

Caught in the Crunch

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To govern is to structure the possible field of action of others.

—Michel Foucault (341)

After a series of conferences held during the 1930s to rethink the 1915 statement on academic freedom, the American Association of University Professors (AAUP) and the American Association of Colleges issued the 1940 *Statement of Principles on Academic Freedom and Tenure*, a two-page text that has been regarded as the definitive professional (though not legal) statement in the United States since that time. The first of two sections declares that college and university teachers are entitled to:

[. . .] full freedom in research and in the publication of results, subject to the adequate performance of their other academic duties; but research for pecuniary return should be based upon an understanding with the authorities of the institution.

[. . .] freedom in the classroom in discussing their subject, but they should be careful not to introduce into their teaching controversial matter which has no relation to their subject. Limitations of academic freedom because of religious or other aims of the institution should be clearly stated in writing at the time of appointment. (3)

It concludes with a paragraph on the speech rights of teachers who are positioned multiply as “citizens, members of a learned profession, and officers of an educational institution. When they speak or write as citizens, they should be free from institutional censorship or discipline, but their special position in the community imposes special obligations” because “the public may judge their profession and institution by their utterances” (3). Thus they are urged to be accurate, restrained, and respectful and to “make every effort to indicate that they are not speaking for the institution” (4). The second section of the document encapsulates what today would be termed “best practices” in the employment context, such as providing the teacher and the institution with a written account of the conditions of appointment; affording a probationary period of no more than seven years; giving a year’s advance notice of termination; and extending academic freedoms

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to probationary faculty. In addition, this section specifies three causes for termination of tenured faculty (incompetence, moral turpitude, and institutional financial exigency) together with the procedures that must be followed (AAUP, 1940 *Statement*).

Over the years, these basic provisions have been elaborated by scholarly commentaries and by policies instituted on thousands of campuses. But this intra-academic discourse has also been cocooned, as it were, by a web of discourse emanating from extra-academic sources that have acted to modify or violate academic freedom. We immediately think of violations falling outside the rule of law—McCarthy-era persecutions of professors, violent police responses to campus protests of the 1960s and 1970s, Counter Intelligence Program (COINTELPRO) infiltration and intimidation of academic groups during the Nixon era, and harassment of academic scientists and scholars in the post-9/11 era. We should, however, consider threats to academic freedom that work through the lawful channels of courts, executive agencies, legislatures, and voter referendums. In particular, I am thinking of the culture war, launched by conservatives in the mid-1980s and since then spawning countless allegations about professorial leftism, critical disciplines, classroom indoctrination, partisan speakers, subversive conferences, and policies on affirmative action, date rape, hate speech, and denial of funding to faith-based student groups. During discussions of these issues—which have occurred in courts and legislatures, in the pages of *The Nation* and *Commentary*, on the Web sites of the American Civil Liberties Union (ACLU) and Students for Academic Freedom (SAF)—the concept of academic freedom seemed to be rather like a chameleon taking on the ideological hues of the parties defining it. However, in this essay on academic freedom, as in many I have written about the conservative movement, I am less concerned with the talk than with the walk; rather than joining the debates about academic freedom, I will instead examine how academic freedom is being eviscerated.

In recent years, numerous academic, civil liberties, and advocacy organizations, ranging along the spectrum from right to left, have diligently tracked and publicized what they regard to be violations of academic freedom and the constitutional rights of speech, association, religion, and due process. The AAUP and the Foundation for Individual Rights in Education (FIRE), for instance, monitor incidents—sometimes intervening through negotiations and sanctions—while the ACLU and Center for Individual Rights (CIR) accept cases and craft litigation. Although it may not be immediately apparent from the ideological diversity of interested organizations, liberals and conservatives have taken different approaches to academic freedom. Where the former investigate and seek to remedy violations, the latter partner with government officials in publicizing alleged violations in order to justify restructuring higher education.

The language of the AAUP's 1940 *Statement* suggests that academic freedom consists of rights, protections, and responsibilities possessed by the individual and the institution. But these individual and institutional features are structural effects: they result from the particular way that academic activities have been organized by a network of policies historically promulgated by the AAUP and other higher education

associations, announced in our university handbooks, and inscribed in collective bargaining contracts on campuses that have faculty unions. That individual faculty members have freedoms of research and teaching, that they participate in institutional self-governance, and that such “best practices” as the written employment contract, the performance review, the probationary period, and the awarding of tenure bind the faculty member and the institution in mutual obligations which inhibit any tendency of the former to capricious or authoritative action—all these are the intramural effects of policy structuration. Nevertheless, the structure is fluid because it is determined not only by policies operating within the academy, but also by forces operating upon the academy—publics, media, movements, businesses, legislatures, courts, and most especially capital. Any stability the structure has is owing to academe’s success in justifying its prerogative of self-governance to the extramural forces.

The traditional justification goes something like this: Since academe engages in complex research, education, and service, it must be managed by those who possess the requisite expertise. Although courts and legislatures have often deferred to academic institutions and recognized their expertise-based prerogative of self-governance, they have not hesitated to override it when they thought the institutions violated the law or disserved the public interest. For instance, Congress designed Title VI of its historic Civil Rights Act of 1964 to prohibit organizations receiving federal financial aid (including virtually all universities and colleges) from discriminating on grounds of race, color, and national origin. The Supreme Court then ruled in several Title VI cases that affirmative action in college admissions violated this command. More recently, conservatives have been able to weaken the deference that courts and legislatures accord to academe by insistently claiming that universities and colleges have neglected their duties, disserved the public good, or violated the law and cannot be left to govern themselves. In other words, conservative strategy works because academic freedom depends upon deference from lawmakers, not formalization within the law. Thus compared to strong nonencroachment doctrines, such as the constitution-based separation of powers, the volitional principle of academic freedom does not prevent government encroachments into academic territory.¹

In what follows, I will briefly review how academic freedom got caught in the crunch between economic trends that made higher education vulnerable to government encroachments and conservative policy initiatives that have targeted student access, education programs, scholarly and scientific research, and campus speech.² I will discuss several initiatives that, through resource allocation and policy formulation, are transferring decision-making on academic matters to partisan government units and thereby eviscerating academic freedom. Finally, I will return to the consequences for higher education and the nation in this age of global capitalism.

Squeezing Higher Education

After World War II, academic institutions experienced nearly three decades of unprecedented growth fueled by federal and state funding

of research, education, student aid, and campus construction. Small colleges ballooned into universities and universities into multiversities with 30,000 or more students, city-sized campuses, and such high-overhead enterprises as medical centers, technology parks, and “big science” laboratories. This heady period came to a close in 1973 when the OPEC oil crisis sent price increases rippling across the economy. Academic institutions found themselves squeezed on one side of the ledger by the soaring costs of energy, building maintenance, employee benefits, library acquisitions, and new technology, and on the other side of the ledger by sluggish revenues from public and private sources. Tutored on cost-cutting by newly hired financial officers, administrators trimmed nonacademic services, cut library budgets, eliminated small academic programs, converted full-time faculty positions to casualized labor, and imposed productivity standards on all units. To increase income they raised tuitions, ramped up grant applications and corporate partnerships, and launched fundraising drives rising from \$200 million in the mid-1980s to over \$1 billion by the late-1990s. Although the largesse bestowed on academe by government, business, and donors had never come without strings, the institutional need for financial resources gave these parties heightened influence in academic matters (Geiger; Newfield; Slaughter and Rhoades; Slaughter and Leslie).

Dealing with budget problems, academic institutions didn’t anticipate the economic roller-coaster ride that would follow. They were optimistic when Reaganomics folded federal funding into state block grants; disappointed when the states shrunk their allocations to cover the rising cost of criminal justice, health care, and social programs; and hopeful when the Clintonian boom revved up government spending and investment income. Then in 2001, they were hit by a triple whammy: the stock market tanked, the Bush administration launched its costly war on terror, and the states slashed their higher education appropriations by 5 percent to over 20 percent. Although the chronically underfunded community colleges and the state universities were the hardest hit, even reasonably well-endowed private colleges were pinched. After a short lull, the effects of “the new economy” amplified in 2007 and pitched the nation into a deepening recession. Two decades of low-wage labor strategies—downsizing, outsourcing, and offshoring—have produced unemployment and underemployment that destabilized formerly self-sufficient families who, saddled with debt on mortgages, loans, and credit cards (the latter is estimated at \$960 billion nationwide), are now descending to the poverty line. More than half of the states face budget deficits caused on one hand by rising costs and on the other hand by tax revenue shortfalls resulting from declining family income, consumer purchasing, and housing values; academic institutions also expect to have less income from funders and tuition to pay their skyrocketing costs. In short, the “new economy” turned the 1975-85 financial crunch into not merely a financial crisis for higher education but an economic catastrophe waiting to happen. Indeed, “new economy” practices combined with the Bush administration’s post-9/11 agenda to produce the home and business loan defaults, the frozen credit, the rising layoffs, the tanking investment markets, and the mounting government debt we are now experiencing.

That conservatives have been able to mount these initiatives is owing to structuration as well. In the late 1960s, a small band of conservatives took a cue from the civil rights movement and began to build a movement infrastructure that now consists of church networks, mass membership organizations, special interest groups, training programs, think tanks, legal defense funds, and media outlets. To this paradigm, they added three important innovations: they webbed the movement organizations with electronic communications and umbrella councils; they appropriated the Republican Party and won the election of conservatives to federal and state offices; and they welded their organizations to the government in a seamless policymaking process. The organizations mounted PR campaigns, issuing streams of direct mailings, news releases, reports, and opinions on talk shows to lay the ground for legislators who obligingly held hearings featuring conservative testimony and collaborated with conservative lobbies in writing bills. Although the post-PR process differed somewhat in other arenas, conservatives also coordinated their planning and action; for litigation, they provided expert testimony and *amicus curiae* briefs, for referendums, they set up state-level groups to collect petition signatures and canvass voters. Now I want to look at initiatives produced by the hybridized movement-government machinery.

Restricting Student Access

After World War II, Congress demonstrated its commitment to educational access by legislating new forms of student assistance: the GI Bill of 1944 made portable scholarships available to veterans; the Higher Education Act of 1965 (HEA) created the TRIO programs to increase the college readiness of disadvantaged high school students; and the 1972 HEA reauthorization established the Pell Grants for low- and middle-income students. Concerned with white resistance to the Supreme Court's desegregation mandate in *Brown v. Board of Education* (1954) and the mobilization of African Americans, Congress passed the Civil Rights Act of 1964, a sweeping bill that prohibited discrimination in several sectors and authorized federal agencies to effectuate its provisions.

By the early 1970s, most academic institutions had adopted non-discrimination policies and implemented affirmative action programs, but their efforts to open their doors to students of color came under immediate attack. The first two lawsuits to reach the Supreme Court were *DeFunis v. Odegaard* (1974), initiated in 1971, and *Regents of the University of California v. Bakke* (1978), initiated a few years later. Both plaintiffs, Marco DeFunis and Allan Bakke, were white men who had been rejected by professional schools (law and medicine, respectively) and who, along with the conservative *amici* supporting them, had portrayed affirmative action as a system of reverse discrimination that gave unmerited preferences to less qualified racial minority applicants over more qualified white ones. After dodging the substantive issues in *DeFunis* by declaring the case to be moot, the Court neither endorsed nor repudiated affirmative action in *Bakke*. Four justices argued that race-conscious admissions procedures violated statutory law and four argued that race-conscious

remedies were necessary to realize the constitutional and statutory nondiscrimination mandates. Navigating between the two camps, Justice Powell agreed with the former camp that the university's admissions procedures were unlawful and palliated the latter by declaring that student diversity was a compelling governmental interest that justified using race as one of many factors to evaluate applicants.

Although conservatives continued to litigate against affirmative action, they shifted their tactics in the early 1990s after launching four organizations that specialized in campaigning against higher education. The National Association of Scholars (NAS) mobilized faculty, published surveys and polemics, and located plaintiffs for lawsuits. The Center for Equal Opportunity (CEO) churned out studies and sent complaints to federal agencies. The Center for Individual Rights (CIR) handled litigation, and the American Civil Rights Institute (ACRI), led by the indefatigable Ward Connerly, orchestrated state-level voter referendums. Within fifteen years, the litigation and referendums had overturned affirmative action in California, Florida, Washington, Texas, Louisiana, Georgia, and Michigan, while the complaints filed with federal agencies had persuaded scores of colleges across the country to abandon not merely race-sensitive admissions, but also minority tutoring and mentoring programs.

In July 2003, the Supreme Court issued long-awaited rulings on two University of Michigan cases, *Gratz v. Bollinger* and *Grutter v. Bollinger*, crafted by the CIR on behalf of two white women who had been denied admission respectively to the undergraduate program and the law school. The Court ruled against the undergraduate admissions program because it didn't provide individualized applicant reviews, didn't consider many factors, and did set numerical goals for minority enrollments, though it ruled that the law school had met these standards. Any race-sensitive measures that would have been permitted under this ruling were banned in November 2006 when 58 percent of voting Michiganders approved the ACRI's Proposal 2, which outlawed affirmative action in this state. While the effect of the Michigan ban upon minority students remains to be seen, we know how they were impacted in other states. Hoping to preserve minority enrollments, California, Texas, and Florida launched plans guaranteeing public university admissions to the top X percent of each high school graduating class, but the university systems experienced a trend to resegregation, as white and some Asian American students clustered at flagship institutions and African American and Latino/a American students cascaded into community colleges. For the latter two groups, overall nonenrollment and drop-out rates rose, results that empirical studies attribute to low-income status, insufficient financial aid, family and work duties, and chilly campus climates (Horn and Flores; Marin and Lee; Tienda and Niu; Schmidt).

While these initiatives show that conservatives used their organizations to push state-level restrictions on college access through courts and ballots, my next examples will show that they were able to achieve nationwide restrictions by fusing their organizations to the federal government in the policymaking process. To lay the ground for the 1996 Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), conservative leaders demonized

welfare recipients as lazy and promiscuous women of color who were draining the public coffers, a message they and the Bush administration amplified to prepare for PRWORA reauthorization. Despite abundant research showing that the so-called “welfare reform,” rather than lifting families into self-sufficiency, had plunged them into deeper poverty, Congressional conservatives voted for a harsher version in 2003 that upped the recipients’ workload from 30 to 40 hours per week and decreed that no postsecondary education (except for minimal job training) could count as work hours. The recipients—90 percent were single mothers and 70 percent were women of color—had little education or job readiness, yet they were expected to labor full time in low-wage jobs without the conveniences of transportation and child care (Mink and Solinger; Hays; Polakow et al.). Under these conditions, how many single mothers can find the time and money to earn a community college degree that might qualify them for a better job, that is, *if* they could find one in this era of downsizing and offshoring?

Instead of investigating the many barriers facing racial-minority and low-income students, conservatives in the executive and legislative branches pursued two disastrous courses of action from the Reagan era onward. They ignored the declining purchasing power of student scholarships, and they shifted federal appropriations from scholarships to federal loans and loan industry subsidies. Consider the Pell Grants, the largest need-based scholarship program in the nation. In 1975, the maximum grant covered 84 percent of the total cost of attending a public university, but in 2001 it covered 39 percent of tuition only (Office for Civil Rights Staff 106). When pressured by students, parents, and education organizations, Congressional conservatives blamed the “college affordability crisis” on free-spending academic institutions and eventually voted to increase the maximum Pell Grant of \$4,000 per year by a mere \$50, where it remained for five years thereafter. Fortunately, their proposal to tighten the needs-analysis formula failed when the Department of Education estimated that 84,000 students would lose their grant eligibility, but by then the damage was done. In 2003-04 alone, financial constraints had prevented 250,000 college-eligible students from enrolling (Brainard, “House Panel”; Arnone, “Two Hundred”). Only after regaining control of Congress in 2006 did Democrats enter the fray, proposing to raise the maximum Pell Grant to about \$4,600, an increase that President Bush first threatened to veto and later proposed to fund by taking money away from college readiness programs for disadvantaged high school students.

Long after Reagan and Bush conservatives had shifted federal funding into student loans and loan industry subsidies, the media began to expose the sordid results: redlined loans to students attending historically black colleges, loan repayments indenturing graduates for most of their adult lives, huge profits reaped by lenders, and lender payoffs to government and college student aid officials. In 2008, the perfect storm that deluged the financial industry with mortgage defaults, unpaid credit-card debts, and business bankruptcies turned its fury on academe. Secretary of Education Margaret Spellings reassured colleges in late February that although only “a few lenders had withdrawn” from the student loan market her agency was drawing

up contingency plans (Baskin), but by mid-April some 50 lenders, including such large originators as Citibank and JPMorgan Chase, had withdrawn from the college market (Field, "Following"). As the House and Senate negotiated a bill that would channel money into federal guarantees for private lenders and into federal student loans, needy students were already feeling the impact of cuts in the federal Perkins Loan Program. Faced with cuts to Perkins Loans averaging 50 percent, colleges had the Hobson's choice of halving either the number of recipients or the amount of loans (Field, "Colleges" and "Dwindling").

Other government policies are impacting international students. Since restrictions on foreign student access to U.S. institutions have been widely reported by the media here and abroad, I will summarize the problems very briefly. Under the USA PATRIOT Act, government agencies are authorized to interview, vet, monitor, detain, and evict foreign students, activities presumably facilitated by SEVIS (Student and Exchange Visitor Information System), a glitch-ridden databank that has hindered visa processing since its inception in 2003. Over the next three years, applications by students from Muslim countries dropped by about 25 percent and graduate applications plunged by about 32 percent (Jacobson, "Foreign-Student"; Arnone, "New Survey"). Ignoring the evidence that foreign students blamed PATRIOT Act measures for making it difficult to study in the U.S. and the concerns expressed by civil liberties groups, Congress enacted a new version of the PATRIOT Act that contained many of the same troubling provisions. Although government agencies did not substantially improve the student visa process, applications and enrollments began to bounce back in 2006-07, mainly owing to increased numbers of students from Vietnam, Nepal, India, and Saudi Arabia (which has a generous scholarship program). But the U.S. share of the foreign student market declined (MacCormack), indicating that our bounce-back in foreign student enrollments reflects only the expanding pool of college applicants worldwide and not the fact that international students increasingly choose to pursue their education in other countries offering quality higher education and those, like Dubai and Qatar, that are building modern universities.

Regulating Education

To justify partisan incursions into the classroom and curriculum, conservatives launched an "accountability crisis" campaign trumpeting allegations that colleges were failing to provide students with quality instruction and claiming that they needed to be held accountable to government as the proxy for taxpayers and students. As usual, movement-linked organizations worked with officials at the Department of Education (DOE) and Republicans serving on the House Committee on Education and the Workforce, who played starring roles in the policymaking process.

At March 2003 hearings sponsored by the DOE, conservatives testified about the need for a government databank that would track student progress from enrollment through retention, transfer, and graduation; learning as ascertained by national competency tests and

student-parent satisfaction surveys; job placements and salaries; and graduate/professional school performance. After higher education leaders warned that such a database would violate the 1974 Family Educational Rights and Privacy Act (FERPA), lawmakers found a way to skirt FERPA—an amendment to the act that permitted the Department of Defense (DOD) to collect student data (Lipka, “Pentagon”; Boehner). Over the next four years, Secretary Spellings doggedly championed a DOE database named the Integrated Postsecondary Education Data System (IPEDS) with a tenacity that signaled, I think, what conservatives planned to do with this monitoring tool. The data on student progress that identify lower-performing institutions could be used to justify higher education legislation mirroring the No Child Left Behind Act, which imposes government-mandated K-12 standards, recurrent testing of students, and penalties for underperforming schools. IPEDS gained traction in 2007 on the recommendations of Spellings’s advisory panel—the Commission on the Future of Higher Education—but its scope was scaled back under pressure from higher education leaders and Democratic lawmakers (Field, “Education Department”).

In 2003, when higher education leaders expressed concern about the cost of data gathering, a DOE official replied, “[t]he color of change is not always green” (Burd A19), a stunningly hypocritical comment in view of the fact that Republicans relied on purse power to make the changes they wanted. As President Bush’s own rhetoric indicates, religious and military imperialism are wedded in Christian Right doctrine, so it was not surprising to see the movement-government machinery cranking up to secure federal funding for faith-based and military education and to defund progressive education. Ever since the Supreme Court ruled in *Bob Jones University v. United States* (1981) that the IRS could deny tax-exempt status to the university because it was practicing racial discrimination, the Christian Right has resented not only the doctrine of church/state separation, but also the accrediting associations’ diversity requirements that colleges had to meet in order to be accredited and qualify for federal funding. While continuing to file lawsuits, the Religious Right also partnered with secular groups to work through the legislative and executive branches on several initiatives. In October 2002, the American Council of Trustees and Alumni (ACTA)—cofounded by Lynne Cheney—recommended eliminating accreditation as an eligibility requirement for federal student aid, and shortly thereafter the DOE announced that elimination of the statutory barriers to faith-based colleges was one of its goals for the reauthorization of the Higher Education Act. Republican Thomas E. Petri obligingly introduced a bill to that effect, but the ACTA-Petri bill failed to pass the Senate (Morgan, “Group Criticizes” and “Lawmakers”; U.S. Department of Education). However, progressive watchdog groups discovered a few years later that federal agencies were already funding faith-based colleges: The Department of Homeland Security (DOHS) had awarded to Mercyhurst College (located in the hometown of DOHS Secretary Tom Ridge) a \$90,000 no-bid contract to train DOHS analysts, and the DOE had allocated about \$1.25 million to Alaska Christian College, an unaccredited evangelical school enrolling about 50 students (Field, “Small College” and “U.S. Education”).

A widely publicized defunding initiative commenced in 2004 when conservatives testified at a House education subcommittee hearing that international and area studies programs, particularly Middle East programs, were purveying anti-American criticism of U.S. foreign policy. Under pressure from a coalition of Christian Right leaders, neoconservatives with a Cold War hangover, the American Israel Public Affairs Committee (AIPAC), and the Anti-Defamation League (ADL), conservative lawmakers passed a bill establishing an advisory board with three members to be appointed by the Education Secretary and one each by the House and Senate majority and minority leaders. The move thereby ensured that 5 of the 7 members would be conservatives at least through 2008. Formally charged with monitoring the programs and determining their eligibility for grants under Title VI of the Higher Education Act, the board was in a position to recommend defunding programs offensive to its sensibilities. But two consequences seem to have been overlooked. First, the board will be able to reach into mainstream departments of language, history, anthropology, geography, and political science where area studies faculty and courses are based (Lockman; Jacobson, "The Clash"). Second, with oversight capabilities, the board can influence an enormous amount of federal funding: e.g., in 2005, the funding included not only \$28.2 million in Title VI fellowships, but also \$15 million in DOHS fellowships for graduate training in fields deemed important to security; \$8 million in National Security Education Program fellowships for study of less common languages and cultures; and \$1.33 million in Pat Roberts Intelligence Scholarships for graduate study of languages, cultures, and other topics. This last program—named for the Kansas Republican who then chaired the Senate Select Committee on Intelligence—was created in 2004 after an area studies professor told Senator Roberts that since it would take a decade to reform area studies programs, Congress should in the interim provide scholarships for security analysts to study in programs approved by any of the 15 U.S. intelligence agencies (Glenn).

Quietly, by contrast, Congressional conservatives defunded progressive education programs by cleverly hog-tying the Fund for the Improvement of Postsecondary Education (FIPSE), a DOE program established in 1972 to support educational innovation through grant competitions. In January 2005, the DOE announced that it was terminating the competitions because lawmakers had earmarked 89 percent of FIPSE's budget for pet projects in their districts. Those who wonder why FIPSE earmarks soared from \$4.5 million in 1998 to an astonishing \$146.2 million for 2005 might ponder the explanation offered by Representative Ralph Regula, the chair of the subcommittee that budgeted FIPSE, who opined that Congress members were "more in tune with the needs of colleges and universities in their districts than the fund's managers" (Field, "Pork"). Apparently, many of the earmarks weren't in tune with FIPSE's mission of advancing educational innovation, such as \$435,000 for Alaska Christian College (mentioned above) and \$5 million for a Strom Thurmond Fitness Center at the University of South Carolina in Columbia (Field, "Pork").

Redirecting Research

To harness research to their agendas, conservatives have wielded defunding and funding more blatantly. The basic strategy for defunding progressive research was devised by Lynne Cheney when she chaired the National Endowment for the Humanities (NEH) from 1984 to 1994. She openly used her position to issue NEH reports denouncing the scholarship on gender, race, class, and theory, and behind the scenes she packed the NEH council, staff, and peer review panels with conservatives who in turn marked this scholarship down in grant competitions (Messer-Davidow). In January 2004, *The Chronicle of Higher Education* published a front-page article on the resumption of NEH flagging. Agency officials, the story claimed, singled out projects dealing with gender, race, or sexuality for extra review, in some cases rejecting flagged projects that received high marks from peer review panels and funding nonflagged projects that received low marks (Borrego). Soon after the article appeared, the NEH inspector general began investigating not the flagging, but the presumed whistleblowers and threatened a former NEH official with civil and criminal action. When anonymous parties complained about the retaliation, the General Accounting Office (GAO) ordered the NEH inspector to investigate the flagging and retaliation allegations, telling a *Chronicle* reporter that the GAO responds to complaints it believes to have merit (Field, "Humanities Endowment" and "Congressional Agency").

Meanwhile, the science community was orchestrating widely publicized counteroffensives against conservative attempts to undermine mainstream research in scores of areas including stem cells, evolution, climate change, endangered species, energy, sexuality, obesity, tobacco use, and workplace injuries. The Bush administration and Republican lawmakers, working hand-in-glove with conservative organizations, used such tactics as denying the validity of scientific findings, promulgating junk science, packing federal science-advisory councils with big business interests, weakening the federal peer review system, restricting publication, and denying visas to foreign scientists invited to the U.S. One initiative, which illustrates the meshing of movement organizations to government in a defunding process, targeted the National Institutes of Health (NIH) for sponsoring studies of sexual behavior. A House committee heard conservative testimony in November 2003 and ordered the NIH to review 190 studies on a list that, it turned out, had been compiled by the right-wing Traditional Values Coalition. The defunding threat was defused when the media exposed the list's origin and the NIH explained the significance of these studies for public health (Brainard, "NIH Begins" and "NIH Director"). At the same time, however, the NIH was being harnessed to conservatives' antiterrorism campaign by ramping up its spending on bioterrorism research at the expense of research on ordinary diseases and public health issues (Brainard, "Scientists"). The NIH initiatives are a very minor example of the numerous targets and tactics in the war on academic science documented in newspaper articles, reports issued by scientific and civil liberties organizations, and full-length books.³

Alternatively, conservatives in Congress and federal agencies have lavishly funded military and security research. In 2003, when Congressional pork for academic institutions topped \$2 billion, \$223 million was earmarked for university research on antiterrorism and homeland security. Also that year, the Department of Homeland Security (DOHS) alone allocated some \$90 million to security research (Brainard and Borrego; Borrego, "Homeland Security"), and for 2004 and 2005, DOHS spent \$45 million for just three Security Centers of Excellence at the University of California, Texas A&M, and the University of Minnesota (Field, "U.S. House"). For 2005, Congress appropriated a mind-boggling \$416.2 billion to the Department of Defense (DOD) for operations and research; the bill provided \$1.5 billion for basic defense research and \$4.9 billion for applied research to be conducted by the three branches of the armed forces (Field, "Congress Passes"). Legislators earmarked large portions of the DOHS and DOD research budgets for projects benefitting their constituents and supporters, thereby evading peer review and weakening quality controls on knowledge production. While fueling military and security research, the government needed to contain its circulation. In 2003, the DOD, relying on PATRIOT Act provisions, proposed that academic scientists would have to obtain clearance to publish their findings. When an outcry caused the DOD to backpedal, the Bush administration instituted broader controls, authorizing a half-dozen agencies—Defense, State, Agriculture, Health and Human Services, EPA, and CIA—to label research as sensitive and restrict its circulation (AAUP Special Committee).

Supporting and Suppressing Speech

The Foundation for Individual Rights in Education (FIRE), founded in 1998 by historian Alan Charles Kors and attorney Harvey A. Silverglate, declares on its Web site that its mission is "to defend and sustain individual rights at America's colleges and universities," particularly "freedom of speech, legal equality, due process, religious liberty, and sanctity of conscience" ("About FIRE" n. pag.). The organization defends these rights through publications, interventions, litigation, and a student network. For instance, *Spotlight on Speech Codes 2006: The State of Free Speech on Our Nation's Campuses* (now an annual report) claims to have reviewed 334 campuses and rates only 8 as not having dangerous policies on speech, harassment, disorderly conduct, free speech zones, and diversity orientations, which it calls "thought reform" (n. pag.). One might conclude that the organization only opposes policies that attempt to minimize bigotry, but the long list of cases in which FIRE has intervened—perhaps a hundred, though an exact number is difficult to calculate because many cases appear under two or more categories—presents a slightly more complex picture. FIRE has sided with a half-dozen students and faculty penalized by their institutions for antigovernment or antimilitary speech and with one gay/lesbian student group denied recognition by its university, but in the vast majority of its cases it defends offensive speech by conservative individuals and groups ("Case Archive" n. pag.). More troubling than this tilt, FIRE's position that several Christian

student groups had a right to refuse membership to gays, lesbians, and students belonging to other denominations blurs the line between speech and action, and its complaints about university grievance processes that found students guilty of sexually assaulting other students transpose criminal actions into procedural matters. I am not questioning whether alleged sexual predators have rights to due process, legal representation, and civil liberties advocacy because constitutional jurisprudence makes it clear they do have these rights. What I am questioning, however, is that FIRE repeatedly chose to advocate for predators rather than victims at a time when the organization was well aware of a major study issued by the American Association of University Women that shows the pervasiveness of sexual harassment: the study reports that 62 percent of college students had experienced some sort of sexual harassment and 28 percent had suffered physical harassment.⁴

According to some scholars, FIRE is a civil liberties organization, but tactically and ideologically it resembles other conservative movement organizations. Consider FIRE's Phi Beta Kappa caper. In October 2004, George Mason University buckled to conservative state legislators and cancelled a lecture by filmmaker Michael Moore whose controversial *Fahrenheit 9/11* had been released that summer (Argetsinger and Smith). The following fall when Phi Beta Kappa refused to charter a chapter at George Mason because of the Moore episode (Lipka, "Free-Speech"), FIRE program officer Samantha Harris sent a seven-page letter to the society's secretary. Rather than addressing the speech violation by state legislators and university administrators, Harris castigated seven institutions that had policies on hate speech, harassment, and/or behavior intolerant of racial, gender, sexual, religious, and political diversity. Implicitly accusing Phi Beta Kappa of condoning speech violations because it had chapters on these campuses, she concluded the letter by requesting (or demanding) that the secretary "respond to FIRE detailing how you intend to ensure that academic freedom is protected at all Phi Beta Kappa institutions" (Harris n. pag.). For FIRE, in other words, the speech and action that deserve protection do not include Michael Moore's lecture and film, students denied membership in Christian student groups on grounds of their sexuality or religion, victims of sexual and racial harassment, or university orientations that promote tolerance of diversity.

FIRE's bullying pales beside David Horowitz's approach to policy-making. Long before he launched the Academic Bill of Rights (ABOR) in 2003, Horowitz had gained notoriety for an assault on the liberalizing trends in higher education and personalized attacks on professors circulated through his writings, personal appearances, and the Center for the Study of Popular Culture, grandiosely renamed the David Horowitz Freedom Center (DHFC). Horowitz debuted the ABOR at an October 2003 press conference with Republican leaders of Congress who in turn held committee hearings and proposed legislation that failed to pass (Wilson 61-62). Over the next three years, he concentrated on developing a state-level infrastructure and deploying the tactics used by other conservative organizations. He built Students for Academic

Freedom (SAF), now a network with a Web site, publications, and 150 chapters whose members provoke and publicize speech incidents. He mounted a PR campaign for the ABOR that “generated 74 articles in major newspapers, at least 143 articles in all newspapers nationwide, 54 television and radio broadcasts, 47 news wire articles, 20 articles in *The Chronicle of Higher Education*, 75 articles in *Inside HigherEd.com*, dozens of articles in major magazines, and some 134,000 hits in the obligatory *Google* search” (Aby, “Academic Freedom” 1). He sought assistance from the American Legislative Exchange Council (ALEC) as well, an umbrella group whose members included conservative state legislators, Congress members, and organizational leaders. While legislators introduced ABOR resolutions and bills in 27 states—usually inviting Horowitz, local students, and representatives of other conservative organizations such as the National Association of Scholars to testify at hearings (the most widely publicized battles occurred in Colorado, Florida, Ohio, and Pennsylvania)—Horowitz and his SAF troops were also pressuring individual academic institutions to adopt ABOR policies (Wilson 62-76; Aby, “Academic Freedom” 5-8).

That FIRE’s rhetoric is more decorous than the Horowitzian rantings found on the Web sites of the Freedom Center, *FrontPage Magazine*, and SAF, should not obscure the fact that the strategies of the two organizations dovetail. FIRE’s cases are featured on the Horowitz Web sites and more importantly function as justification for ABOR bills and for attempts to legitimize conservative Christian and political proselytizing on campus. To quote the ABOR:

No faculty shall be hired or fired or denied promotion or tenure on the basis of his or her political or religious beliefs.

No faculty member will be excluded from tenure, search and hiring committees on the basis of their political or religious beliefs.

Students will be graded solely on the basis of their reasoned answers and appropriate knowledge of the subjects and disciplines they study, not on the basis of their political or religious beliefs.

Academic disciplines should welcome a diversity of approaches to unsettled questions. (rpt. in Aby, *The Academic* 176-77)

Horowitz and his supporters gloss the first three statements as protecting individuals from discrimination based on their political or religious beliefs, but a careful reading suggests that the ABOR, if adopted, would operationalize a different meaning. If disciplinary knowledges are taken to be unsettled, then individuals can demand equal time for Intelligent Design, divinely mandated heterosexuality, global climate stability, the intellectual inferiority of black and brown people, or anything else they wish to promote. With that said, if they describe these ideologies as expressions of religious or political beliefs, they can invoke ABOR protection while also avoiding the standards and the peer review to which mainstream scientific and scholarly knowledges are subjected.

Eviscerating What?

The economic trends and political initiatives I have been describing unquestionably narrow the scope of faculty and administrative decision-making about admissions, education, research, and speech, thereby constraining self-governance, but their repercussions go well beyond eroding these dimensions of academic freedom. The restructuring has progressed sufficiently to speculate on how higher education will look in the near future. Affirmative action bans and race-neutral measures (like percent plans) will resegregate state university systems and turn back the clock on a century-long struggle to integrate higher education. PRWORA's heavy work requirements will continue to exclude welfare recipients—disproportionately single mothers of color—from educational opportunity and immure them in poverty. Unrealistic student aid policies, combined with the trend to low-wage labor, will shut college doors to hundreds of thousands of college-ready students from working- and middle-class families. Admissions committees will review applicant pools consisting mainly of those who can afford college and will struggle over decisions about which economically disadvantaged students will receive dwindling aid. The impacts on students will weigh heavily on all Americans because they grow the nation's underclass at a time when our prosperity increasingly depends upon an educated workforce, and our sociopolitical stability depends upon extending equal educational opportunities to what will soon be our majority minority population.

In the past, conservative legislators and agency officials relied on purse power—increased funding for research and education that advance their agendas, flagging and defunding to eliminate progressive research and education from competitions, and earmarking to evade peer review. But they chose their funding recipients and defunding targets rather haphazardly because they had to rely on spotty information provided by such organizations as the National Association of Scholars and the Traditional Values Coalition and on easily discredited flagging and earmarking practices. With a massive database to track student progress and with review boards like the one monitoring international and area studies, government officials will have a powerful tool for determining how to distribute funds and how to use defunding threats more effectively. Government funding (always important to academic institutions) becomes critical during lean periods. While academic institutions may resent government intrusions into education and research, they will undoubtedly prefer to reap government rewards than suffer government penalties. The lure of rewards will be nearly impossible to resist as the fallout from the current economic meltdown hits academe.

The late-twentieth-century ideological and structural transformation of the knowledge-producing economy has resituated academic institutions in a "marketplace of ideas," where they compete with generously funded think tanks, corporate R&D units, and government agencies. On one hand, universities and colleges have rushed to form corporate partnerships for research, education, service, and fund-raising projects that further inject profit-think and quasi-privatization

into academic decision-making, but even so may work against the institutions. According to Benjamin Baez and Sheila Slaughter, federal rulings on patent, copyright, and other property cases have overwhelmingly supported the conservative entrepreneurial interests of corporations and academic institutions. On the other hand, academe's competitors in the knowledge economy can skirt such onerous requirements as research protocols, ethics, and peer review, which bind academic scientists and scholars. For instance, the Discovery Institute, a Seattle think tank that promotes Intelligent Design, specifically invokes the "marketplace of ideas" rationale to argue that ID should be taught in high school and college classrooms alongside the merely hypothetical concept of evolution. Corporations, as we know from exposés of the pharmaceutical and oil industries, have controlled the research of scientists-for-hire, suppressed unfavorable findings, and falsified authorship of research papers. The Bush administration's manhandling of NASA's Goddard Institute for Space Sciences—vetting its research findings on climate change and censoring distinguished scientist and Institute Director James E. Hansen—shows that even an illustrious government institute can be forced to serve partisan political agendas. In short, when government exercises its power to redirect or weaken academic research, it simultaneously gives other organizations more latitude to pitch their wares to Americans, most of whom aren't equipped to evaluate competing claims about drugs, biodiversity, or climate change and, if voting behavior is an indicator, will be swayed by emotion-laden appeals.

Along with the new knowledge economy, capitalism and conservative pro-business policies have restructured the labor force by converting reasonably compensated employment to low-wage, part-time, no benefits jobs. The labor force in higher education has already been restructured along these lines by the conversion of faculty lines to adjunct positions; in the mid-1970s, about 70 percent of the faculty held tenured or tenure-track positions, and today the same percentage holds adjunct positions. Adjuncts, for the most part, are underpaid and overworked; teaching several courses often on multiple campuses, they have little or no time for research, do not participate in institutional governance, do not enjoy all of the academic freedoms, and receive little protection from organized labor, legislatures, and courts.

The initiatives I have discussed affect this country's standing in the world. Policies that withhold educational opportunity from racial-minority and lower-income students give the lie to the vision of democracy the Bush administration has shopped to other countries. Policies that deter foreign students from enrolling and bar foreign scholars from visiting intensify the international resentment of the U.S. long enflamed by Bush administration actions. This behavior, combined with unnecessary restrictions on the flow of scientific and scholarly research to and from other countries, will continue to isolate the U.S. intellectually, politically, and economically.

In choosing their means of change, conservatives have demonstrated that they understand the fundamental nature of structural transformation. By occupying positions from which they can rechannel the resources that fuel and revise the rules that organize higher education, they can indeed restructure the system. Left unchecked and unguarded, the casualties will not just be academe's freedoms, but the nation's future.

Notes

¹ For the AAUP's overview of academic freedom jurisprudence, see Euben. For a discussion of the law in the context of recent academic freedom violations, see O'Neil. And for a discussion of the inconsistencies and insufficiencies of academic freedom jurisprudence, see Chang 915-66.

² Some of the case study material appeared in my article "Why Democracy Will Be Hard To Do" (*Social Text* 24.1 [Spring 2006]: 1-35) and has been updated for this article.

³ See, for example, the Union of Concerned Scientists; *Science Under Siege*; and Mooney. The Union of Concerned Scientists' Web site also contains a list of its publications on scientific issues and updated information on attacks on mainstream science: http://www.ucsusa.org/scientific_integrity.

⁴ See Hill and Silva's seventy-page study of campus sexual harassment that was based on detailed interviews of 2,036 college students age 18 to 24. Approximately 62 percent reported that they had been sexually harassed, 57 percent experiencing verbal or visual harassment and 28 percent experiencing physical harassment. The vast majority of perpetrators were other students, and only small percentages were faculty or staff. The subject pool was diversified by race and ethnicity, but women constituted a little more than half and men a little less than half. The highest rates of harassment were experienced by LGBT students, followed by women, and the lowest rates by black and Latino/a students. See Marklein for a follow-up report on the AAUP study where Greg Lukianoff, a FIRE official, replied, "There are aspects of harassment that nobody disagrees with [. . .] [but] too many people think harassment is the same thing as being offended. Offending somebody is not a crime" (7D).

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