

From the Archives: *Greatest Hits on Speech on Campus*

What Happens Next – 06.26.2022

Larry Bernstein:

Alan Charles Kors spoke on a free speech panel on What Happens Next in September 2020 and I've included an edited portion of his original six-minute presentation. Kors is a former professor of history at the University of Pennsylvania and is one of the founders of the organization FIRE: the Foundation for Individual Rights and Expression.

Alan Charles Kors:

College campuses should be among the freest places in America in terms of the expression and testing of ideas and of mutual forbearance on matters of conflicting beliefs. They are now the enemies of that freedom having largely embraced in practices, not in principle, Herbert Marcuse's 1969 Appeal for an end of what he termed repressive tolerance. In its place he called for "intolerance against movement from the right and toleration of movements from the left, to the stage of action as well as of discussion, of deed as well as word."

It would not be difficult, Marcuse wrote, to determine "the question of who is to decide on the distinction between liberating and oppressing, between human and inhuman, teachings and practices." The goal is "the reduction of suffering, misery, and suppression." So, he explicitly did not care about the requisite double standards. I think that the administration, faculties and a growing number of students on our campuses believe this now and have put it into practice. It's where we are and the question is what will happen next.

Take a look at the current cases on the website of the Foundation for Individual Rights and Education, www.thefire.org, before you accept or reject that view. If you want to know how it appears to conservative students, take a look at campusreform.org. Our colleges and universities on the whole have become, in this year 2020, the enemies of a free society. What happens next?

We face on our campuses the convergence of Marcusian liberating versus repressive tolerance, the COVID-induced spread of remote learning and social distancing, the resurgence of Black Lives Matter and its self-proclaimed allies, and a darkly bitter election year, all of which has created an unpredictable mix. In response to limited budgets and the resurgence of Black Lives Matter's agenda, most campuses have committed themselves to what will become a bidding war for increased diversity. But they specifically mean diversity by politicized intersectional notions of race and gender. And given the contempt for, indeed often hatred of conservative and libertarian Blacks, women, gays, and [transgender men or women, that will not mean intellectual or ideological diversity increases on campus, or any occasions for challenging prevailing campus orthodoxies.

But perhaps what will happen is that the new inquisitorial passions on our campuses to root out what they define as racism, what they define as sexism, what they define as injustice, deprived of daily interactions to police, will more and more respond to what is posted on blogs and social

media, both in terms of faculty and in terms of students. The woke will be able to say what they wish in what comes next. Dissidents better watch what they say and you all should watch for that. Thank you very much.

Larry Bernstein

Next up is Mary Anne Franks from the University of Miami Law School. Her six-minute presentation was made in September 2020 on What Happens Next. She challenges Alan Charles Kors that the conservatives are being attacked on campus and that if anything that we should support the protestors. Mary Anne will be followed by Stanford Law Professor Michael McConnell and Emory Professor of History Patrick Allitt.

Mary Anne Franks:

Fifty years ago, soon-to-be Supreme Court Justice Lewis Powell lamented that, quote, "Frightening progress has been made towards radicalizing the campus. The movement has engulfed many of the most prestigious universities, and is a recognized influence on almost every campus. Colleges have been shut down, buildings burned, freedom speech has been denied. Reasonable discourse repudiated, and academic freedom endangered," end quote. A year later, , he claimed that, "It is common practice, especially on the campus, for leftists to shout down with obscenities any moderate or conservative speaker or physically to deny such speaker the rostrum."

Powell was not alone in his view about the dire state of campuses across America. In a speech to the Pentagon on May 1st, 1970, President Nixon said, "You see these bums, blowing up the campuses. The luckiest people in the world going to the greatest universities, and here they are burning up the books, storming around about this issue."

In Powell and Nixon's view, and those of many other leading conservative voices at the time, the real threat to America in the early 1970s was not endless war, or environmental destruction or economic inequality, police brutality, or the violence and discrimination fueled by racism and sexism. No, the real threat was college students protesting about those issues. In the parlance of paranoid conservatives, campuses around the country had fallen prey to radical leftist indoctrination. According to this view, feminists, critics of racial injustice, advocates for same-sex rights, opponents of war and police brutality were all colluding to violently suppress the reasoned, enlightened views of conservatives, and impose ideological conformity upon the nation. A campus free speech crisis that threatened to erode the very fabric of American society.

Well, everything old is new again. Fifty years later, well-funded efforts by conservative groups to strategically highlight a tiny number of cherry-picked sensationalist campus controversies, aided by uncritical, self-styled civil libertarians and a gullible public, have led us down the same path. Never mind the fact that compared to the 1970s, there's no coordinated sweeping student protest movement today, and the protests that do take place are milder by many orders of magnitude. Never mind that there is no evidence to support the conclusion that

college campuses have been seized by some set of ideological intolerance, and actually not evidence to suggest that conservatives are being disproportionately targeted.

Never mind the fact that only the tiniest fraction of the over 4,500 institutions of higher education in the United States have experienced any substantial disruption over controversial figures or ideas, or that despite the outsized attention given by both conservative and mainstream media to anecdotes involving conservative figures, the majority of disruptions have been directed at progressive individuals and ideology. And never mind that college campuses remain some of the most physically safe and intellectually open in the country.

Never mind, most importantly, that protest is a quintessential form of free speech, and that to criticize protests in the name of free speech is another way of saying that free speech is threatened by free speech. And that is what the campus free speech crisis is truly about, the attempt to de-legitimize the free speech of some groups in order to maintain the free speech dominance of other groups.

What was true in the 1970s and is true today is that when the powerful claim that free speech is in crisis, what they really mean is that free speech is no longer in their exclusive domain. Now, as then, students who dissent from institutional and political authority are portrayed as threats to public order and must be brought in line, with force if necessary. In the name of protecting free speech, the powerful will use increasingly aggressive measures to ensure that historically marginalized groups stay silent.

It is not as if we are starting in the classroom or anywhere else, with a kind of blank slate. Every single major sector of society and government is dominated by white, wealthy men. That is simply the world we live in.

Even at the top 25 universities, 18 out of 25 are headed up by men, and I think there are maybe one or two, people of color in that list. So, it's important to realize what the context is, that the people who most need to listen to dissent and disagreement probably are the people in power at any given point in history.

And it is interesting to note how the words and the emotions about people's feelings change according to who you're sympathetic with. What we kept hearing by the premise of that narrative is that, "Oh, these students are so wrapped up in their feelings. They don't care about the discipline or the facts all they care about is their feelings." And now we're told that the really important thing that shows us that we're in some kind of crisis of censorship on campus is that conservative students feel really bad and that they're nervous all that time and that they're scared to talk.

If we talk about domination in marketplaces, if we talk about people who are scared to talk, we have to at least entertain the possibility that one of the reasons they're scared to talk is because their ideas aren't very good. And if they're really worried about people judging them

or thinking that they're racist, maybe they ought to worry about that, because maybe their ideas aren't good.

What the campus free speech hand wringers have right is that the existing order is indeed being threatened. Longstanding authority is being questioned, mocked, criticized, challenged. Where they go wrong is in failing to see that the attempt to secure civil liberties to all, and not just powerful elites, to give truth more power, to call for a reckoning of foundational racist and sexist legacies, to dissent against totalitarianism, to oppose fascism in all of its forms, is not a crisis of free speech but the exercise of it. Thank you.

Larry Bernstein:

Let's let now get the perspective of Stanford Law Professor Michael McConnell on whether conservative students are being threatened on campus.

Michael McConnell:

Students tell me is that when they express a view in class, they get a torrent of social media abuse. This is not a matter of their having fragile ... And a lot of that abuse by the way includes various threats of retaliation. It is a serious problem. I'm not for using the authority of the university against their critics. What I am for though is for the university to stand up for its own values of diversity and inclusion, but to value political diversity and inclusiveness of all students and not just those who queue the line of the prevailing, political orthodoxy.

Larry Bernstein:

Patrick Allitt, you have been teaching history at Emory University for decades, how have you dealt with the current generation of students who attack the morals and values of our predecessors?

Patrick Allitt:

My job as a history professor is to teach students some history, and to teach them how to think historically, and then to learn how to write and talk about historical issues.

They've got to learn, the importance of understanding that in different times through the nation's history, very different sets of values have applied. So that if we were to be discussing something like the Dred Scott decision, I'd insist that they leave behind completely the views they happen to hold today. And I often think it's a useful exercise to say to a class, "Think about the values you hold most dear today, and remember that 100 years from now people will look back on us and be revolted and horrified by the knowledge that we once held those ideas."

But we do hold them, and we hold them in good faith. And therefore, we need to take seriously that other people in other times have held their ideas, which now to us are abhorrent, in good faith also. So then of course the student says to me, "Ah, but which ones of our ideas that we hold now will later seem abhorrent?" To which of course my answer is, "I don't know." But nevertheless, it's a very useful mental exercise to go through. It conduces a kind of historical

modesty and discourages the students from being too granitic in holding onto the opinions which they feel so forcefully at the moment.

Larry Bernstein:

Our next guest is Eric Kaufmann who is a Professor of Politics at Birbeck College at University of London. Eric spoke on What Happens Next in March 2021 about academic freedom. Go ahead Eric.

Eric Kaufmann:

I'm going to be speaking about academic freedom and the report that I've recently issued with the Center for the Study of Partisanship and Ideology. So I want to begin with two key concepts within universities and amongst the professoriate. The first is punishment. And the second is political discrimination. By punishment I refer to administrative penalties from being fired from your job all the way down to being removed from administrative roles, such as department head or given fewer resources for research, for example, or being told to teach courses you don't want to teach. That's an administrative punishment.

What we find in my reports is that one in three conservative American academics have experienced either a direct discipline from some layer of the administration or threats of discipline. One in three. So, when people say that academic freedom is a right-wing moral panic, I think it's important to remind them that in fact, we have a very pervasive problem in the Academy.

The second arm of coercion is political discrimination. In my work on Britain, I find that one in three British academics would not hire a known leave supporter. That is who supported the leave side in the European referendum. I find that over 40% of American and Canadian academics would not hire a known Trump supporter. Now these are political positions that command either close to or over a majority of the population. And so is absolutely astounding that we have this level of discrimination going on in hiring.

These two prongs of coercion, punishment and discrimination, produce profound chilling effects. And in fact, no platforming is not the biggest problem, although it is a symptom and it is a problem, it is not the most important threat to academic freedom. The greatest threat is in fact the chill effect produced by punishment and discrimination at the everyday level. For example, three quarters of British and American social science and humanities academics who are conservative report that their departments are hostile rather than supportive environments for their political beliefs. In the US, fewer than 10% of Trump supporting academics report that they would be comfortable revealing their views to colleagues, and 85% of those who did not vote Trump, that is mainly Democrats supporting academics, agree that a Trump supporter would not be comfortable sharing their views.

So between the deterrent effects, the discrimination and the ambience that is produced in academia, we get the emergence of a monoculture. In my data, I find there are 14:1 on the left vs everyone on the right in the social sciences and humanities in Canada and in the US, and it's

9:1 in Britain.

And as this becomes more monocultural, you get worse discrimination. You also get a larger pool of activists. The only way to break the cycle, we need something like has occurred in Britain where the government actually proactively enforces the law on academic freedom against universities, including the implementation of fines for violations and actively, not just passively, ensures that academic freedom is promoted, because it's not enough to wait for people to sue. You need the government to be proactively enforcing the law.

I would argue that you need to de-politicize administrative layers of the university. No university should be actively supporting a political view. The academics can do that but not officials within universities.

Larry Bernstein:

Do you think tolerance for academic speech will improve or worsen over time?

Eric Kaufmann:

Speech codes were instituted in the late 1980s. We're now on into almost four decades of people writing books complaining about this problem. It's not going to fix itself. It's only getting worse.

My data suggest the younger generation of academics, under age 35 are twice as intolerant, twice as supportive of moves to sort of dismiss controversial professors, as those over 50. So, we've got a growing and not a fading problem. And there are people who think, "Oh, no, the marketplace will solve this problem." It won't, not in a sector like the university sector, which has strong network effects and legacy effects.

Larry Bernstein:

David Weil, as the Dean of the Heller School of Social Policy and Management at Brandeis. Do you agree with Eric Kaufmann's analysis?

David Weil:

Well, I have a very different view. We've had an exclusion of many other voices for long periods of time in the history of this country in academic forums and others. And academia is trying to become more inclusive of multiple voices, not just one set of voices that have dominated, not only academics but business and government. That's what this is a much longer-term evolution of in my view.

Eric Kaufmann:

I think it's fair to look at your race and gender representation as long as it's done in a liberal way. What really sort of jumps out, however, there was no effort being made actually to try and politically diversify the university professoriate. In fact, a lot of universities are leaning into an explicitly and overtly progressive ideology and agenda, which is actually chilling things even more.

You can try and pursue diversity in one realm. That's fine. But I think just sort of referencing history as a way of sort of dismissing the problem of political diversity is a bit of a diversionary tactic, really. If we're serious about diversity, we've got to be serious about political diversity as well. And it's just not consistent to pursue one form of diversity and close your eyes to two other forms that are not being addressed. And actually, if you want to look at the professoriate, I mean, the political lack of representation is much more glaring now than for example, the racial or gender. And yet there is absolutely no interest in this problem.