not a distinct position but a somewhat deeper instance of the shallow category of boutique multiculturalism.³⁷

This, Fish argues, is bad for everyone, because it is yet another case of a principle claiming neutrality while engaging in intense moral judgment.

However, Fish does not necessarily hold that judgment in contempt—he just objects to how often it gets ignored. Fish is, generally, a strong supporter of judgment:

If the difference is fundamental—that is, touches basic beliefs and commitments—how can you respect it without disrespecting your own beliefs and commitments? And on the other side, do you really show respect for a view by tolerating it, as you might tolerate the buzzing of a fly? Or do you show respect when you take it seriously enough to oppose it?³⁸

Thus, there may not really be a problem with the morality of the typical strong multiculturalist stance. The issue is that it claims amorality, and acceptance. Respect, Fish asserts, does not mean celebration—it means critical examination, and sometimes rejection.

Fish on the First Amendment

Fish applies his brand of mildly cynical realism to the oft-mythologized First Amendment. Much as he insists that there is no such thing as fairness, or a lack of spin, Fish refuses to unthinkingly praise freedom of speech. His point is, in fact, that no speech is free: “The act of speech, unless it is understood as the production of mere noise, is always at once constrained and constraining.”³⁹ Language, with its rules—written and unwritten—and cultural significance, is constrained by its very nature. Ideas do not merely migrate from one mind to another in their most perfect, elemental form. Rather, people convey them through speech. Thus, speech is a means to communicate, an imperfect medium for ideas. Here, Fish seems to embrace Foucault’s idea of language as a cultural, social framework not only for speech, but for thinking. The presence of language means that speech is not free. It is dependent on norms, rules, and the abilities of the speaker.

Moreover, the realities of life restrict speech just as they restrict any other human action. Fish explains, “There is no speech that is free of consequences—no speech, that is, whose impact can be confined to the sterilized and weightless atmosphere of a philosophy seminar.”⁴⁰ Saying something, anything, is a declarative, potentially definitive, act. Speech cannot exist without a speaker, and speech cannot be separated from the speaker. Indeed, why would we want to separate speech from the speaker? Anonymity has its virtues, but, Fish suggests, so do opinions—and opinions should be explicit, should have a face, and should be held without a need to hide the speaker.

So, if there is no such thing as free speech, where does that leave the First Amendment? Well, Fish instructs us to stop thinking of it as a holy commandment:

³⁷ Ibid., 61.

³⁸ Ibid., 66.

³⁹ Ibid., 93.

⁴⁰ Ibid., 94.

the First Amendment is a political instrument, not an apolitical principle to which you can be faithful or unfaithful. It is a vocabulary and a set of formulas which are conceptually incoherent but which by virtue of that very incoherence can be turned to the advantage of any policy decision you might want implemented.⁴¹

Of course, Fish is hardly revolutionary in pointing out the vague nature of the Amendment. The interesting aspect of his political First Amendment is that he embraces this definition. Fish supports ideologically based identity politics, favoritism, and spin—reasoning that it is disingenuous and unproductive to insist on universalisable principles and value-free ideas. Of course the First Amendment is political. It was the product of a political, and deeply ideological, set of meetings and group of men. It was a product of its time, and its political circumstances—and our understanding of it has been shaped by case after case of jurisprudence from politically appointed justices operating in a variety of political climates. The First Amendment only exists in so far as it is enforced—and the act of enforcing it, since it is likely impossible to enforce it with absolute, value-free fairness, is a political one. Indeed, the very notion that First Amendment freedoms are important is a political statement.

Instead of attempting to do the impossible and unproductive, and maintain the First Amendment as a façade of fairness, Fish leans into its political nature. He embraces it as an important part of its continued relevance:

If you sunder the First Amendment’s operation from the determination of value (on the reasoning that values are relative to persons and therefore not an appropriate basis for a general rule), then that operation is pointing in no direction except back at itself; it becomes its own value, unaccountable and unassailable. It becomes God.⁴²

Surely, we have better things to make God. When the First Amendment becomes inwardly focused, as Fish describes it, it loses its ability to interact with reality—which is messy, which necessarily restricts freedoms, and which is more important than vague principles. Indeed, it becomes irrelevant to the human experience.

The root of many of Fish’s critiques of liberal ideology, and lazy expressions of progressive principles, is a lack of patience for things that can only exist in theory, and have no bearing on or truth in reality. The absolute, apolitical First Amendment is absolutely theoretical:

judgment without partiality—judgment delivered from nowhere and everywhere—is not an option for human beings and is available only to gods and machines....if we cling to it, the condition of being machines—engines of will unconnected to anything except the emptiness of repeated and directionless desire—may be the fate we make love to.⁴³

To be human is to be unfair, to have preferences, to be political and partial. The trouble is that so much of progressive, liberal ideology stems from Enlightenment-era thinking about humanity—which attempted to imagine ideal, impassionate social behavior.

In the real world, speech is always political, and always politicized. That we have a notion of “hate speech” is a nod to this reality. Fish points out the oddity of a society with an

⁴¹ Ibid., 160.

⁴² Ibid., 87.

⁴³ Ibid., 113.

ideal of free speech and a legal category of hate speech: “In order to identify something as hate speech, you would have to be in possession of a baseline rationality in relation to which some statements could be judged as resting on nothing but malignant will.”⁴⁴ Fish has already dismissed the idea of a universal rationality, or an absolute way to judge hate speech. So, hate speech must be defined based on cultural norms, and subjective morality: “The determination of what is or is not hate speech can never be independent of the commitments and values of the person who is making the determination.”⁴⁵ In summary, Fish demands more thoughtful and self-reflective consideration of freedom of speech and the First Amendment—so that we realize the assumptions and contradictions therein.

Fish, then, connects the First Amendment to academic freedom—legitimizing his definition of academic freedom by using the cultural importance of the First Amendment. He writes,

If democratic competence is accepted as a First Amendment value (because the responsible exercise of First Amendment rights requires it), and if democratic competence is fashioned in large part by academic institutions, then academic freedom—the freedom to engage in that fashioning without political interference—is more than the slogan of a guild that wishes to be left to its own devices.⁴⁶

While Fish, himself, may not want universities to engage in fashioning democratic competence—they may do so simply as a byproduct of doing their job. Ultimately, then, academic freedom helps universities and professors do their job—and only their job. Thus, it strengthens the ability of the university to produce thinkers, and educated, critical graduates. These are a boon for democracy, but are certainly not designed for any political system. So, freedom of speech, with all of Fish’s qualifications about what that actually means, and democratic discourse benefit from academic freedom—even if academic freedom is not designed to produce this effect.

What is Stanley Fish?

Stanley Fish is a man with many opinions, but surprisingly few expressed political convictions. His opinions and views—those for which he should ultimately be defined and judged—are primarily about argument and discourse. When Fish criticizes protesters who claim protection of academic freedom, he criticizes their methodologies, not their cause. This is Fish’s usual mode of thinking. There are plenty of people out there writing about what is right and wrong. Fish is concerned with how to determine right and wrong, and how to talk about getting there.

When Fish does take a stance on a political issue, it is generally to criticize the arguments behind it. He is brashly opinionated on the topic of academia, the world he has been in for most of his life. Fish is notably uninterested in expressing sound-byte style political opinions. Perhaps it is because he applies his notion of the professional academic, refusing to politicize that which should be academic, to all of his work. Regardless of the reasoning behind what topics he expresses opinions on, Fish’s lecture promises to be primarily about how we think about campus life and the issues surrounding micro-aggressions, trigger warnings, and cultural appropriation.

⁴⁴ *Think Again*, xv.

⁴⁵ *Ibid.*, xv.

⁴⁶ *Versions of Academic Freedom*, 46.