Places of Engagement

Reflections on Higher Education in 2040 - A Global Approach

Edited by Armand Heijnen and Rob van der Vaart

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‘Let the lightning strike!’ — Free speech and the university

Carel Stolker

As Rector of Leiden University, I am often asked about non-mainstream contributions made by Leiden scholars to public and political debates.[1] On Twitter, at alumni events, or at the local market in my hometown of Leiden, concerned individuals are keen to have a quiet word with me about whichever of our professors has most recently made some controversial statement in the media. Such individuals are almost always embarrassed about the university — the very university you hope they would be proud of. But asking someone whose job it is to run a university to silence his or her professors strikes me as somewhat alien. My own university has for centuries had as its motto *Praesidium Libertatis* (Bastion of Freedom), symbolising the courage to speak truth to power. In Leiden, we put it as follows:

> Our University stands for freedom of spirit, thought and speech, and for the independent development of research and teaching. It is a safe haven where all questions can be asked and answered freely. […] The University is committed to developing, disseminating and applying academic knowledge, and is a reliable beacon in national and international societal and political debates.

1 This is an extended version of an address by Carel Stolker, Rector Magnificus (vice-chancellor) of Leiden University, on the occasion of the 443rd Dies Natalis of Leiden University on 8 February 2018. The author wishes to thank his colleagues who provided very useful comments on earlier versions of this paper.

The paragraph about Utrecht University's core values is somewhat different. It reads:

> The university is a place where employees and students receive enough space to develop their talents. Thinking independently is a distinguishing feature of our academic community. The freedom of employees and students sets high standards for acting responsibly and with integrity: our attitude towards work is motivated, meticulous, reliable and morally justifiable. Integrity also requires an open and respectful interaction between employees and students.

Freedom of *speech* is not mentioned here as such. And it is noticeable that the acclaimed book by my good friend, outgoing vice-chancellor Bert van der Zwaan, *Higher Education in 2040 — A Global Approach*, does not mention the issue of free speech in academia either. Even so, I am sure he will have had similar experiences to my own, perhaps not at the market in Leiden but almost certainly at a similar market in Utrecht. So, this seems a good time for me to try to sketch out the bones of a new chapter for the second edition of his book. As we are all aware, in a politically divided and globalising world, free speech is a subject that will become increasingly important for Dutch universities, too. The heated debates about free speech on university campuses that are currently being conducted in the United Kingdom, and even more so in the United States, demonstrate this all too clearly. I recently read an interesting interview with British scholar Joanna Williams on this topic. I know almost nothing about her political views except that she supported Brexit. What was especially noteworthy in the interview was her comments about higher education. Particularly in the academic world, she says, controversial ideas are absolutely essential: 'They challenge you. If you disagree, you can use them to refine your own opinion. In the past, new knowledge has often been seen as offensive. Plenty of efforts were made to get rid of the theory of evolution. If the university's goal is only to

give space to insights that won't offend anybody, you won't get anywhere.'[2] And American Professor Keith E. Whittington, author of a book on free speech, wrote in the Princeton Alumni Weekly: 'Embracing free speech is easy if the speech never seems very challenging. […] It is much more difficult to learn to tolerate those with whom we disagree and who espouse ideas we find preposterous, repugnant or even dangerous.'[3] In this essay for Bert van der Zwaan, my proposition is that universities, more than any other institutions, must defend the freedom of the spoken and written word, but that we can only do this if we are prepared to enter into serious debate with all comers.

Open debate by its very nature includes people who hold different views from our own. A truly open debate not only requires the courage to conduct it but also calls for university presidents and deans to let such debates take place. Indeed, they should encourage and, if necessary, defend such debates. In addition, it calls for proper codes of behaviour and an atmosphere of safety in which views can be exchanged. After all, a university is much more a community of people than simply an organisation. As a community, it can only flourish on the basis of good mutual relations: think of our scholarly associations, our societies and academies, our institutes and faculties, all of which focus on discussion and debate. Within these communities, we strive for the utmost freedom and safety to conduct that debate. It is just such an open discussion with colleagues, students and society that makes the university more than a mere speakers' corner. For those who want to participate in the debate, this means, for example, going beyond just blogging on a site where you know in advance that everyone will agree with you, or tweeting within your own safe bubble. It also means resisting the temptation

2 In Vincent Bongers, 'My opinion is too dangerous', *Mare*, 15 February 2018.

3 Keith Whittington, *Speak Freely: Why Universities Must Defend Free Speech* (Princeton: Princeton University Press, forthcoming). This is an adapted excerpt from his forthcoming book. See also Sigal R. Ben-Porath's *Free Speech on Campus* (Philadelphia: University of Pennsylvania Press, 2017), which gives a good illustration of the many struggles that free speech produces on university campuses.

to place like-minded people on a PhD examination committee or boycotting annual meetings of your academic colleagues because they are all very much against your position. Open debate demands an open attitude. Open debate is so important because a community always runs the risk of descending into groupthink while purging out competing views. For example, there can be a tendency to mainly appoint people who are like ourselves and who think as we think. This is one reason why the increasing focus on diversity is so important, not only in terms of gender or cultural or social background, but also, and maybe above all, in terms of opinions and views.

So how can we avoid such mainstream thinking in our universities? If you are looking for the right direction to take, it is always wise to know where you are coming from. Then you discover that 'diversity of views' goes back a long time. For my own university, the concept of diversity of views has very old roots. Since its foundation, shortly before Utrecht University was established, diversity of views has always been the mainstay of Leiden's appointment policy. Even as early as the sixteenth and seventeenth centuries, the university was scrupulous in ensuring that different schools of thought were expressed in the curriculum. If an Aristotelian was appointed, for instance, this was balanced by the appointment of a Cartesian. There were at least two important reasons for the university's policy, university historian Willem Otterspeer (2008) writes. First, the clashes fuelled the debate on fundamental scientific principles, something that is crucial for a university. And second, they served as a 'lightning conductor', not preventing the lightning of debate from striking but bringing it constructively under control. This is a tradition that universities should continue to cherish today. It explains why I am so happy with my Leiden colleagues who throw themselves not only into scholarly discourse but also into public and political debates, and with the freedom that we as a university are able to afford them. For any academic institution, there is nothing so satisfying as to witness two opponents battling it out with each other in an environment that invites debate.

Many countries such as Turkey or Hungary (with regard to the Central European University in Budapest) do not have — or no longer have — this freedom for their academics.

So, let the lightning strike, I say.[4] Rectors or presidents of universities should as a matter of principle *not* interfere in the subject matter of the debate. Yet they *do* bear responsibility for shaping and facilitating that debate, and thus for keeping internal disputes under control. Without this, a true debate would be impossible, and the so highly vaunted academic community could easily fall apart. Having said this, does it mean there are no limits to what is acceptable? No, it does not. We are all bound by the limits of the law, such as not inciting hatred. Equally, we are bound by the rigours of academic integrity, which prohibits, for example, fabricating research results. And ensuring the physical safety of students and staff is a key obligation for every university. Here, yet another core value comes into play: the *quality* of our work as academics. We may quite rightly have particular expectations of those who invoke the freedom of free speech, namely that they will at all times be guided by the importance of the quality of their contributions. Whether it is a matter of a tweet, a blog, or a column, questionable conduct by academics strikes at the heart of one of academia's main tasks: to be a reliable beacon for the world. My predecessor, Paul van der Heijden, commented at length when he was still vice-chancellor at the University of Amsterdam, on the role and position of so-called 'public intellectuals' (2003a, 2003b). In his discourse, he quite rightly acknowledged his own responsibility. His issue was that columnists, for example, are in an attractive, and perhaps convenient twilight zone. Whereas scholars within academia are required to be accountable for the quality of their work, the situation is quite different outside

4 See also Martijn van Calmthout, 'Academics should engage more explicitly in public debate. Right now the debate needs academics, including those from the right' (in Dutch), *De Volkskrant*, 9 December 2017; as well as 'Universities Should Encourage Scientists to Speak Out about Public Issues', editorial in *Scientific American*, February 2018.

the academic arena. As Van der Heijden pointed out, there it is a free-for-all: the newspaper that publishes an article does not employ the columnists or the company that broadcasts their work; the university employs them. However, in these media appearances, members of university staff are not acting in the context of their academic position. I agree with him. There must be no question of their abusing this position.

Let the lightning strike, and control its effects. This applies not just to our own academic staff; rather, diversity of views also encompasses all those that we, including our students, want to invite to speak or write at our university. In many universities, the question today is: who do you invite and who do you ban from speaking? The University of California, Berkeley, made world headlines when it was accused of attempting to distinguish politically correct from not politically correct speakers. But the new Dean of Law there, Erwin Chemerinsky, argues in his book *Free Speech on Campus* (2017, co-authored with Howard Gillman, Chancellor at UC Irvine) that the university really has to be the forum for the new, the provocative, the disturbing, and the unorthodox.[5] Chemerinsky and Gillman quote a committee report from 1974 (a very different time!) about free speech at Yale University — the so-called Woodward Report — which concluded: 'We value freedom of expression precisely because it provides a forum for the new, the provocative, the disturbing, and the unorthodox. Free speech is a barrier to the tyranny of authoritarian or even majority opinion as to the rightness or wrongness of particular doctrines or thoughts.' There was one dissenter on the committee: Kenneth J. Barnes, a Harvard law student and graduate student in economics.[6] Barnes agreed that

5 The words 'the new, the provocative, the disturbing, and the unorthodox' are from a report of the Committee on Freedom of Expression at Yale, 23 December 1974.

6 Apparently, the debate within the committee was not always easy, as one can expect with such a challenging topic. In his accompanying letter, Chairman Woodward mentioned that Barnes' dissent was only received after the committee had finished its deliberations, completed the writing of its report, and disbanded for

free expression is an important value, which we must cherish and protect. But, he argued, whereas the majority of the committee were willing to accept the 'short-run' costs by insisting that free expression be the 'paramount' priority in a university,

> …I would try to balance the conflicting interests in each case, and weigh the values which would be sacrificed in the 'short run' against the potential 'long-run' knowledge which might be gained by allowing the free expression. If, for example, Hitler was invited to Yale to discuss his research into the area of Aryan racial superiority, and his policy prescription of extermination of all non-Aryans, I would have a hard time justifying allowing him to speak. Even if I were confident that his theories would, if wrong, eventually be disproved in the 'long run', I have learned from history that the 'short run' costs would be overwhelming.

But Chemerinsky and Gillman do not agree. They go even further in their reasoning. They believe we should not let solidarity, community feeling, politeness, or mutual respect — important as these are— take precedence over freedom of expression. Quoting the Yale Report again:

> Without sacrificing its central purpose, it cannot make its primary or dominant value the fostering of friendship, solidarity, harmony, civility, or mutual respect. To be sure, these are important values … but … never let these values, important as they are, override the central purpose.

In the spirit of the rigorous content of the US First Amendment, which is much more protective of free speech (and many non-Americans would probably say this protection goes decidedly

the holidays. The committee was therefore unable to comment on the faithfulness with which its views are represented, the scrupulousness with which its words are quoted, or the accuracy of the factual allegations.

too far), this quote conveys a difficult message: never allow friendship, solidarity, community feeling, mutual courtesy, reciprocal respect, or the desire to give our students an inclusive learning environment — and the importance of all of these is undisputed — to weigh more heavily than freedom of expression.

Both the Yale Report and Chemerinsky and Gillman's book show that the issue of diversity of views at the academy, both on campus and in the relative privacy of the classroom, is not always simple. Because, similar to the risk that university communities run of appointing mainly clones of themselves, there is the danger that we are so nice and accommodating towards one another that true debate is no longer possible. Diversity and inclusiveness — two words that we so often utter in a single breath — can unfortunately at times also lead to friction. But here, too, it is right to mention the young dissenter Barnes in the Yale Report:

> [Free speech] is not the only value which we uphold, either in our society or in our universities. Under certain circumstances, free expression is outweighed by more pressing issues, including liberation of all oppressed people and equal opportunities for minority groups.

Two weeks after my own speech at Leiden University's Dies Natalis, I had an in-depth conversation with some young Leiden University scholars of colonial history; they stressed the overriding importance of inclusiveness at the university. And although I fully agree with the importance of inclusiveness (and the importance of equality), I differ from them because as a vice-chancellor I really fear the slippery slope where, indeed, the new, the provocative, the disturbing, and the unorthodox would become the victim.

This dilemma — how to underline the importance of an environment that combines both diversity and inclusiveness — may well be felt even more strongly at the campus-style universities that are more prevalent in the United States, for example. On

these campuses, students — and in some cases university staff — occupy a distinct communal space. This may have the effect of making them rather more vulnerable as a community, including in terms of their social safety. Yet for every university, campus-style or not, diversity of views applies to students and their teachers, particularly in the more protected environment of the classroom. Sigal R. Ben-Porath, in her wonderful book on free speech on campus, quotes University of Chicago Chancellor Robert Maynard, who wrote in 1936 that a liberal education frees a person 'from the prison-house of his class, race, time, place, background, family, and even his nation'. To this she adds:

> Students should be encouraged to not rely solely or mainly on identity groups for political expression; rather, they should be invited to learn to extend their sense of themselves as political actors beyond their identity groups. Colleges [and universities — CS] should fulfil their civic and educational missions by protecting and encouraging political and other forms of speech by individual students and student groups. Students should not be perceived or encouraged to act in ways that insulate them from conflicting views; exposure to opposition and disagreement should not be included in the notion of harm from which students must be protected.[7]

But Ben-Porath, as a teacher and researcher at the University of Pennsylvania Graduate school of Education, also pays much attention to the importance of inclusiveness within the four walls of the classroom. Because here — in that relative intimacy — an open, wide-ranging, and inclusive atmosphere is a crucial condition for teaching and learning. In her book, she offers teachers some practical ways to plan and organise an inclusive classroom environment that is committed to the protection of

7 Ben-Porath, *Free Speech on Campus* (Philadelphia: University of Pennsylvania Press, 2017), pp. 48-49.

free speech.[8] Academic teaching, she argues, is more demanding and more limiting than the rules of pure free speech: 'Students on more liberal campuses who feel marginalized because of their conservative or other right-leaning political ideologies should sense that their views are respected and valued whether or not they are reflected in a particular syllabus. Minority students on mostly white campuses should feel the same'.[9] Yet, she continues, for the teacher it is best not to avoid controversy, neither when the professors bring it up nor when students raise controversial issues. And here, too, the lightning metaphor is a valid one: 'It is likewise important not to let the controversy get out of control, taking over the lesson plan or damaging the relationships among students or between students and their instructor'.[10] Campuses, Ben-Porath rightly says, can hardly be expected to reflect democratic practices and ideals without adapting them to their institutional context and goals.[11]

Free speech at the university, be it in class or on the wider campus, is not a given; it is something we have to work for every single day. Personally, I will try to be guided by the lessons that our university history teaches us: let the lightning strike, but control its effects and nurture good and open relations within the academic community of teachers and students. And yes, I'm sure that every vice-chancellor or university president will have difficult cases to deal with. But we have to guard against fearing 'the provocative, the disturbing, and the unorthodox' the contrary, we should welcome them. The academic world is the very place where we do not necessarily have to agree with one another, as Tilburg University Professor of Law Herman Schoordijk once said. And let us do this in an environment and in a form that make genuine debate possible — to avoid the university becoming that speakers' corner.

8 *Idem*, p. 94 ff.
9 *Idem*, p. 90.
10 *Idem*, p. 94.
11 *Idem*, p. 115.

Finally, to illustrate the point, I would like to share with you a telling experience from my university. Two years ago, American Attorney General Loretta E. Lynch, a highly respected American Minister of Justice serving under a highly respected American President, came to speak at Leiden University. As usual, our students were to ask questions following the Attorney General's speech, and one question they wanted to raise concerned the sensitive issue of the death penalty in the United States. Without the Attorney General being aware of it, just a few hours before her speech to remove this particular question. Our response was that the Attorney General would in that case not be welcome. Attorney General Lynch came, she gave her speech and she discussed the issue of the death penalty at length and in some detail. In my opinion, this is precisely how things should be at an academic institution. I have little doubt that Bert van der Zwaan will agree!

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