

# **‘Credit’ Transfer, ‘Capital’ Gains and Intellectual Property in the University**

## **Points from a Case Study**

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*An absolute insistence on profits in numbers is increasingly driving the modern University system today. The insistence on metrics as an index of scholarship has entailed a shift toward the market model of the University in the neoliberal era. The regime of value in place is clearly of the corporate management type and converts students into products that teachers tally up on their API charts.*

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A spectre is haunting Indian academia, the spectre of metrics.

The immediate context for this piece is a rather unpleasant case at the Department of English of a prestigious public university. The context is important because the Department has acquired a very high rank in March 2016 based on its research output, citation index and other criteria. The ranking, proudly displayed across the University, clearly indicates that research output and therefore research supervision is important. The University itself has been ranked as among the top ones in India, and often describes itself as a ‘research university’. Given this insistence on research output and quality, the events described below are both ironic and sordid.

An M.Phil student (A) registers with a supervisor (X) with the stated oral agreement that another Faculty member (Y), with a specific expertise in the area (the graphic novel) will also be part of the instructional team. A course is designed by the two instructors for this specific project and taught for an entire semester to two students, A and B (B submitted the dissertation, on time, and acquired a Distinction). For a year and half (July 2014-Dec 2015), X and Y struggle on with A. The struggle includes: providing the essential bibliography, theoretical framework, the texts for this framework, explaining the framework, even teaching how to read the primary texts. Assignments are corrected word-by-word due to the enormous quantum of language, organizational, argumentative errors the student makes. Drafts with the corrections are preserved as testimony to the work put in by the instructors.

After a year of elusive behaviour, frequent absenteeism, exceptionally bad writing, delayed submissions of work and a fair amount of rudeness by A, the exasperated supervisor, X, denies any more extensions. ‘A’, having acquired the bibliography, theoretical frameworks and even detailed notes on *how* to read, now ‘requests’ not only an extension but a change of supervisor (to one less demanding and who would allow the submission, supposedly), a request the Department collectively rejects in writing. In violation of its own ordinances and

overruling the Department's signed Resolution, plus numerous written protests by the Head of the Department and the Dean of School, neither of whom is consulted by the Administration, the 'transfer' of A is effected by the highest authority of the University to a Faculty (Z) member in the Department of English. Z, a signatory to the original Department Resolution disallowing the transfer, states in writing that he has no expertise in the area and so can only examine the 'methodology' and not the 'content' of the student's work – a bizarre statement from a research 'supervisor' in a tertiary institution – solely to 'enable' submission of the work. The University also ignores its own rules about research specialization and modes of allocating supervisors because of the convenient availability of a pliable Faculty member, whose individual gains from agreeing to 'help' the student are best left to speculation. On enquiry it is discovered that that such transfers are common across the Humanities.

It is this case that sets the tone for the arguments below. What is at stake in such a transfer is the larger question of the public University's idea of itself in the present context, especially in the domain of Intellectual Property (IP) rights. All that follows is of course with respect to the Humanities and so does not discuss patents and trademarks.

Indian Universities are trapped within two contradictory regimes of value when it comes to research work, and supervision. Academic work always attracted a certain form of capital, despite its romanticization as a 'service': cultural capital, prestige, recognition and credibility. Even though characterized as 'public work' when located in public institutions, it still constituted a form of property in non-quantifiable terms. Faculty also competed for awards (quantifiable in such cases) and fellowships. In the recent past this competition for cultural capital and distinction has shifted to, or morphed into, a competition for *quantifiable results* that does not give any credence to credibility but rather insists on metrically organizable data in the domain of knowledge production. This latter introduces a more 'market value' regime cast in the usual rewards scheme adopted by the University Grants Commission (UGC) and Universities. Two regimes of value, then, jostle for space, and the domain being fought over is knowledge, which is now recast as *Intellectual Property*.

Credit transfers, poaching and academic purloining are likely to be encouraged when the market value system, in the form of metrics, enters the academia, and students, courses, works are translated into points and quantifiable value. Four aspects of such debates around academic work are addressed here.

## I Academic and Cultural Capital

Research in a publicly funded institution is, by definition, public, and therefore available to all. Instruction, advice, research output is shareable with no direct monetary gain. Research, in the older sense of a University's principles, is disinterested inquiry and generates a community of thought (McSherry 2001: 19). In other words, a teacher and researcher in a University cannot think in terms of knowledge produced out of her/his research or instruction

as personal *property*. The regime of value is that of a disinterested production of knowledge, disseminating it among students and peers and building the knowledge commons for the greater public good. Academic work, in this scheme of things, is *public* work. (Of course, instructors and teachers themselves produce knowledge based on earlier teachers and producers – the ‘shoulders-of-giants’ model.)

The question of the teacher’s credit and credibility is paramount in this old-fashioned regime of value, both of which are based on publication, research output and teaching, including research supervision and mentoring. Reputation and credibility translates into greater visibility among peers and prospective students. Visibility is coded as recognition in academia wherein, over a period of time, the teacher/researcher comes to be identified as an expert in a particular field of inquiry. Cultural and academic *capital* emerges from such a recognition and credibility, but is still not quantifiable.

Research output inaugurates what social studies of technology calls a ‘cycle of credit’. Research mentoring produces credit which fuels further research mentoring. This is akin to reinvesting the credit accrued from the first round of mentoring. This establishment of a cycle of credit is the *capitalization* of knowledge in the academia. This bestows a particular identity upon the researcher/teacher. In other words, research output in the form of dissertations supervised and papers published constitute a regime of value that endows the researcher with a specific identity.

This identity is intimately linked to questions of labour. Labour – academic labour – has two parts in research mentoring: the teacher as the origin point of an argument/theme/topic or as making the conditions that enable a student-originated idea to take shape as a dissertation or a paper. Imparting ideas *and* guiding forms of expression of ideas (in the case of disciplines like literary studies) constitutes a form of labour. Methodological training and drafting of arguments are labour-investments made by the instructor in the student’s work. Thus both insights (ideas) and the expression (writing) are acts of labour. To return to McSherry once again, ‘authorial expression draws on the author’s experiences ... and that expression is extraordinarily difficult to parse into borrowed and ‘truly original’ elements’ (192). So then, when the drafts of a dissertation consist of over 95 % of writing done by the two instructors, drawing upon their reading, ways of thinking and interpretation, it follows that the bulk of the expression in the dissertation is authored by the instructors (as in this case, with documentary evidence available), would the transfer be tantamount to copyright violation, if we regard the *expression* of an argument as ‘property’?

Even if one were to ignore the economic and political connection of labour with individual identity, there emerges a moral problem: what does this labour count for/as? If we take labour to be connected to forms of property ownership, then transfer of the products of labour – dissertations directed by one teacher and claimed by another at the time of ‘signing’ – raises larger questions of *returns* on labour.

If we assume that labour and identity *are* linked, another dimension attaches to the issue of intellectual property: that of authority. As Corinne McSherry notes, credibility for the

researchers' work comes at least partially from the principal investigator or supervisor (82). Authority, notes McSherry, is the ground for authorship because it is due to the principal investigator's standing that the research is undertaken, grants secured, in the first instance (83). Denial of authorship means a lesser reputation for the principal investigator (83). If reputation and credibility are also markers of intellectual property then what does a 'transfer' mean in terms of the credibility of a mentor's right to evaluate a student's work?

Teacher reputations are built on not just the imparting of knowledge but also on a perceived fairness in and ability to *assess* knowledge. The labour of teaching includes the labour of assessment. A transfer such as this effectively rejects X's right to adjudicate the quality of a student's work simply because – and this is the key – the student believes the assessment is not fair. If the student believes, as is very probable, that s/he has been unfairly evaluated a third-party adjudication is possible and appellate parties exist within the University for this purpose. However, in this particular case no attempt was made by the University or Z – the messianic supervisor – to examine whether X's evaluation of the student's work was legitimate. This means not only has authorship been denied to X, but also all future authority, since authority for a teacher also stems from the right to evaluate students. A teacher's standing that generates further research supervision and teaching are eroded when no appellate body scrutinises the case to see if X was fair or unfair – what we see is a rejection.

What does this mean in terms of academic capital, if a teacher were to seek recompense, like any service provider, for labour performed and denied? If authority established through imparting expertise, training and teaching is to be rejected, then what is the cultural legitimacy of that teacher's knowledge?

So much for questions of academic capital regimes.

## II Market Value of Academic Work

At some point, however, a new regime of value is instituted in the modern University, a more 'market value' regime around research, teaching, and knowledge production. In this regime, more than the interpretation of knowledge as cultural capital and recognition, we begin to treat knowledge as intellectual property because it is now *quantifiable* and directly linked to not recognition, esteem and credibility (markers of the older regime of value in academic work) but to measurable metrics of careers. This shift of regimes immediately alters the relations in an academic environment.

Intellectual property debates need to account for several grey areas in an age when University funding, student demographics and awards are directly linked to its credibility metrics such as those attained, for instance, by various universities in the national rankings recently released by the Ministry for Human Resource Development. Knowledge and credibility translate into numbers here, and transforms the nature of academic 'work', teachers' perceptions of students (and vice versa) and the 'production' of research.

Rankings through a metrics such as used by the QS and *Outlook* surveys quantify research and teaching, awarding points for specific criteria. This ‘qualculation’ (Callon and Law 2005, cited in Gill 2014: 17), I propose, engineers a shift toward the market model of assigning a numeric value to academic work, and thereby initiates the question of intellectual *property* even in the Humanities where questions of patents do not arise. Craig Brandist wrote despairingly in *Times Higher Education* of the

imperative for competition between institutions; the subordination of intellectual endeavour to extrinsic metrics; the lurching of departments and institutions from one target to another heedless of coherence; the need to couch research in terms of impact on the economy and social cohesion; the import of industrial performance management tactics; and the echoing of government slogans by funders.

The University will inevitably see battles over knowledge as private property, especially when ‘products’ such as students (who are to be *numbered* on a teacher’s career advancement application) are poached by others who are in search of similar, or greater, numbers. The teachers will be forced to claim theoretical frameworks, forms of expressions, ideas and methodology imparted to the student by other instructors as intellectual *property* when s/he perceives the effects of such ‘rewarding’ transfers. Intellectual property will be the subject of discussion and dispute since knowledge will no longer be deemed ‘public’ when it gets privatized through metrics, and so claims and rights will be staged over knowledge produced. Academic work then easily slides towards a competitive property regime.

According to the University Grants Commission rules, the Academic Performance Index (API points) that accrue from the student’s work go only to the person who *signs* the dissertation as ‘supervisor’, and no points accrue to X in this case, since X is no longer the supervisor-*signatory* although the work, all along, has been shaped by X. This marks a major factor in the transfers of research students and output. We will now need to distinguish between ‘working supervisors’ and ‘signatory supervisors’, where the latter collect the points from work done by the former. The ‘qualculations’ of research output, patents, student work, etc., that determine the API and career advancement of teachers – and have *nothing* to do with credibility, esteem or recognition – in tertiary institutions are part of a general shift away from older norms of evaluating and rewarding teachers to a market-metric model. In the audit culture of the University system now, ‘metrics measure our grant income, research “excellence”, citation scores, student evaluations, esteem indicators, impact factor, PhD completions’ (Gill 2014: 22).

Expression, writing, argumentation, organization of material and methodology transmitted onward to the students will all be viewed through a proprietary lens, with the distant focus on their (students’) translatability into numbers once these dimensions are embodied in a research paper or dissertation. Would teachers impart knowledge about methodology or exact expression if they stand to gain neither cultural nor metric capital from the process, or would they have to sue for IP violations?

We see increasingly various innovative attempts to add numbers in this fashion: a Faculty member organizes a conference. Then an edited volume comes out of it. The organizer writes an introduction to the volume, and contributes an essay. In the pursuit of greater points, the Faculty claims points under several categories: organizing a conference, edited book, Introduction to the book (counted as an essay) and an essay in the volume.

In such a context, audit cultures embodied in the API enforce the market model in the University. Since useable points accrue only to the supervisor these are forms of profit on the work done by a research student which, even if not commercially viable, generates valuable points toward career advancement. This is the inducement to shift knowledge work from public to the private since the teacher now calculates points accruing from each student. API, in other words, renders knowledge into property for quantitatively measured stakes such as promotions, and beyond the gains in cultural capital. IP claims therefore mediated and determined by the metrics induce ‘market-like’ behaviours among teachers.

There is no need to acquire cultural capital as a distinguished teacher in a specific domain of knowledge: rather one needs to produce impressive *numbers* of dissertations, irrespective of what the dissertations may contain.

The market model adopted by the academia also achieves something else in terms of the evaluation of scholarship. With API and the number system, it is possible to seek career advancement, despite the capping recommended by the UGC, entirely founded on numbers and without any assessment of scholarship. John Guillory writing in *Profession* notes that at the ‘the final site of evaluation, no reading of a candidate's work need be done; it might even be undesirable ... evaluation might appear to be capable of reduction to a numerical tally’ (2005: 30). That is, it is the number of papers that matters, and not the quality of scholarship or credibility as a specialist in an area of study. In the metrics system the number of dissertations *signed* matters rather than domain knowledge or even the quality of scholarship mentored in the student (embodied in the dissertation) by the supervisor. The desperate rush to sign as many student dissertations one has supposedly ‘guided’ – which one assumes implies quality control and rigorous evaluation and not just methodological hand-holding – irrespective of areas of expertise is the direct result of the qualculative University.

### III Moral Rights and Collusion

If we argue that the institution *owns* the lectures produced by a teacher, who was hired to produce knowledge for dissemination, then it follows that the instructional material, syllabi, class notes produced by the teacher are available for the institution to place in the public domain (although a limited public: the classroom or the university's student population). Having produced this knowledge the teacher then cannot take it back as her/his private property. When the University quantifies the credits for courses taught and *then* effects a

transfer, the institution itself has transformed what could have been public-domain knowledge into ownable-creditable and transferable numbers.

The ‘metriculation’ of knowledge, whether of methodology or forms of writing, also runs into rough weather vis á vis the ‘moral rights’ issue within IP. The moral rights of an author are inalienable. While there may not be financial gain, an author’s rights are often ‘limited to the wish to be properly attributed and to be protected from misrepresentation or derogatory treatment by the distortion or mutilation of the work’ (Emmott 2013: 533). Academic integrity, writes James Emmott

can be protected quite adequately by the assertion of moral rights only. This ought to be more than enough protection for academic authors, who have no reasonable need to exploit their economic rights and who have no need to restrict the use of their work at all, so long as they are not misrepresented or subjected to derogatory treatment. (534)

In a ‘metriculation’ system even the moral rights become ignorable because these do not, literally, count.

Moral rights are clearly violated when an active collusion takes place between the academic in search of points and the student in search of an ‘amenable’ supervisor, between academics in terms of conferences organized, in editorial projects and others. Collusion is the coming together of metrics and the search for cultural capital in the form of student/teacher/institutional interests in order to convert knowledge into private property. Collusion and collaboration, as Karen Bennett argues, are a form of plagiarism itself (2011). So the transfer of methodology, writing skills, theoretical frames as an act of collusion between and across academics, students and institutions without proper attribution is tantamount to plagiarism as well.

In such a scenario, copyright claims which is the claim of ownership of property, will become increasingly broad because teachers and researchers will start claiming, as in patent legislation, all possible future variations (‘this argument I developed here could lead, possibly, to... in the subsequent research’) and tangents in order to assert moral rights as well.

The theme of credit transfer and academic capital in the essay’s title is meant to indicate the absolute insistence on profits in numbers that drives the modern University system, and will generate the furore over IP rights. The insistence on qualculations as an index of scholarship has entailed a shift toward the market model of the University in the neoliberal era, and as such is likely to produce more ruthless poaching, transfers and additive projects (‘one more seminar paper!’) than ever before.

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