Academic Freedom, the Crisis of Neoliberalism and the Epistemology of Torture and Espionage: Some Cautions

by
George Caffentzis
Coordinator of the Committee for Academic Freedom in Africa

The consequences of a decision to adhere to what I understood to be your earlier determination that the Geneva Convention III on the Treatment of Prisoners of War (GPW) does not apply to the Taliban include the following…Positive:…some of the language of the GPW is undefined (it prohibits, for example, “outrages upon personal dignity” and “inhuman treatment”), and it is difficult to predict with confidence what actions might be deemed to constitute violations of the relevant provisions of GPW.
-Memo from Alberto R. Gonzales to President George W. Bush on Jan. 25, 2002 (Greenberg and Dratel 2005: 120)

We have come together at this Roundtable to discuss "the attacks on academic freedom, free speech, and free press." In this talk I will be speaking to only a part of this topic, viz., academic freedom. I want to make four points concerning academic freedom at the start and then I will elaborate on them:

(1) there are two concepts of academic freedom current in the field that need to be distinguished: (a) the neoliberal notion of academic freedom which takes knowledge to be a commodity, education as a service to be privatized and academic freedom the ability to market knowledge and education services without governmental regulation; (b) the "commoner" notion of academic freedom which takes knowledge as a common resource for all, education as a public good, and academic freedom as the enlarging of the capacity of all to access and produce knowledge;

(2) the USA Patriot Act and other directives and laws meant to support the war on terrorism are ironically undermining the neoliberal knowledge regime it was meant to save;

(3) the epistemology of torture and espionage that is being introduced in the war on terrorism is an archaic one that is built on the notion of the "secret" that must be extracted from unwilling bodies or spied upon by unseen eyes--this epistemology has been repudiated by the contemporary conception of knowledge as social production and is not only inhuman, but also futile;

(4) the knowledge workers in the African Studies Association, who are being mortally threatened by the laws and epistemology of the war on terrorism, must find a credentialization process that would publicly differentiate themselves from the mercenary intellectuals that do the imperial masters' biding in Africa.

I. The clash of academic freedoms

I approach the topic of this Roundtable on the basis of more than a decade of work with the Committee for Academic Freedom in Africa (CAFA). CAFA has devoted much effort in investigating and protesting the World Bank's Structural Adjustment Programs'
The neoliberal notion of academic freedom arises from viewing knowledge as a commodity (i.e., as so many pieces of intellectual property to be bought, sold or leased) and education as a path to income generation that must be privatized and made profitable in order for it to be maximally effective. Academic freedom in the neoliberal perspective would thus be equivalent to reducing government restrictions on the commodification of knowledge and on the privatization of education. Thus the World Bank views many of the provisions of the SAPs (that it has designed and imposed on African societies) relevant to universities and knowledge as increasing academic freedom, i.e., the freedom to make money from ideas in an international market for intellectual property goods.

For example, from its perspective the SAP provisions that require African governments to subscribe to the copyright and patent policies of the US and to open their markets to intellectual property items (from films, to software, to the molecular structure of pharmaceuticals, to music CDs, to video games, to genetically modified seeds, etc.) appear as ways to guarantee that the Africans would be academically free to buy (or sell) any intellectual fare they can afford unhindered by government restrictions (World Bank 1998: 145). Similarly, the SAP requirement that forces African governments to allow private, for-profit universities to open their doors on their territory is another "blow for academic freedom" in the World Bank's eyes since it increases the choice of educational institution available and increases competition (World Bank 2002). Finally, the SAP proposals reducing the subsidies for university students and requiring that the students "share" the cost of their education is another forward step for academic freedom, since it recognizes that the end of education, knowledge, increases personal income and its institutional costs should be paid for by the eventual beneficiaries.

In the last two decades, students and faculty members all across Africa have responded to the World Bank's imposition of neoliberal policies as an attack on their academic freedom with demonstrations, strikes, and boycotts. They have paid for their resistance with hundreds killed, tens of thousands beaten, arrested and tortured by African governments eager to show their commitment to the World Bank's programs in order to keep their credit line open to save themselves from bankruptcy. We at CAFA have chronicled anti-SAP student and faculty movements across Africa and have admired their tenacity and ubiquity (Federici, Caffentzis and Alidou 2000). The notion of academic freedom these militant students and faculty were fighting for at such great cost was clearly antithetical to the neoliberal conception of knowledge, education and academic freedom. The World Bank was, in effect, "enclosing" knowledge, education and academic freedom in their view and they were fighting back.

But what was their notion of knowledge, education and academic freedom? After reading many documents of the struggle and interviewing many students and faculty members involved, we concluded that these anti-SAP protestors viewed knowledge as a commons, education as a public good and academic freedom as an effort to preserve and expand the commons of knowledge and to increase access to education as a public good (Caffentzis 1994). They saw neoliberal agencies use of money as a barrier to knowledge and education and hence the World Bank was an enemy of their academic freedom. These anti-neoliberal conclusions have been shared by many outside of Africa, of course, who have increasingly seen the effort to sanctify intellectual property rights (with draconian penalties for the violators) in many recently negotiated "trade treaties" (like the WTO, NAFTA, MIA, FTAA) as a sort of "second enclosure movement." The free-software to the creative commons movements, for example, increasingly recognize...
knowledge as a common good that must be preserved against the stifling of its production by commodification. Thus the anti-SPA African students and faculty have been part of a growing worldwide "commoner" movement to preserve the commons of knowledge and to keep education a public good.

As a result of these considerations, we should distinguish two kinds of attacks on academic freedom qua the commons of knowledge. The first is the neoliberal "enclosure" of the knowledge commons and of education as a public good; the second is the US government's "war on terrorism" attack on the neoliberal form of academic freedom. The urgency of the latter attack has undoubtedly inspired this Roundtable, whereas the former "enclosure" has become a chronic feature of contemporary reality in African universities and is increasingly losing its salience because of its prevalence. These are two quite different struggles, however, with different political antagonists and interests. If we confuse them, we might well discover that we will be defending a notion of academic freedom that we abhor.

The very fact that the US government is increasingly restricting the movement of ideas, academics and students within and across its borders and hence is becoming antagonistic to the neoliberal notion of academic freedom should make us allies neither of the "war on terrorism" nor of the neoliberal knowledge regime. The enemy of my enemy is definitely not a friend in this conjuncture. Consequently, the academic freedom struggles of the immediate future will be ideologically murky. They will require the defenders of the commons and opponents to the war on terrorism to be measured in their words and strategically decisive in their actions.

2. Unintended consequences of the war on terrorism

Throughout history imperial politics has been filled with deliberate ironies. They are often encapsulated in cynical aphorisms such as the description of the Roman devastation of Carthage, “They made a desert and they called it peace,” or the famous Vietnam-era US military quip, “We had to destroy the village to save it.” But there are many unintended consequences of imperial policy that are unheralded by cynical bon mots since they were not even observed until long after they had completed their acidic work. I think, in this regard, of the consequences of recruiting barbarians into the Roman armies so that the very boundaries between Rome and non-Rome disintegrated. I believe that we are in a similar situation today with respect to neoliberalism and the war on terrorism. On the one side, the war on terrorism was first declared by the Clinton Administration in order to "save" the neoliberal order from a crisis that began in 1997; but on the other, the prosecution of this war has had many unforeseen damaging consequences for neoliberal economics as well as for academic freedom.

A good example of this duplicitous effect is in the practice of international banking. The USA Patriot Act and the Bank Security Act, two pillars of the "war on terrorism" legislation in the US, are undermining the advantages neoliberal structural adjustment programs (SAPs) have conferred on banking. Between the mid-1980s and 2001 there was an explosion of financial capital and money movements on an international scale. The institutional basis of this explosion was created by the nearly one hundred SAPs imposed on Third World nations that all stipulated both the end of controls over the movement of capital in and out of these countries and the exchangeability of the national currencies on the international money market. These SAPs made it possible to make financial transactions ubiquitously with light speed, not the arrival of the computer revolution.

After Sept. 11 the USA Patriot Act was hurriedly passed to carry the war on terrorism forward. Civil libertarians have objected to its provisions concerning guilt by association, ideological exclusion, unilateral executive detention and secret searches
without probable cause (Cole 2003). Using an extremely vague definition of terrorism, the USA Patriot Act legalizes, for example, searches and seizures of people’s homes and offices without their knowledge, the whole sale surveillance of private citizens’ library records and internet communication, and the arrest and detention without hearing or trials of anyone deemed by the President to be a terrorist. One of its key provisions, however, could mean, according to the Financial Times, the Patriot Act will become "the law that outlaws banks," and not only them, if it is applied with due diligence (Kelleheer 2004). The provision makes banks, insurance companies, hedge funds and mutual funds responsible to review their transactions in order to flag and halt any transaction that may be a "terrorist" transaction. Intentional evasion or even negligence could lead to criminal or civil prosecution. The problem, of course, with this provision is that banks and these other financial institutions are not clear about what the US government believes a terrorist transaction is and the government has not been explicit about it.

Consequently, there has been a slowing down in “suspicious” monetary transactions and an increasing caution in carrying out international transactions, thus undermining the very purpose of neoliberal banking reforms. The first victims of the law’s collateral damage have been embassies, as John Bryne a lawyer representing the American Bankers Association says, "Banks have made an decision in general that all embassy accounts are radioactive." But perhaps the most affected up until now have been the thousands of small “money-service” businesses like check-cashing and money order establishments (the primary, and often extortionary, bankers of the immigrant proletariat) are now being pushed out of business since the regular banks they work with are increasingly refusing to process the checks they collect. As journalist Mark Anderson writes of this “war on terrorism” sea change in the network of proletarian finance: “Some banks have simply cut loose their entire portfolios of money-services businesses, while others dramatically trimmed their MSB customers. This means that a corner store that used to cash payroll checks now is just a corner store that can’t cash checks” (Anderson 2005).

A parallel development is occurring in the academic world, for the USA Patriot Act and its cousins might justly be called "the laws that ended neoliberal academic freedom." Neoliberalism promised to the academic community a sense of “no borders” to academic discourse through organizing open, “global” universities and scholarly networks where knowledge and information could circulate ubiquitously at light speed (remember those Microsoft ads of just a few years ago?) The war on terrorism legislation is now restricting and even blocking the information channel. Indeed, the result is becoming the exact opposite of the neoliberal “deal” that promised an small increase in "user fees" and “licenses” for intellectual property would exchange for a huge increase the flow of information and diffusion of knowledge. The ideology of neoliberalism is being strangled by the war on terrorism's effort to save it.

The clearest example of this is in the dramatic collapse of the so-called “global universities” in the U.S. They were one of the most visible examples of the globalization of knowledge in the 1990s, since their existence was premised on the increased movement of students from Asia, South America and Africa to US universities. Indeed, the money these foreign students (their families and/or governments) expended to finance their university education in the US was the equivalent of $13 billion dollars of US exports (Dillon 2004a). These students certainly embodied the free movement of knowledge promised by neoliberalism. Moreover, the scientific and technical intellectuals that came to the utopias of neoliberalism--global universities in the US whose “catchment area” was the planet--often stayed and became the theoretical backbone of the computer and genetic-engineering "revolutions" of the 1980s and 1990s (given the refusal of US-born students to enroll in demanding scientific and technological fields). After all, in 1998 foreign citizens earned 44 percent
of the doctorates conferred by US universities in engineering, 30 percent of the physics and chemistry doctorates, 39 percent of the mathematics doctorates, 36 percent of the computer science doctorates, 22 percent of the biological science doctorates and 43 percent of the agricultural sciences doctorates (US Census Bureau 2001: 517). As one journalist frankly put it, “America does not produce enough doctoral candidates in the sciences and related fields to meet its own needs” (Freedman 2004).

But with the increasing scrutiny of student visas, the mass arrest and indefinite detention of foreigners (including students and intellectuals), the increased existential irritations of politically-sanctioned racism and xenophobia, the threat of tuition funds being confiscated because of purported connection with terrorism, and all the other allied anxieties stirred up by the war on terrorism's legal and political environment, students are no longer flocking to US global universities. For example, after three decades of uninterrupted growth, total enrollment of foreign students in US colleges and universities fell in 2003 by 2.4 percent. The graduate schools have been especially affected and faced a 28 percent drop of foreign applications and a 6 percent drop in foreign student enrollments during 2004 followed by a 5 percent enrollment drop in 2005 [(Dillon 2004b), (New York Times 2005)].

Moreover, those foreign students who have studied in scientific and technical fields are increasingly refusing to remain in the US and are returning to their "homes" partly because of the fears the war on terrorism has inspired. These phenomena will have an important, though diffuse, negative impact on the US corporations' role as the centers of scientific, technological and cultural innovation for the planet as well as on the US balance of payments (since one of the largest exports is the sale of "intellectual property" leases and licenses on these innovations). This development has even evoked cries of concern from establishment voices like columnist Thomas Friedman (who titled a column “Losing our Edge?”) and the New York Times editors (“Sanity on Visas for Students) [(Friedman 2004), (New York Times 2005)].

The war on terrorism has also involved an increasing surveillance of US-based academics and the restriction of knowledge exchange is leading to a situation reminiscent of the national security state organization at the height of the Cold War. Many scientists in the 1950s and early 1960s were caught in a “cross-fire” since they were convinced both that “free exchange of information was the lifeblood of scientific progress and that restrictions of this flow were either foolish or destructive” and that secrecy was justified since “threats to national security overshadowed concerns for openness in science” (Bok 1983: 156). There was a widespread concern that knowledge production would be harmed by the ethos of secrecy imposed by the state (Bok 1983: 154-155). Indeed, Thomas Kuhn, in his immensely successful typology of the history of scientific communities (in The Structure of Scientific Revolutions, addressed this tension in an indirect but powerful way (cf. Fuller 2000) for the Cold War context of Kuhn’s work).

Kuhn pointed out that it was perfectly possible to have scientific advances in periods of what he called Normal science (Kuhn 1996: 35-42). These periods do not need to have open communications and free movements of scientists for these advances to occur since they involve “puzzle solving” activity, i.e., the rules of solution of the puzzle and its role in the accepted paradigm are already known. Consequently, puzzle-solving activities could take place independently of each other and their results could be accumulated at a higher level without horizontal communication in the way that much of the research and production of the Manhattan Project was carried out. However, periods of revolutionary science required a publicly acknowledged crisis, an increasing set of recognized anomalies, and the widespread presentation of alternative theories that could become the core of a new paradigm. Thus at the very moment of crisis in a scientific community, the greatest openness is required for its resolution. Although
Kuhn's theory of the structure of scientific revolutions has been justly criticized on a number of counts, this contrast between normal and revolutionary periods of science and the different impacts censorship, political repression, and secrecy has on them, I believe, is still relevant to our thinking about knowledge as it was in the 1950s and early 1960s when it was the center of a major national debate on secrecy (Dickson 1988: 134-139). This rekindled debate undoubtedly is just another aspect of the increasing conflict between the war on terrorism and neoliberalism, because the latter is dependent upon and is legitimized by the increasing pace of knowledge production and the institution of a state of permanent scientific revolution. This debate about knowledge also has immediate consequences for African Studies, since it is obvious that normal science and research concerning African is in crisis. Whatever your view of neoliberalism, it is evident that the revolutionary knowledge necessary to deal with the social, economic, and ecological problems of Africa (which are the problems of an unconstituted humanity in extremis) are as sorely lacking as are the material resources devoted to resolving them. To add to this obscurity a shroud over much of Islamic Africa that the war on terrorism legislation threatens to do, is to put the finishing touches on a plan to make Africa again (and even for Africans) a terra incognita with terrible consequences for all, including neoliberals.

3. The Epistemology of Torture and Espionage: the tyranny of the Secret

The development of a new set of laws, administrative directives, and legal categories since the beginning of the war on terrorism has an epistemology driving it that is crucial to our understanding of the challenges we face. It is important to understand that there is a conception of truth behind this revival of the justification of torture, otherwise we will attack it on the basis of a human rights phenomenology so eloquently developed by analysts like Elaine Scarry, who sees in torture not a method of truth seeking but a technique of power. For her “the final product and outcome of torture” is that “the conversion of the enlarged map of human suffering an emblem of the regime’s strength” (Scarry 1985: 56-57). This might have been an accurate description for the torture of inmates in the Nazi concentration camps by guards demanding either work or docility from its death-bound residents, but the present war on terror actually has an epistemology that is rooted in the notion of the Secret. The prime object of knowledge in the war on terrorism is to uncover the secret X, whatever the X might be (the location of person O, the plan to destroy Y, assassinate Z or overthrow government W, the money that financed action A, etc.) This type of epistemology is inevitably seeing the problem of knowledge to be one of overcoming deliberately designed resistance and obscurity to get at the truth. It is not an epistemology indigenous to our time, of course; it is rather a revival of the hermetic-cabalistic epistemology of the Renaissance (Yates 1964). Foucault richly described this epistemology in his Les mots et les choses by deploying Paracelcus’ notion of a “signature of all things” (Foucault 1970: 17-45). In this epistemology the world’s treasures are hidden secrets. But there are similitudes between the secret treasure and what can be observed providing the clue that can be read by a careful investigator. To demonstrate this Foucault quotes Paracelsus’ scientific methodology that compares the world with the power of a man’s speech:

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\text{Just as the secret movements of his understanding are manifested by his voice, so it would seem that the herbs speak to the curious physician through their signatures, discovering to him…their inner virtues hidden beneath nature’s veil of silence (Foucault 1970: 27).}
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In other words, truth is a pre-existing thing that has been deliberately obscured and needs to be brought into the light. But what if nature refuses to speak? What if the obstacles put in the way of the investigators have either a sinister or theodic (i.e., deriving good from apparent evil) intent? Such a conception of knowledge logically leads to both torture and espionage in these circumstances.
We can see this clearly in Francis Bacon's conception of knowledge (as nicely explored by Carolyn Merchant in her *Death of Nature*) that is an important, late exemplar of such a Renaissance epistemology brought to a methodology of torture and espionage by the “silence of nature” (Merchant 1980).

Bacon's works are filled with references to torture and espionage in his description of the accumulation of knowledge. His dominant metaphor for the revelation of the truth is the torture chamber and his most influential model of a knowledge society is Salomon's House in *The New Atlantis* that is largely a huge machine for espionage (i.e., seeing without being seen, knowing without being known) with respect to nature and to humanity. Thus the officials of Salomon's House periodically send out ships masked as merchantmen from European countries to gather knowledge of tools and productive processes of interest throughout the world. They were so effective at their espionage that no one in Europe, Africa or the Americas knew of the existence of their large island civilization in the Pacific (Bacon 1989: 58-59). Their larger investigative efforts are rooted in the notion that nature must be tortured and spied upon to reveal her secrets. As Merchant synthesizes Bacon’s epistemology:

The new man of science [in Bacon's view] must not think that the "inquisition of nature is in any part interdicted or forbidden." Nature must be "bound into service" and made a "slave" put "in constraint" and "molded" by the mechanical arts. The "searchers and spies of nature" are to discover her plots and secrets (Merchant 1980: 169).

The revival of torture and the explicit identification of knowledge with spying in the early twenty-first century is an inevitable consequence of the epistemology developed in the "war on terrorism" that is rooted in the Secret. This epistemology has arisen in an intellectual atmosphere generated by the conjunction of the increasing influence of Leo Strauss’ esoteric hermeneutics and various forms of creationism in the ideological formation of many in the present politically hegemonic Bush Administration. Thus, I argue that Leo Strauss’ and the Straussians’ claim that most important political texts have an esoteric message that can only be deciphered by the specially trained minds has merged with the “creationist arguments” of the past that are being revised into “intelligent design arguments” to combat evolution theory and they have mutated into the intellectual framework of the Bush Administration [(Strauss 1952). (Strauss 1968), (Rosen 2000), (Behe 1996), (Shanks 2004)]. That is, Strauss’ transvaluation of Plato’s “noble lie” of Strauss and the “Trojan Horse of creationism” (intelligent design) are the basis of a new (but self-denying) paradigm (Forrest and Gross 2004). The popular leftist view that the Bush Administration is a cynical intellectual vacuum is not accurate. It is simply that the elements of this superstructure are self-consciously obscurantist.

In the midst of this “back to the future” intellectual world of esoteric meanings and theological designs of the Bush Administration, the war on terrorism proclaims that the terrorist opponents in this war are resolute, subtle, and theologically informed evildoers acting from a hidden demonic substratum. Terrorists, unlike all other human adversaries, apparently do not have a social constitution whose causes can be investigated and countered. They can only be spied upon, tortured to find their inner sanctum and then be killed. That is why Alberto Gonzalez could write so frankly to President Bush (in the portion of a memo that is the epigraph of this article) that notions like “outrages upon personal dignity” and “inhuman treatment” are “undefined” when applied to the Taliban and other terrorists, since, apparently, they are not subjects of the predicates “dignity” and “human.”

Post-"signature of all things" Enlightenment epistemology of the seventeenth and eighteenth century provided a critique of the Secret as the object of knowledge, by questioning the “design conception of nature” and the need for an inner correspondence of public statement and private thought (hence undermining the Paracelsian view that the voice manifests the hidden thought). For it was recognized that there need be neither
an inner preformed truth hidden in the “recesses of the mind” to discover nor an outer
truth craftily embedded in nature. This critique undermined both torture and spying as
models of truth revealing. On the one side, it was pointed out by Beccaria that torture,
instead of revealing the truth, invariably made the body in pain susceptible to any
suggestion, hence the "knowledge" gained from the tortured is tainted and can as easily
be false as true. Torture produced confessions, but they were all too often confessions of
production (Beccaria 1963). On the other side, spying presumed the ability to provide a
non-interpretive and non-interactive channel between the object (the content of the
secret) and the subject of knowledge. Yet it was realized that knowledge of the human
universe, at least, was always interpretative and interactive. Spying, instead of being the
path to truth, simply led to an illusion of objective knowledge.

Thus, according to most post-similitude epistemologies, the pain of torture and the
expensive illusions that knowledge can be generated from one-way interactions create
high costs for any citizenry to pay. Not simply because torture is a violation of the most
basic concepts of human rights and spying is a fundamental desecration of the minimum
trust necessary for all social scientific work. The US government’s presentation of its
enemy as an almost cartoon-like Satanic nemesis and itself as a sanctified being is
setting up a situation that can not lead to the powerful knowledge necessary to create the
conditions for the end of terror on all sides.

Therefore, given the horrendous experience that Africa and Africans have experienced
with torture and spying in the past, it would be inconceivable that any scholarly
organization involved in African Studies would ever collaborate with any such an
enterprise, however it presented itself.

4. Against Mercenary Academics

The new war on terrorism conditions of academic work in Africa imposed by the US
government are becoming mortally dangerous for US academics who abhor torture and
spying, but who are increasingly being confused with the mercenary intellectuals that
are now like the contract workers in Iraq: “enemy combatants” for the "war on
terrorism’s" opponents.

One way to deal with this problematic is to end the torture and spying implicit in the
war on terrorism (cf. ACAS’s Petition “Resolution on the Study of Africa After 9/11”
on its web site: acas.prairienet.org). That, of course, is the basis of the various efforts
meant to repeal the USA Patriot Act, to protest the denial of visas to politically involved
intellectuals who have been invited to speak in the US, and to reject funding for
research that is financed by the CIA, the Defense Department and other organs of US
imperialism. However, this is going to take some time to accomplish and, given the
result of the recent election, it is possible that it will take years.

Many US-based researchers, however, do not have years to wait. Some are in the midst
of research efforts in Africa and others have Africa as their real home. They need to be
able to differentiate themselves from their mercenary cousins in the eyes of Africans.
How are they to do this? Whenever situations like this have developed a "natural"
solution followed: a process of differentiation of interveners that would be guaranteed
by a trusted institution much like the Red Cross or Red Crescent (at least in most
situations). In other words, the institution in question applies a credentializing seal that
guarantees to the observer (or even the participants) that the researcher in question is not
a mercenary in the pay of the military or intelligence services of a government. A way
to separate science from the state or academic research from purported knowledge based
on espionage and torture is desperately needed.

This suggestion is, of course, not so far fetched. After all, most universities' code of
ethics for research explicitly rule out any projects that even hint that they employ torture and espionage. The problem is that universities increasingly are being brought into the circle of the "war on terrorism" just as, during the Cold War, universities winked an eye on questionable projects that violated (sometimes scandalously) professional academic ethics in the name of national security. What is required is an institution (something like an accrediting agency) that would vet projects and investigators and declare that they are not in violation of a code of ethics that explicitly prohibits the use of espionage and torture as part of its procedures and that the results of its research would be publicly accessible, especially to the subjects of the research. If the ASA will not do it, what organization will?

NB. This paper was a contribution to a Roundtable on Attacks on Academic Freedom, Free Speech, and Free Press sponsored by the Association of Concerned Africa Scholars (ACAS) during the African Studies Association meetings in New Orleans on Nov. 12, 2004.

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