

Intellectual Autonomy, Intellectual Property and the New Enclosures¹

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If the public institution is committed to public interest, then privatization of research and teaching cannot be allowed. Work done should be seen, heard and critiqued. Innovation in knowledge can come when people take away ideas from us, just as we did. Research should be made public, accountable and responsible. The data commons in public interest cannot be sacrificed at the altar of intellectual autonomy.

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Intellectual property by definition closes off borders of projects, ideas and work-in-progress, founded on the assumption that these are ‘owned’ by the investigator/teacher. This closing off is what James Boyle has referred to as ‘the second enclosure movement’ (2003), after the closing off of commons and farmlands in early English history.

There is a system of checks and balances in place to ensure public scrutiny of teaching practices, research work in progress and projects in the tertiary institution: the Department’s Council, the Board of Studies, the School, UGC appointed committees, etc. Many of these are geared towards ensuring uniform and quality teaching and supervision that protects the best interests of students. However, this is precisely where our fail-safe mechanisms fail to ensure safety for the student and her/his work, or the larger interests of the public institution. Checks-and-balances do not work because increasingly teachers/supervisors hide behind the tag of ‘intellectual autonomy’. Drawing upon autobiographical knowledge I can cite instances where syllabi, pedagogy, evaluation and research supervision have been kept out of the purview of these above mentioned regulatory/monitoring bodies under the guise of intellectual autonomy. This is what I am referring to as the enclosure movement driven by the need for intellectual property rights.

Now, intellectual autonomy originally meant being able to think for oneself and not being dependent upon others’ thoughts. But it also means the right to sell one’s ideas, disseminate them, in a manner the holder of these ideas deems fit, or most profitable. In other words,

¹ In an earlier piece (<http://bit.ly/2evfYlh>) (I examined how the quantification of Indian academia has resulted in a desperate to supervise students – coded as API points – for individual teacher’s careers. The result, as I argued, was the collapse of boundaries of expertise or specialization or even methodological soundness, since what matters is the number of scalps – sorry, students – one can notch up, irrespective of the topics or quality. One finds English teachers – a species I have some familiarity with – supervising, with no training whatsoever, work in ethnography and anthropology, on identity-practices in various communities and even in literatures composed in languages the supervisor does not speak, read or write. The range of topics a supervisor now claims expertise in, going by the topics s/he supervises, is frighteningly marvelous. I now want to link the questions of intellectual property and academic ‘credit’ raised in the earlier essay to concerns over intellectual autonomy in tertiary institutions.

intellectual autonomy allows an individual to be the sole property owner of those ideas which s/he can then market. But this is quite contrary to the spirit – and in some cases the law – of the public institution. Intellectual autonomy in India codes as intellectual property rights and a new form of enclosure acts around projects and students. This shift in what the phrase means has an administrative teleology.

In the case of the professoriat, the administrative procedures of peer review and the current assessment mechanisms are modes of monitoring and quantifying the knowledge production by teachers, geared towards their career advancement. One such cog in the quantitative wheel is the number of M.Phil/Ph.D theses a teacher has supervised. Under the new UGC regulations, even submitted dissertations acquire points for the teacher, irrespective of the outcome of the external evaluation. (That is, a rejected thesis does not mean that points will be taken away from the teacher.!) Each thesis accrues a certain number of points for the supervisor and the result has been, as I noted in the first essay, a scramble to supervise, not very different from the colonial scramble for Africa or Asia. Only, here students are the *terra nullius*, the vacant land, to be conquered, fenced in, *numbered*. Academic freedom/autonomy now codes as intellectual property rights. As Corynne McSherry (2001: 36) puts it, this makes the knowledge output a commodity. What this also means is: students are commodities that the teacher accrues while shopping for points.

So what are the contents and minefields of this enclosed space of research and teaching?

A laissez faire state enters into the methodology of teaching and supervision. Teachers teach and supervise work in areas where they have no record of research and training. English teachers, for instance, trained only in literary studies slide into ethnographic work with no training, research experience or even a nodding acquaintance with ethnographic research methods. How does any teacher manage to evade questions of expertise in areas s/he supervises work in? Who is finally answerable if a project goes awry due to supervisor incompetence or indifference? These are unanswered questions because the enclosure ensures that the teacher has absolute intellectual autonomy over the project.

Supervisors and research scholars become extremely secretive and protective about their work. Cast more on the lines of trade secrets, there is no monitoring allowed of student work except through a mechanism such as the Research Committee or the Doctoral Committee, which is often handpicked by the supervisor with the express aim of keeping the project a secret. This is so because there is always the risk, real or imagined, of students being lured away, projects rejected (for various reasons, including academic ones) both of which would mean a loss of points in the climb upwards. It is not, therefore, about the autonomy of ideas but the control over numbered, quantifiable projects and students who embody career chances.

Public presentations of the project are hedged in with provisos such as “the supervisor’s intellectual autonomy of the project must be respected” or “the Doc. Com has already approved it and so no further changes need be made.” This is the creation of imagined boundaries around a work/project that aims to restrict ideas to what the supervisor has specified to the student. In other words, the supervisor asserts control over what the student may learn, in what is

tantamount to acts of intellectual censure and fascism, brought on by the assumption that 'supervisor knows best/all'. This is no different from the censoring of new ideas but especially ideas that might contradict the supervisor's. In short, we are looking at hegemony.

The student is also told, quite explicitly, that her/his work will only be evaluated and approved (or not) by the supervisor, and no other opinion matters. The supervisor then assumes a god-function. The assigning of such a role to the supervisor militates against the very spirit of intellectual inquiry which by definition should be free, external/open, unbounded and multiple. Evaluation is always by an observer external to the project, and in the new enclosures this is limited to the final moments of PhD theses being sent out to examiners.

Secrecy around the student's project implies control over knowledge production and dissemination by the hierarchic order: the supervisor determines what goes into the thesis or not. This is akin to making it private property or a trade secret. If intellectual autonomy is the argument being made as a defence against charges of secrecy, then it is doubly absurd: the student and a project is registered with a Department/School in a public institution and then suddenly shifted into the private vault. Intellectual autonomy here, which *relies* on public funding, public libraries and public institutional structure, thus serves as a code for privately owned students and their work. Does the individual teacher's rights override the institution's rights? If not, does the institution have the right, and mandate, to intervene in the production of knowledge?

Approval and comments on the student's project becomes *one* person's prerogative. This runs the risk of the student being denied access to any other opinions or feedback. Intellectual autonomy is then a mask for intellectual fascism where the supervisor alone defines the project's terms and scope. The denial of openness to a student when the supervisor is her/himself a publicly funded individual is an odd way of treating knowledge production. What are the political implications of such totalitarian control over the knowledge production of a student, whose social and cultural capital is miniscule in comparison with that of the supervisor?

Set aside the irony of academic and intellectual autonomy/property regimes in a world moving towards 'open access' for a moment and look at the social dimension. Whether this fencing in of projects and selective consultation amongst (only) like-minded – or equally inept – doctoral committee members renders the student completely vulnerable to the supervisor is a moot question. The larger academic unit, such as the Department or the Board of Studies, when denied the right to intervene in a project, cannot then be tasked with taking the responsibility for the student's work should things go wrong. Where does the student go in such a case? Intellectual autonomy then becomes a mask for a rigidly feudatory structure/relationship of supervisor-lord and student-vassal with no prospect of intervention.

Intellectual autonomy of the kind that hems in ideas, students, methodologies are, in the long run, not only undemocratic but capitalistic and ultimately profit-driven. Projects and students will be identified as Prof X's students rather than a Department's students because the scores and numbers accrue to the individual teacher and not to the Department, as though the only progenitor of the thesis is the supervisor and nobody else – irrespective of courses taught by

other teachers, etc. It should be noted that there are *no* API points for serving on doctoral/research committees: the points are for the signatory of the thesis alone. The knowledge commons being built is being eroded with this quirky approach India adopts: secrecy and intellectual autonomy, quantifying knowledge and academic labour with no thought to any.

James Boyle (2003: 37) defined the 'second enclosure movement', as one in which 'once again things that were formerly thought of as either common property or uncommodifiable are being covered with new, or newly extended, property rights'. Does intellectual autonomy then translate into ownership of the student's work *in toto*? What are the institutional safety mechanisms against such capitalization and its possible exploitation?

A public institution that enables secrecy around knowledge, that on the one hand asserts a teacher's intellectual autonomy and therefore property rights, then should disallow credit transfers (the subject of my earlier essay). A teacher's right to evaluate, even harshly, should be respected in the name of intellectual autonomy. Driven by social and non-academic concerns in the case of the latter, the institution suddenly becomes Lord and Protector with no respect for autonomy.

It is also possible to see this enclosure movement as detrimental to the public life within an institution because teachers and students can easily refuse to speak, disseminate and discuss ideas hiding behind the cover of intellectual autonomy and the threat of its *possible* erosion.

There is one further problem. Ideas disseminating in public is the source of innovation. To return to Boyle, "enclosure of the information commons clearly has the potential to harm innovation as well as to support it" (46). If public presentations and disputation over ideas stop because of the claim of intellectual autonomy and the fear of erosion of the same, then how does knowledge innovation occur? As Amartya Sen has pointed out in *The Argumentative Indian*, the progress of ideas has always been made possible by argument, from the ancient times to the present. The culture of research and the culture of knowledge production are at stake here.

That is, disciplines grow by sequential innovation, building upon work done already. The new enclosures assume that innovation is *sui generis*, self-born and identical only to itself. Studies show that

The quantification of academic labour has proved to be the source of undeserved promotions and capital, earned solely because one accumulates frequent flyer – student – miles. The students themselves, fought over, poached, lured and claimed by teachers needing the crucial 5 points for the next stage of their careers are part of the knowledge commons, now rendered into private property for the teachers. When it is knowledge produced in a publicly funded institution then ought not the institution have control over the knowledge? What are the mechanisms that have to be put in place where student work and teacher work are available for public scrutiny and public

intervention if required? Indian academia has as usual taken some measures but with little efficacy in terms of monitoring how these measures actually work.

The decision to upload the findings of research projects on online portals like Shodhganga is a crucial step because it makes visible publicly funded projects and their results, and enables the public to innovate and draw upon this existing research. The move to place course outlines, modes of evaluation and teaching modes online (refused by many teachers, as I can vouch for) is a welcome move to ensure transparency and public knowledge about what the course/teacher is likely to be doing. Public evaluation of teachers in terms of placing student feedback online is now being discussed as well.

Given these measures, to enclose work-in-progress (especially when questions of marketable products like patents are *not* involved) within secrecy and refusing the right of the institution's mechanisms to intervene is an odd position to adopt. We cannot claim openness and transparency, and then refuse public scrutiny in favour of absolute teacher-control. Intellectual property laws, as commentators note, are attempts to protect first creators of a work and regulate sequential innovation (Bechtold et al 2016).

However, given that public institutions' remit is public welfare then the control over research production ought to be with the institutions.

But simply *accessing* data is not where the innovative value lies—it is in mining, learning from, and applying the new information such data yields to create new products that enhance human welfare ... building “data commons” that link databases across related scientific fields is a crucial aspect of advancing the progress of science ... The public domain status of federal government works is a deliberate policy choice justified in reference to the public interest. (Okediji 334-5, emphasis in original)

The data commons, already gestured at it in projects like Shodhganga, demands access to data and its interpretation. This in turn means, simply, the denial of 100 % autonomy to teachers whether in terms of courses taught, student feedback or projects underway, if these are public institutions. In other words, if the public institution is committed to public interest, then privatization of research and teaching cannot be allowed. Work done should be seen, heard and critiqued. Innovation in knowledge can come when people take away ideas from us, just as we did.

Make research public, accountable and responsible. The data commons in public interest cannot be sacrificed at the altar of intellectual autonomy. While fears about institutional interference in research will of course rear their ugly heads, this cannot be the reason for enclosing students and publicly funded research. Public scrutiny makes people more responsible (if we exclude politicians from the category of ‘people’, that is), and in the interests of protecting the very purpose of sequential innovation, such a scrutiny should be an integral part of the process in a university.

A university, said a philosopher, is a place where nothing is beyond question, not even the idea of the university or the question 'what is the university?' Yet Indian tertiary institutions, in the valiant pursuit of API scores have closed off the very commons on which the University is founded.

At the heart of the University now is a crypt.

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