

Critical Scholarship, Normative Rationality, and Academic Freedom

Dean J. Saitta
Department of Anthropology
University of Denver

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I'd like to thank the Forum organizers for the invitation to speak this morning. It's an honor to stand with students and colleagues from the University of Colorado's Department of Ethnic Studies. Let me start by explaining why I'm here.

I'm here because I don't know Ward Churchill, the scholar whose indictment for alleged academic misconduct has brought us together. We're neither friends nor acquaintances. So, I think I come to this Forum with my objectivity pretty much intact.

I'm here because I'm an anthropologist and archaeologist, so I think I *do* know something about cultural variation and cultural history. My research has directly involved me in working with historically-marginalized groups who have a particular stake in what scholars say about the past. My "clients", if you will, include indigenous peoples of the American Southwest (where I've done some pretty conventional archaeological research), and working class citizens of southeastern Colorado (where I've done a more "activist" archaeology of the labor conflict that culminated in the Ludlow Massacre of 1914). I'm interested in building relationships with these "descendant communities" as a way to help them tell their stories. But I'm also interested in learning something of how Western science and historical scholarship can be enriched and democratized by what has come to be known as "other ways of knowing".

I'm here because I'm an advocate of interdisciplinary studies. I think that this is where the real action is in intellectual life today. The natural sciences are certainly moving toward greater interdisciplinarity. What E.O. Wilson (1998) describes as "hybrid" or "borderland" fields like cognitive neuroscience, behavioral genetics, and evolutionary psychology are rapidly developing in the open spaces between traditional disciplines. These hybrids are delivering significant new insights into how and why humans behave the way they do. In the social sciences and humanities, hybrid fields like Ethnic Studies are also working in open spaces. They are exploring cultural differences in what the human experience *means* for those who live that experience. Thus, all three great domains of inquiry are to some extent seeking what Wilson calls "consilience" between different knowledges and ways of knowing. In so doing they're framing new questions about the natural and social worlds and opening up fertile new areas of research.

I'm here because these interdisciplinary projects—and the academic freedom that animates them—are currently threatened by forces on the political right *and* the political left. In fact, it was my public condemnation of both right and left wing challenges to these projects (Saitta 2005) that earned me a spot on David Horowitz's list of America's "101 Most Dangerous Professors" (Horowitz 2006). Mr. Horowitz likes his knowledge contained within traditional

disciplinary silos, and he clearly prefers 19th century pedagogies to those of the 21st (Saitta 2006). He also freely admits that he wouldn't have compiled his list if it hadn't been for Ward Churchill (Richardson 2006). So, with his fellow travelers in the American Council of Trustees and Alumni and the National Association of Scholars, Horowitz is keen to smoke *other* Churchills out of their campus spider holes. I'm here because I don't much appreciate being targeted in this way, especially when virtually everything that Horowitz says about me is either wrong or distorted.

Finally, I'm here to carry the flag for other scholars who are engaged in controversial, envelope-pushing teaching and research. These include my "Dangerous 101" colleagues, but also many other scholars across the intellectual spectrum who are facing unprecedented risks in post-9/11 America. I have to take this threat seriously because I'm president of the University of Denver Faculty Senate, and also president of the DU chapter of the American Association of University Professors. It's no secret that the American university is being increasingly corporatized, and that university administrators are under increasing pressure to curry favor with private donors. Adjunct and other contingent faculty counts are on the rise, and faculty handbooks are being creatively re-interpreted if not shamelessly gutted so as to better manage an increasingly "at will" workforce. It's also no secret that politically powerful neo-conservative forces are arrayed against academic freedom on campus. All one has to do to detect this threat is simply follow the American pop culture entreaty to "follow the money" (Jones 2006). Thus, we faculty can't be too vigilant about academic freedom—the same freedom that has made the *creativity* of the American university the envy of the world. In this context I think we need to be especially vigilant when the employment of a tenured full professor—who was hired to fill a particular academic niche at a particular time, and who has already been through several stages of university review—is on the line. The case for termination needs to be iron clad, and slam dunk.

With all that said, what I see as being at stake in the Churchill investigation should be clear: the future of *particular kinds* of critical and creative, interdisciplinary and intercultural scholarship. I agree with Tom Mayer when he says that "the true locus of academic freedom [in an open society] is always defined by intellectual outliers" (Mayer 2006). If academic freedom is to mean anything it's the outliers rather than the "normal scientists" who need the most protection, because they're the ones who take more of the risks and risk making more of the mistakes. So, we better be damn sure of the case against them. The outliers shouldn't be held to different standards, just the same standards perhaps more carefully applied.

In my view, the case against Professor Churchill—all things considered—doesn't rise to the challenge. Several of the circulating petitions urging the University of Colorado to proceed carefully capture the multiple concerns (e.g., Teachers for a Democratic Society 2006). Many of these concerns are voiced by the CU Investigative Committee itself. In fact, I think that just about everything you need to construct a detailed and convincing case *against* termination is found in the Investigative Committee's own report (Wesson et al. 2006). These include:

- Contextual concerns about political interference, beginning with Governor Bill Owens' call for Churchill's resignation (Owens 2005) because of what the Governor deemed to be objectionable free speech, a charge that later mutated into the charge of research

misconduct. The Investigative Committee set aside these concerns about political motives and timing, but nonetheless expressed a deep “disquiet” about them (Wesson et al. 2006:4). I think the Committee is right to be troubled, as should we all. By the way, Governor Owens recently joined my university as a Senior Fellow in our Public Policy Institute. At the press conference announcing his appointment the Governor appeared as a good procedural liberal, proclaiming himself “a big believer in the battle of ideas and in the role of the university in public life” and inviting the press to “call me Professor, if you want to” (Ensslin 2007). This is an interesting (some might say hypocritical) turn for someone who exactly two years ago was calling for another professor’s head on a pike because of something they said in the public square.

- Procedural concerns about irregularities of process beginning with the clearly political origins of the inquest and then deepening with the legally-questionable designation of an interim Chancellor as formal complainant and chief inquisitor. Just as worrisome is the faculty makeup of multiple university review committees. Even a cursory look at the list of players raises some flags for outside observers. I can’t speak to the claim that there are known Churchill “opponents” on the Investigative Committee, but certainly there’s no one on the Standing Committee (Rosse et al. 2006) whose discipline is within even six degrees of American Indian Studies. Thus, there’s very good reason for doubting the fairness of Professor Churchill’s peer review. It looks less a jury of peers than a kangaroo court. The Investigative Committee’s blunt characterization of CU as a serial mismanager of its own internal affairs (Wesson et al. 2006:100)—something that’s been obvious to any casual CU-watcher over the past several years—provides an additional basis for wondering whether due process has been served.
- Substantive concerns about the quality of the case analysis. Certainly, the Committee scores some hits. They identify mistakes and errors, although at least a few of these would be found in anyone’s work—especially any “outlier’s” work—that has been subjected to such close, microscopic scrutiny. The plagiarism charges are still baffling to me, but are not entirely surprising given the deeply networked collaborative research and writing in which Professor Churchill was apparently engaged. I work as part of a research and writing collaborative myself, so it’s very easy for me to imagine how reciprocal sharing might come back to haunt you if the *social relations* that govern collaboration turn contentious. And if there’s anything I’ve learned in my time observing and interacting with native peoples, it’s that their internal debates about important social and political issues are as contentious and divisive as anyone’s. Mixed in with the Committee’s hits are significant misses and nitpicks. Some of these have recently been exposed by Eric Cheyfitz and Michael Yellow Bird (Dodge 2007). Others have been revealed to me by my anthropological colleagues, most of whom have very mixed feelings about Professor Churchill. Since the Investigative Committee has already owned up to the existence of at least one of the errors exposed by Cheyfitz (Wesson 2007), I’d think that the others are worth looking into as well—the “case closed” pronouncements of Vincent Carroll in the *Rocky Mountain News* notwithstanding (Carroll 2007).

More striking to me than the committee's substantive findings, however, are its *equivocations*. The Committee notes and even applauds the "extensive" and "impressive" volume of Churchill's published work (Wesson et al. 2006:6-7). It acknowledges the investigation's very limited inquiry—defined by a handful of problematic paragraphs and pages—into that body of work (2006:8). It expresses uncertainty about whether the discovered problems are "typical" of the whole Churchillian corpus (2006: 98). It recognizes that some mistakes were in fact corrected over time, an observation that undermines the case for intentional deception. Interestingly, the Committee is even willing to cut Professor Churchill some slack on his most controversial claim—US Army complicity in spreading Mandan smallpox—by noting that native oral traditions contain some confirming evidence (2006: 67-68). Most significantly, the committee acknowledges at numerous points throughout the report that Churchill is fundamentally right about what I'll call the *core truths* of history, such as the targeting of American Indians by racist government policies over the last 400 years (Wesson et al. 2006: 7, 22, 78, 97). These are not minor admissions and concessions.

In short, the Investigative Committee's case is a certifiable mixed bag, with perhaps the surest indicator being the lack of consensus about sanctions, on which the 14 investigators were equally divided between termination and non-termination.

The point I'd *really* like to make here, however, has little to do with the contextual, procedural, and substantive concerns just outlined. Rather, it goes to the *meta-framework* or *rubric* used by the Investigative Committee to evaluate Professor Churchill's scholarship. I believe that it's in this rubric that the biggest threat to other scholars lies. The committee's rubric draws, in part, on the American Historical Association's "Statement on Standards of Professional Conduct" (American Historical Association 2005). So, while others have been parsing every word of the General Allotment and Indian Arts and Crafts acts, I've been parsing what I'll call the AHA "Statement".

Certainly, there's lots of good boilerplate in the Statement that respectable scholars should observe. These include honoring the historical record, documenting sources, and leaving a clear trail through the sources that other researchers can follow. But at the same time, the Statement is a hodgepodge of positivist and postmodern *epistemological* commitments, which in most contexts make very strange bedfellows and, when collected into a miscellany, offer a very poor guide to evaluating one's scholarship and/or identifying research misconduct. The postmodernism is to be found in the Statement's expressed respect for "divergent points of view", and its claim that "multiple, conflicting perspectives are among the truths of history". But the Statement doesn't really establish what this respect means for evaluating scholarship aimed at creatively integrating past and present, or outreaching to the many publics that have an interest in the past. What sort of rationality is most useful for this task? Conventional "criterial" rationality, or something that's "fuzzier" but maybe altogether more appropriate (Rorty 1998)? The Committee opts for a normative rationality that is fundamentally positivist and falsificationist, in particular the dictum that one should look for and disclose all possible facts that *disconfirm* an interpretation. Falsificationism is certainly one credible position within the history of philosophy, but there are others. Some of these others—let's call them confirmationist or constructivist—stipulate that facts are endless, and that you're better off just telling your story and letting *other* folks debate its veracity and productivity.

The Statement's understanding of "evidence" also belies a narrow positivism. The Statement suggests that evidence exists "out there" in the world awaiting discovery. I think that our best mainstream philosophers—including our most dedicated scientific realists—would agree that what really lies out there are endless, disconnected facts, and that these facts only become evidence for or against an interpretation in the light of some theory of how the world works. Weighing the significance of different classes of facts is not so easy, especially on a broad view that considers the consequences of knowledge-claims for everyday life. For example, my colleagues and I have questioned whether a normative "preponderance of evidence" criterion—something that anchors the Investigative Committee's analysis of Professor Churchill's scholarly claims—is at all useful in settling one of the most emotional and contentious issues that Indian Country has ever experienced: the repatriation of excavated human skeletons and sacred objects from American museums and archaeological research centers (Saitta 2003; Saitta, Duke, and Gachupin 2003).

This might seem like academic hair-splitting, but I don't think it is. My basic point is that the Statement tries to be all things to all people by embracing pretty much the whole continuum of epistemological positions available to working scholars. The result is a document that is deeply tensioned if not contradictory—just like the Investigative Committee's report. And, by relying in the last instance on a narrow kind of positivist rationality, the Statement is not helpful for evaluating "outlier" projects like Churchill's or, indeed, *any* project that seeks to negotiate between different knowledges and different ways of knowing. The application of such a rubric in fact threatens to *stifle* "creative ferment" and "critical dialogue", precisely those values celebrated by the AHA Statement. I think the rubric has blinded the Committee, for example, to the legitimate disagreement between John LaVelle and Ward Churchill about the basis for ascribing Indian identity that's contained within the General Allotment Act. I think it also stands to endanger even scrupulously honest scholars who are committed to the often "dangerous" work of navigating between disciplines and knowledge communities in the interest of generating new questions and new lines of inquiry.

This conviction is strengthened by the first-hand experiences I've had working with descendant communities out there in the real world. The citizens with whom I've worked are neither positivists nor postmodernists. Rather, they're *pragmatists*. They're concerned about getting history right, but they're not very interested in how the resulting truths can contribute to Western science (Saitta 2003). Instead, they're concerned about what history means for how we *live*, and for how we live *today*. As an indigenous scholar from Santa Clara Pueblo frames it, the Pueblo Indian's primary concern is with "the larger issues of breathing and dying" (Naranjo 1995), rather than with the specific details of knowing that focus scientific world views. Thus, the folks I know would find it perverse, after a certain point, to quibble about the number of Mandan who died by smallpox in the Upper Missouri, or whether John Smith intended to exterminate or simply enslave New England's Indians (e.g., Wesson et al. 2006:37), or what specific criteria for policing Indian identity are implied by the General Allotment Act. The central truth of the matter is that Indians died or were enslaved by the hand of a colonialist power clearly bent on domination, and that all available military, legal, *and* scientific means were used to facilitate and justify that domination—including not only measures of Indian blood, but also measures of Indian brains and measures of Indian bodies. The consequences and legacies of this

strategy are still being experienced by native peoples today. As noted, these central truths are among those that the Investigative Committee seems to agree Professor Churchill has helped to illuminate. I also find it more than a little perverse for a jury of alleged academic peers to be reprimanding Professor Churchill for neglecting and thereby “disrespecting” native oral traditions as a source of reliable knowledge about the American past (specifically as concerns the spread of Mandan smallpox; see Wesson et al. 2006:68, 81) when mainstream historians, anthropologists, and archaeologists have been routinely ignoring these traditions—without penalty—for over 100 years. Happily, this situation is changing—although we still have much to learn about how to effectively triangulate between oral traditions, written histories, and archaeological materials in our efforts to understand the past.

It’s not only native people who are disposed toward the overriding importance of core historical truths. Working class Anglos have similar interests. I’m reminded of the comment a Colorado coal miner made when I approached that community in 1997 with a proposal for doing archaeological research at the site of the Ludlow Massacre. You might remember Ludlow as the place where Colorado Militia, in a last ditch effort to break a long and rancorous 1914 coal strike, raided and burned a tent colony killing men, women, and children in the process. If you don’t remember Ludlow, or if you’ve never heard of it, then you have America’s mainstream historians to thank. After I laid out the scientific rationale for the work including how it would expand and deepen our knowledge of Colorado history, this old guy looked at me point blank and said: “Sonny, I can tell you all you need to know about the Ludlow Massacre in three words: they got fucked”. Period. End of story. End of history, even. The alienation and hostility apparent in this statement threw me for a loop. It was a wake-up call concerning the realities of working class life and thought, and it also threw into question the wider social value of a fundamentally middle-class discipline like archaeology. Indeed, it challenged the very basis of “business as usual” scholarship.

The point here is not to advocate for, or acquiesce to, crudely populist or “folk” approaches to studying history. Rather, it’s simply to assert that, at the end of the day, what really matters for many of our community collaborators and clients—especially those living on the edges—are the core truths of history and what they mean for life and cultural survival in the present. Indigenous scholars of Anishinaabe descent even have a word for such an approach. It’s called “survivance” (Smith 2007). If we’re interested in writing, and teaching, the kind of complete and balanced history that befits a genuinely democratic society (Dower 1995), then I think we would be well-advised to heed these, and other, messages from the margins.

To conclude, then. My point here is less to “defend” Professor Churchill than to identify what’s at stake in his case. Professor Churchill is clearly part of a diverse and dynamic intellectual tradition that seeks to bridge epistemologies, disciplines, knowledge communities, cultures, and past and present. I’m in this tradition too, and I think it’s a righteous one. If we see such outlier scholarship as important, then we need a much more thoughtful and coherent guide for evaluating it than was used by the CU Investigative Committee. A narrow positivist rationality and naïve falsificationism won’t cut it. I’m not sure that the principals in this debate, or their many public interlocutors, fully appreciate what’s on the line. The Churchill decision will send either a chilling or liberating message to scholars on the edges, and in the spaces, between disciplines. Hopefully President Brown will consider the full totality of considerations

in making his decision. What's at stake in this case is not so much the future of *dissident* scholarship, but rather the future of a *democratic* scholarship that's much more nuanced, inclusive, and humane. Thank you.

Postscript

Upon finishing this paper shortly after my return from the Boulder Forum I discovered a letter in the *Chronicle of Higher Education* from Peter Novick, Emeritus Professor of History at the University of Chicago (Novick 2007). Professor Novick was commenting on the current, extremely acrimonious debate between supporters of Alan Dershowitz and those of Norman Finkelstein over whether the latter deserves to be tenured at DePaul University given what the former regards as Finkelstein's non-scholarly propagandizing about Israel's role in destabilizing the Middle East. Some of the parallels between the Churchill and Finkelstein cases were compellingly addressed at the Forum by DePaul Professor Matthew Abraham. Professor Novick is a harsh critic of Finkelstein's work, but he doesn't "confuse those criticisms with holy writ." In his letter Professor Novick makes some of the same points about the evaluation of scholarly work that I've tried to make here, including (1) that all scholarship is "flawed", and that the question is "whether, on balance, the positive contributions of the *totality* (my emphasis) of [someone's] scholarly work outweighs its faults; (2) that the "differential weights which each of us assigns to various sorts of merits and demerits makes this an enormously complex and controversial calculus", and (3) that "[scholarly] works exist in *multiple contexts*, and that we live in a *pluralistic* academic community [my emphases]." Professor Novick goes on to state that "It would be disastrous...to have a university composed exclusively of people like Finkelstein and Dershowitz (i.e., people "inclined to stretch evidence to the breaking point in the service of their arguments")...[but also] equally undesirable to have a university composed exclusively of people like me (i.e., people who are "much more tentative and cautious")...". I think that these are very wise words that, again, President Brown would be wise to consider.

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