Breaking university rules

Discipline and indiscipline past and present

Bruce Lindsay

University discipline is an important object of legislative and administrative action in the higher education sector. There have been two waves of concern with university discipline in the post-war period, especially in respect of students: first, in the period of post-war university expansion; second, in the period of commercialisation post-1988. For the post-1988 'enterprise university' the problem has increasingly been viewed as associated with academic transgression, such as plagiarism or cheating. Such concerns tend to be supported by academic research, and they go to the issue of quality, integrity and the standing of university degrees. This may be distinguished from the 'student problem' of the 1960s, which focused on university order per se. It is submitted that the contemporary forms of misconduct are symptomatic of a fundamental contradiction in the university-student relationship: between the maintenance of academic order and the market-orientated instrumentalism of university education.

Introduction

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Academic misconduct by university students is commonly decried as a product of ethical, behavioural or educational failings on the part of the students, or, less commonly, on the part of institutions themselves. The predictable response has been greater policing of students' work and conduct, most recently through the use of text surveillance software such as Turnitin.

Such responses tend to misread what is occurring in the rise of 'academic dishonesty' on campus.

The changing context of law and 'indiscipline'

The universities have long been subject to the fortunes of administrative law and the administrative state. One can look at the long history of application of natural justice to the Anglo-Australian university.[1] Then there is the growth of university regulation, which has ironically accompanied the program of economic 'deregulation.' Then there is retreat of the university from the scope of public law.[2]

University discipline may be viewed as the maintenance of good order and standing of the institution. This is usually given effect by subordinate legislation or internal policy. It is not a static phenomenon. For instance, the point has been made by one learned author:

> Universities' disciplinary procedures (in the 1960s) had been drawn up as a cross between the rules which might apply in loco parentis and the rules of a gentleman's club. Neither was suited to the revolution of the late 1960s.[3]

The discipline question at that time, the 1960s, was one of 'collective indiscipline.' Arguably the situation has changed again, as the discourse around indiscipline has changed and what it means to the university has also changed.

The Australian '1968'

But first some historic perspective. It is well-known that the Australian higher education system went through major expansion in the 1950s and 1960s (including a severe fiscal crisis in the late 1950s), broadly consistent with trends in other developed countries. The universities took students from a wider range of backgrounds and the universities' economic role become increasingly important (i.e. for training professional-managerial workers and for industrial research).

The student movement emerged in parallel to global developments as well. Major campus upheavals in Australia occurred from the late 1960s until well into the 1970s. While the focus has often been (justifiably) on the social and political issues (eg. Vietnam, Springbok Tour, Aboriginal rights), university reform was also a major issue. This included both the function of the university in society and its administration. University discipline became a key site in these struggles.

For instance, in his meticulous study of the Australian student movement, Graham Hastings describes how campaigns against university discipline emerged from escalating cycles of militancy and repression, especially at Monash, La Trobe and Flinders Universities.[4] On one side, the maintenance of order increasingly required the university to call on the aid of police and the courts, especially the use of injunctions against students. On the other side, university administration was challenged by mass action.

Mass action included efforts to stop expulsions and disciplinary actions proceeding. In one of the most interesting incidents, students at Flinders University in 1974 sought to assume the function of administering discipline, establishing procedures

> for the university community itself to hear… charges in open mass meetings of staff and students rather than in the University Council's Discipline Board.[5]

Trial-type proceedings before mass hearings represented, albeit embryonically, a direct and democratic appropriation of the university's administrative functions.

Of course such projects were officially derided as 'anarchy' or 'mob rule.'[6] This should not detract from recognising the political content of 'collective indiscipline' – this example was part of the wider student movement that, among other things, sought a 'practical critique' of the university, its forms of administration, and the university's role in society generally. No doubt the terrifying development for university administrations in the struggles over university discipline was not simply mass indiscipline (in the form of disruptive protests and occupations) but that it was being taken out of the hands of the university. In this period, disciplinary issues had an overt political character. Now indiscipline is viewed essentially as an ethical, or alternatively, as an educational problem. It is focused on academic misconduct.

The rise of academic misconduct

By any estimation, the current reported rates of academic misconduct are significant. I am referring in particular to the broadly accepted notions of transgression, whether intentional or not, of academic rules: plagiarism, cheating in exams, unauthorised collusion on assessments, falsifying data, etc. These are generally reproduced in university rules.

The following data from the quantitative literature on academic misconduct is instructive.

One Australian study,[7] which sought to establish baseline data on rates of 'dishonest academic behaviours,' put the level of exam cheating at 41% of survey respondents, plagiarism at 81%, and falsification of records or dishonest excuses at 25%.

An earlier UK study[8] found the occurrence of a range of 'cheating behaviours' among students at between 54 and 72% of respondents. In a more recent New Zealand study,[9] 88% of students responded to having engaged in serious or minor incidents of cheating (65% reported as having engaged in 'serious cheating'). These are rates self-reported by students.

The NZ study usefully collected data on the rate of formal academic misconduct action against students (0.2% of enrolled students), and the rate of students actually caught cheating (5.8% of enrolled students). The NZ data appears particularly telling, as it suggests not only that most 'detected' misconduct is dealt with informally but that the entire formal disciplinary system is entirely ineffective from the point of view of 'prosecution' or deterrence.

The aggregate figures do need to be treated with some caution. In particular, the UK study notes an inverse correlation between the seriousness of misconduct and its frequency (ie the more serious misconduct is the less frequent it is), and declining incidents of misconduct as students get older. Misconduct may be classed as major or minor.

The rates of academic 'dishonesty' or misconduct among students are seen to contribute to a new systemic problem: the crisis of quality, or a 'decline in academic standards' in higher education. Literature on academic dishonesty has found important motivating forces behind the levels of academic misconduct (and hence the 'quality' problem) to include time pressures and desire to improve grades;[10] student inexperience and/or an instrumental approach to education;[11] and assessment of the likelihood of detection.[12] Staff reluctance to engage with the issue, especially its formal procedural dimensions, is reported to be based on lack of institutional support and/or the workload involved.[13]

Academic misconduct and student subjectivity

Is it a coincidence that the problem of academic misconduct has emerged in parallel with commercialisation of the sector? The commercial/business model has been widely embraced

by the universities themselves. The market underpins university operations, especially the market for fee-paying students (subsidised or unsubsidised).

Commercialisation has had an undoubted effect on the student as a social and economic subject. Hence, commentary has focused on the emergence of the student as consumer, or as user, of educational services.[14] The student is a market subject, albeit a peculiar one: they are exhorted to be investors in their own 'cognitive capital,' or 'micro-entrepreneurs' competing for credentials (and subsequently, for jobs).

The shift in student subjectivity has prompted research on the 'student experience,' and the conclusion in some quarters that students are 'disengaged' or 'negotiate' their 'engagement' with the university.[15] It has also been argued that the cultural practices of students are infected by the 'backyard blitz syndrome'. This 'syndrome' may be characterised as

> a concentrated effort for a limited time span (that) will see the task achieved – no matter how well or how badly the task is cobbled together, it is done. [16]

In this scenario the student is less a pupil than a type of intellectual 'producer.' Ultimately, the outputs of his/her production (credentials, skills and techniques) find their way on to the labour market.

It would be wrong to suggest that students in general approach the task of education amorally or cynically (although that may be the case!). The evidence is rather that, more and more, they approach it strategically, if not instrumentally. In this context, the 'problem' of academic misconduct, especially where it is intentional, may be thought of as a type of widespread, semi-calculated, mainly subterranean, 'refusal' of official norms and rules. It may be that those norms, like so much of the formality of the university, are not viewed as entirely relevant to the real situation that students perceive they face.

This refusal may be a calculated risk, an expression of expediency, a sign of desperation, or a means of managing poor teaching and resources. To borrow from the British historian, EP Thompson, this is a form of 'sub-political' action – that is, an unorganised but nascent strategy embedded in culture practices. [17]

Conclusions

There are two things to say by way of conclusion. First, the issue of academic misconduct (insofar as it is viewed as the prevailing disciplinary problem in the university) cannot, and ought not, be divorced from the institutional culture licensed by the post-1988 reforms. That is primarily a culture of commodity and administration. Second, this situation does not go entirely uncontested. Academic transgression is now part of the 'micro-politics' of higher education.

I would not say it is a sophisticated, 'programmatic' response on the part of students to the neoliberal order. At the same time, it should not be dismissed as simply irrational behaviour. The student is encouraged to view their education as investment, they pay heavily for it, and they face competition throughout the process. 'Misconduct' is often a rational response by the student to the circumstances and calculations of the academic machine.

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Footnotes

1. E.g. *R v the Chancellor, Masters and Scholars of the University of Cambridge; ex parte Bentley* (1723) 1 Strange 557; 93 ER 698; *University of Ceylon v Fernando* (1960) All ER 631; cf J R Forbes (1970) 'University discipline: a new province for natural justice?' 7 *University of Queensland Law Journal* 1 85.
2. see *Griffith University v Tang* (2005) HCA 7 (3 March 2005).
3. Farrington, D (1994) *The Law of Higher Education* Butterworths: London at (7.108).
4. Hastings, G (2003) *It Can't Happen Here: A Political History of Australian Student Activism,* The Students' Association of Flinders University, pp 80-89.
5. ibid, p. 86.
6. This was the response of Flinders University Council to the mass hearing proposal: see Hastings, G, *It Can't Happen Here*, p. 87.
7. Marsden, H, Carroll, M & Neill, J (2005) 'Who cheats at university? A self-report study of dishonest academic behaviours in a sample of Australian university students' 57 *Australian Journal of Psychology* 1 1.
8. Franklyn-Stokes, A & Newstead, S (1995) 'Undergraduate cheating: who does what and why?' 20 *Studies in Higher Education* 2 159.
9. de Lambert, K, Ellen, N & Taylor, L (2006) 'Chalkface challenges: a study of academic dishonesty amongst students in New Zealand tertiary institutions' 31 *Assessment and Evaluation in Higher Education* 5 485. The authors' literature search puts the rate of reported academic dishonesty at 67-86%. This includes US, UK and Australian studies. The study was not limited to university institutions.
10. Frankly-Stokes and Newstead, op cit.
11. Marsden et al, op cit, p 7: '… less learning orientation and more goal orientation were associated with higher rates of cheating.'
12. de Lambert et al, op cit, p.500: 'Current detection rates are unlikely to impede students' academic progress in the medium or long term. Indeed some students may consider such risks to be part of the standard management of a tertiary learning career.'
13. de Lambert, ibid; Sutherland-Smith, W (2003) 'Hiding in the shadows: risks and dilemmas of plagiarism in student academic writing' *www.aare.edu.au/03pap/sut03046.pdf*.
14. e.g. McNamara, L (2006) 'Students demand value for money' *The Australian*, Higher Education Section, 26 July. One of the best analyses of this discursive production is Blunden, H (1997) *Managerialism and Economic Orthodoxy* Paper presented to the National Research and Education Staff of Student Organisations (RESSO) conference Sept.
15. McInnis, C (2001) *Signs of Disengagement? The changing undergraduate experience in Australian universities,* Centre for the Study of Higher Education University of Melbourne; see also Craig McInnis (2003) *New Realities of the Student Experience: How Should Universities Respond?* 25th Annual Conference, European Association for Institutional Research, Limerick, 24-27 August.
16. Langridge, J (2003) 'The backyard blitz syndrome: the emerging student culture in Australian higher education' 7 *Transformations*.
17. Thompson, EP (1963) *The Making of the English Working Class* Penguin Books; Harmondsworth, pp 59ff.