

# Academic Freedom Requires Constant Vigilance

*by Kim Emery*

Traditionally, academic freedom has been understood as an individual right and a negative liberty. As William Tierney and Vincente Lechuga explain, “Academic freedom, although an institutional concept, was vested in the individual professor.” The touchstone document on academic freedom, the American Association of University Professor’s (AAUP) 1940 “Statement,” sought “to insure that an individual’s ability to conduct teaching and research without interference would not be violated” by either the institution or the state. Although any attack on academic freedom was understood to be “tantamount to an attack on the academy itself,” sanctions imposed on individual faculty members marked both the visible register and recognized point of purchase for restrictions on academic freedom. At the turn of the 20th century, the archetypal instance of infringement was “when a professor said something pertaining to his or her academic specialty, someone became upset, and that [professor] was fired.” I follow Tierney and Lechuga in calling this the “traditional framework” for conceiving academic freedom.<sup>1</sup>

Notably, the traditional framework understands academic freedom not only as vested in the individual (as opposed to the collective, the institution, or the class) but also as a “negative liberty”—one that is marked most obviously in its absence. In this view, academic freedom is presumed to exist everywhere it is not infringed or intruded upon. Although Tierney and Lechuga date this concept to the turn of

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the previous century, this traditional framework continues to inform both popular perceptions and faculty understandings of academic freedom. Its traces can be found, for example, in the hundreds of faculty handbooks—and even some union contracts—that define academic freedom merely as protection from censorship or reprisal for the expression of unpopular views on an appropriately academic topic of research or teaching. Finally, the traditional framework implies that academic freedom is a natural state: it does not need to be produced, encouraged, facilitated, or expanded—nor could it be. Instead, academic freedom is assumed to exist, of its own accord, wherever it is not subject to unnatural interference.

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But not all attacks on academic freedom specifically target individuals. William Kaplin and Barbara Lee note that the mid-20th century saw an increased focus on the need for “institutional freedom from external (political) intrusion” and a rise in cases that “pitted the faculty and institution against the state.”<sup>2</sup> In the wake of 9/11, the McCarthyesque tactics and patriotic rhetoric associated with that earlier witch-hunt era have been resurrected in new battles over the control and curricula of public institutions in particular.

Ellen Schrecker acknowledges that “we have not seen the widespread purges of political undesirables that afflicted the nation’s faculties in the late 1940s and the 1950s.” She concludes that “the crackdown on civil liberties after 9/11, while not as directly devastating to the academic community as that of the early Cold War, may well be as damaging [to academic freedom] in other ways.”<sup>3</sup> Ironically, one of the most visible campaigns to encourage “external (political) intrusion” into the academy has operated under the aegis of what its architect David Horowitz presumes to call “academic freedom.” Although his abuse of the term is clearly strategic, the framework of understanding that he offers—that both the academic institution and the state should maintain an official position of neutrality in relation to matters of political and intellectual controversy on campus—now informs even efforts to oppose his attack on the academy.

Borrowing from the AAUP, I will call this broad underlying logic the “neutrality principle.” Its basic appeal is to the belief in academic freedom as a natural state that characterizes the traditional framework. But in Horowitz’s version, the state is obliged to intervene in instances where the institution may have overstepped its authority and interfered with the “natural” exercise of freedom by individuals on campus, or where authoritarian faculty have abused the power of their position to interfere with the academic freedom of students. In this view, institu-

tional or professorial “bias” must be corrected by a countervailing action of the state to restore “balance.” Whether this balance should be ideological, political, intellectual, or otherwise is a matter of some debate and confusion, as is the question of what measure should be used to define it.

Horowitz initially characterized his efforts as a “Campaign for Fairness and Inclusion in Higher Education” and was explicit about both his own centrality to the campaign and its strategic reliance on the concepts of ideological balance and institutional neutrality. As late as April 2003, he denounced the “absurd

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under-representation of conservative viewpoints on university faculties” as a kind of modern-day McCarthyism, calling it “the most pervasive and successful blacklist in American history.” By way of evidence, Horowitz cited an in-house survey, which found in faculty voter registration records evidence of a supposed liberal “bias” (i.e., more faculty registered as Democrats than as Republicans).

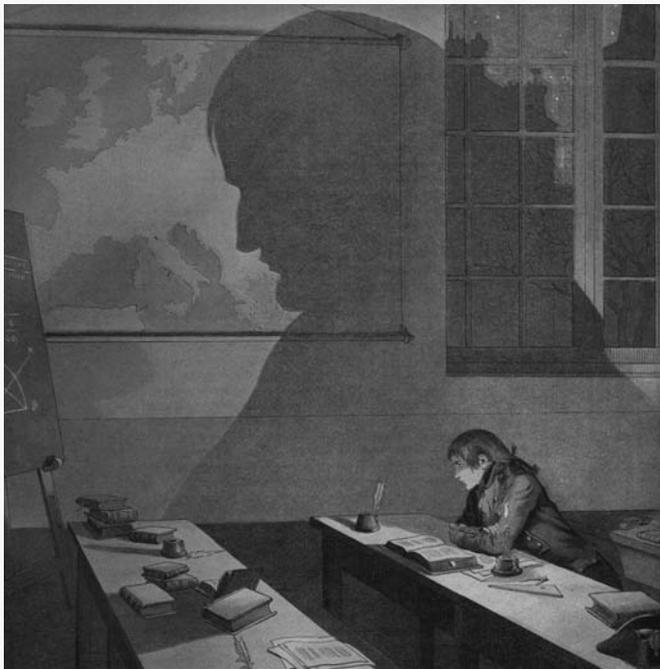
On the dubious basis of such data, Horowitz traveled the country directly soliciting “conservative student groups [to] take up the cause” of what he called “intellectual diversity.”<sup>4</sup> When the campaign began “to gain traction on the campuses [he] visited,” he rebranded it.<sup>5</sup> “Students for Academic Freedom” (SAF), nominally a “national coalition of independent student groups,” nevertheless kept the campaign’s catchy slogan: “You can’t get a good education if they’re only telling you half the story.”<sup>6</sup>

Under the aegis of SAF, Horowitz continued to refine his public relations approach. Increasingly, he dissociated himself from the project of organizing conservative students exclusively, repositioning himself as an advocate for all students. In March of 2005, he testified before the Ohio Legislature that the “Academic Bill of Rights” he promoted “is not about Republicans and Democrats, liberals and conservatives, left and right. It is about what is appropriate to a higher education, and in particular what is an appropriate discourse in the classrooms of an institution of higher learning.”<sup>7</sup> Nonetheless, the SAF’s “Mission and Strategy” statement continues to invoke images of imbalance as evidence of institutional infringement on students’ academic freedom. It encourages students to protest “one-sided” readings lists and “lopsided” funding, to insist that programs “should be fair and balanced,” and to “research reading lists by finding a sympathetic professor who can provide counsel on titles missing from the lists that would provide intellectual diversity and balance.”

Similarly, the Academic Bill of Rights requires that institutions “maintain a posture of organizational neutrality.”<sup>8</sup> The strategic confusion of balance, diversity, pluralism, and difference is underscored in SAF materials by repeated references to “under-represented” viewpoints and appeals to what is “appropriate.” The organization claims to “advocate reforms that make the ‘public square’ of the university a more inclusive and representative marketplace of ideas.”<sup>9</sup> They are less forthcoming, however, about what it is that “representation” should be proportionate to (popular opinion or the opinions of a particular demographic, the scope of expert findings, the span of every idea ever thought?). Similarly, the slogan “you’re only getting half the story” suggests there is consensus or objective knowledge about the whole “story” and its parameters. It turns out, however, that this is precisely the point of contention.

Although Horowitz likes to quote from the AAUP’s statements on academic freedom, the organization has (rightly) denounced his efforts, noting that the Academic Bill of Rights “undermines the very academic freedom it claims to support.” The basis of the AAUP’s objection, however, is that this Academic Bill of Rights “threatens to impose administrative and legislative oversight on the professional judgment of faculty, to deprive professors of the authority necessary for teaching, and to prohibit academic institutions from making the decisions that are necessary for the advancement of knowledge.”<sup>10</sup>

The AAUP explicitly “endorses ... the ‘neutrality principle’” and also accepts recourse to the criteria of “diversity” as a measure of whether that standard has been met. However, the AAUP’s position is that “the appropriate diversity of a university faculty must ultimately be conceived as a question of academic judg-



ment.” They object to the Academic Bill of Rights because it would “enforce a kind of diversity that is instead determined by essentially political categories, like the number of Republicans or Democrats on a faculty, or the number of conservatives or liberals.”<sup>11</sup> Although the AAUP’s insistence on academic control of academic affairs is admirable and necessary, the implication that neutrality can—and should—be the result is problematic. Tierney and Lechuga, for example, propose that “knowledge is never neutral,” as “relations of power always determine the conditions and constraints for knowledge production.” A closer look at their argument that academic freedom must be rethought as “inevitably related to power and ide-

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ology” rather than an abstraction defined by their absence will help to clarify the pitfalls of the AAUP’s position.<sup>12</sup> Most importantly, it will help to identify specific strategies by which academic freedoms can be strengthened, extended, and expanded in our times.

Tierney and Lechuga’s conception of academic freedom as a social product could be characterized as postmodern or, as they suggest, Foucauldian; however, it is hardly esoteric. Their main point is that “an investigation of academic freedom needs to include not only examples of individuals who faced sanction or dismissal because they had a particular viewpoint, but also a consideration of the larger social and cultural contexts in which academic institutions are embedded.”<sup>13</sup> By way of illustration, they offer the following:

If one looks at the infringements on academic freedom that the AAUP investigated, for example, from its inception until 1990, no case will be found where an openly gay or lesbian professor was [found to have been] fired for having advocated on behalf of gay rights or for having studied the topic and come up with an alternative formulation. But would anyone actually argue that gay and lesbian scholars felt free to investigate such a topic in the 1950s, much less in the 1930s? Simply because there were no cases in which rights were [found to have been] infringed upon ought not to imply that academic freedom exists and that faculty are unencumbered by political constraints.<sup>14</sup>

Leaving aside the fact that individual faculty have frequently been fired simply for being gay, their central point holds: absence of legible infringement on specified rights cannot constitute positive evidence of absolute freedom.

To have academic freedom, one must be in the academy. “Openly gay” candidates, though not non-existent and not always unsuccessful, were at a disadvantage through much of the last century. Also, at most institutions for most of the

century, academic freedom, when and where it was protected at all, extended only to a professor's properly academic activities—i.e., teaching and research as defined by the relevant discipline. Much of the work done by faculty in the fields of Lesbian/Gay/Bisexual/Transgender Studies and Queer Theory today, mine included, would not qualify. As this example suggests, academic freedom is a moving target. Historically variable (but not necessarily progressive), it does not naturally expand or advance anymore than it can be said to naturally exist.

Importantly, Tierney and Lechuga's more expansive understanding of academic freedom as a social product removes the idea from the conceptual realm of

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naturally occurring phenomena and reconceives it as an always tenuous and inevitably partial accomplishment of human institutions and activities. In this view, academic freedom—our own and others'—returns to us as a collective responsibility as opposed to an individual right. It becomes an always shifting set of practical relations we are obligated to think about and work to actively produce, rather than a given we passively refrain from infringing upon.

Tierney and Lechuga contend that, "academic freedom ought to be rethought as located in a contested zone that is mediated by ... cultural politics"; accordingly, they urge faculty "to develop campus cultures that nurture and expand basic freedoms."<sup>15</sup> In closing, I would like to direct attention to the material conditions that underlie "campus cultures." In so doing, I hope both to delineate more accurately today's threats to academic freedom and also to identify institutional arrangements that might better support an expansive understanding of academic freedom.

At this moment in history, academic freedom is significantly diminished by forces that work to delimit that "contested terrain" upon which academic speech is enabled to occur at all. Recent reports suggest that more than three-quarters of college and university instructors are hired on short-term, contingent appointments. Although job security has long been recognized as an essential element of academic freedom, the overwhelming majority of teachers in higher education are not only untenured, but untenurable in their current positions. They are adjuncts, graduate students, and term-contract lecturers—structurally excluded from the minimal conditions of academic freedom and subject to pressures from students, the administration, and outside forces that significantly deter its exercise. As if the diminishment of these individuals' academic freedom were not enough, the vigorous "exchange of ideas" on campus is also impoverished when three-quar-

ters of potential participants are effectively silenced. As Tierney and Lechuga point out, the image of scholarly debate as “a battle of ideas assumes that an atmosphere exists where such battles may occur.”<sup>16</sup> Thus, the so-called “casualization” of instructional labor diminishes the academic freedom of everyone on campus—including tenured faculty deprived of the intellectual contributions of these more exploited colleagues.

The casualization of instructional labor has gone hand in glove with the commodification of knowledge and the standardization of curricula. Simply said, contingent instructors are frequently told what books to assign and required to teach

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from a common syllabus, while tenured faculty are put in the position of supervising such contingent teachers and creating the content to be standardized. Tenured faculty spend less time teaching and conducting independent research, as they are required to spend more time managing other employees and creating profitable intellectual property in the form of instructional materials and other marketable products. Contingent teachers and researchers do what they are told or risk retaliation that threatens their livelihood. Tenure-eligible faculty are encouraged to keep their heads down and focus on “productivity.”

This downward spiral has been driven largely by disinvestment. Beginning in the 1970s, state legislatures reduced support for higher education, and the federal government shifted increasing portions of student aid from need-based grants to loans. The process of privatization accelerated as the starve-the-beast ideology of Reagonomics took hold. Today, several nominally “public” institutions are in fact essentially private, relying on legislative allocations for only a tiny part of their operating expenses. Increasingly, research is driven by corporate funding, which is less interested in new knowledge than new markets, products, and patents, while researchers are routinely prohibited from publishing results or discussing findings that might interfere with a sponsor’s proprietary interests. Teaching is increasingly standardized in the interest of efficiency and economies of scale, while instructional labor (like labor generally) is increasingly casualized. Where the university’s core functions have been given over to market forces, academic freedom cannot flourish.<sup>17</sup>

Indeed, Christopher Newfield bluntly describes such developments as “unmaking the public university.” He attributes the decline to a concerted conservative attack on the increasingly democratizing functionality of American colleges

and universities in the decades following WWII. The G.I. Bill of Rights, the civil rights movement, the social movements of the 1960s and '70s, all increased access to higher education for peoples previously excluded. In Newfield's account, the emergence of a nonconservative middle class was a pervasive and at times shocking threat to the business and political leadership that had thrived during the cold war.<sup>18</sup> Elites responded with a carefully crafted attack on the institution most responsible for the emergence of this "growing, politically powerful, economically entitled, and racially diversifying middle class:" the public university.<sup>19</sup>

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One result was the so-called "culture wars" of the 1980s and '90s; another was the sharp decline in state and federal support for higher education. The two attacks worked well together. An image took hold of universities as politically correct dens of tenured radicals, and public support for funding dropped. As state allocations diminished, the competition for admission increased, and white students were encouraged to direct their anger at affirmative action programs and the universities' presumably wasteful spending on area studies and other fields dismissed (by the Right's culture warriors) as frivolous. Instead of agitating for increased state funding, the (white) public turned on groups not seen as "meritorious" and, ultimately, on the democratizing function of the university itself—another episode in the "histories of racial domination that," as Ferguson explains, "make up the underside of [what the academy calls] excellence."<sup>20</sup> In this environment, students tend to think of higher education as a private investment in their individual economic future, while taxpayers increasingly reject the understanding that higher education is a public good with broadly dispersed social benefits. In Florida, for example, debate has narrowed to whether we should raise tuition or allow quality to further decline. The idea that the state might actually provide adequate funding is apparently unthinkable.

**I**n advocate for a new activism to combine the exercise of our imagination with practical steps useful in expanding the possibilities of freedom, academic and otherwise. For starters, faculty must unionize. In most circumstances, a legally enforceable union contract is the only buffer between academic priorities and the political and economic interests of legislators, governing boards, and corporations. In most cases, collective bargaining is the only context in which management is compelled to engage with faculty as their legal equals and in which they must elicit faculty consent before imposing their agendas.

Faculty unions must support—with their labor, time, political capital, and money—the organizing efforts of other constituencies on campus. If we'd paid closer attention when management began outsourcing food service, for example—firing state workers with pensions and insurance in favor of fast-food franchises and their hourly employees—we might have more allies now.

Faculty negotiators and those they represent must recognize that academic freedom is not covered in one or two discrete sections of the contract, but at issue throughout. Every sentence in a collective bargaining agreement—from the guidelines on nondiscrimination and tenure to the most arcane details of discipline, due process, pay plans, leave policies, evaluation, and lay-off—works to define the terms and conditions under which we do our work: that is, to delimit the “contested terrain” in which academic freedom is exercised.

Tenured faculty must recognize that our fate is bound up with the future of more exploited workers, including those engaged in instructional and research labor at our own institutions. One way of looking at this is to reason that the “cheap” labor of, for example, graduate-student instructors supports our own low course loads. This perspective, however, ignores the costs of that “cheap” labor that are borne socially, for which we all pay—including the artificial devaluation of academic labor generally and the diminishment of academic freedom for all. An expansive understanding of academic freedom encourages us to accept responsibility for creating the conditions that sustain and extend it. Understanding academic freedom as a social product compels us to ask, “What institutional arrangements, real or imagined, would be most conducive to its expansion and exercise?” To this end, we are obligated to shuck off the “practical considerations” that shackle our imaginations and the rhetorical dead-ends that have so constrained discussion. All that stands between us and an academic freedom deserving of the name is the society that produces it otherwise—and that’s something we can change, through collective action, one institutional arrangement at a time. 

## ENDNOTES

1. Tierney and Lechuga, 9-10.
2. Kaplin and Lee, 301.
3. Schrecker.
4. Horowitz, “Campus Blacklist.”
5. Ibid.
6. Students for Academic Freedom, “Students for Academic Freedom Timeline.”
7. Horowitz, “Why an Academic Bill of Rights is Necessary”; “Reply to Graham Larkin.”
8. Students for Academic Freedom, “Mission and Strategy.”
9. Ibid.
10. AAUP Statement on the Academic Bill of Rights (2003).
11. Ibid.

12. Tierney and Lechuga, 11.
13. Ibid, 12.
14. Ibid, 11.
15. Ibid, 19-20.
16. Ibid, 11.
17. AFT, American Academic; Bousquet, *How the University Works*; Slaughter and Rhoades, *Academic Capitalism*; Emery, "Outcomes."
18. Newfield, *Unmaking the Public University*, 47.
19. Ibid, 6.
20. Ibid, 51-91. See also Ferguson, "Metastases of Excellence," 2.

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