

A CAUTIONARY TALE OF  
**Academic  
Rights**  
and *Responsibilities*

By Kermit L. Hall

**I**n June 2005, the American Council on Education (ACE) and 27 other higher education organizations issued the Statement on Academic Rights and Responsibilities. The statement was a pragmatic response by the higher education establishment to the escalating challenge posed by its neo-conservative critics in general and their most ardent advocate, David Horowitz, in particular. Horowitz is the president of the California-based Center for the Study of Popular Culture and the chief architect of the Academic Bill of Rights, a document designed to protect college students from becoming victims of political intolerance.

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While Horowitz's name does not appear in either the statement or in the press materials that accompanied its release, he was the ghost at this banquet. ACE and the other signatories realized that Horowitz had struck a nerve among political conservatives on campuses and newly invigorated Republican lawmakers. They also recognized that Horowitz has mounted an effective Trojan horse strategy. He has asserted that left-wing faculties of taxpayer-supported public institutions that regularly tout the open exchange of ideas have supposedly used their autonomy to slam the door shut on those with whom they disagree politically. By early 2005, legislators in a dozen states were considering bills requiring their public universities to adopt all or part of Horowitz's Bill of Rights; and a similar movement had gained traction in the Republican-dominated Congress, whose members were preparing to reauthorize the Higher Education Act.

### An International Perspective

Throughout the world, the increasing quest for funds to support the swelling ambitions of public universities subjects them to the vagaries of politics. While rising tuition rates, for example, have set off howls of protest in the United States and fueled Horowitz and other critics, the American experience is hardly unique. The tuition debate is roaring around the globe.

Internationally, in fact, even greater threats challenge higher education institutions. A recent National Tertiary Education Union investigation, commissioned by UNESCO and the International Labor Organization, found multiple breaches of academic freedom in the Asia-Pacific region, including a requirement in one country for public university staff to sign a loyalty oath that limited their ability to comment on government policies and actions. The UNESCO-initiated Network for Education and Academic Rights (NEAR) also monitors breaches of



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With an eye on the political weather vane, the authors of the statement reaffirmed that they, too, supported intellectual diversity and due process sufficient to protect those who believed they had been aggrieved. The response from Horowitz was mockingly positive. "This is the first time," he was quoted as saying, "the door has opened to a conversation."<sup>1</sup> Discussion about adopting the Bill of Rights as part of the Higher Education Act has diminished; it seems less likely that it will become federal law. The interesting question, now that the statement is published, is how far the conversation with Horowitz and others like him will go.

Whether the statement went far enough, whether it created internal contradictions, and whether it should have attacked the "threat" posed by Horowitz's uncomfortable demands to be heard are all points open for discussion. But American public higher education must not let itself become the proverbial deer frozen in the headlights of politically driven calls for greater accountability.

academic freedom globally, and its web site offers numerous disturbing reports of the lengths to which some governments will go to inhibit independent expression. Interestingly, Horowitz and his colleagues do not even register on NEAR's comparative Richter scale of threats to academic rights.

In many parts of the world, fear is the underlying condition for university academics and students. Killings, imprisonment, abuse, and harassment are on the increase. As the American experience in Iraq and Afghanistan reminds us, universities are often at the forefront of human rights conflict—as they should be, if educational values are to be upheld. That is why the issue of academic rights and responsibilities is so important in the first place.

American higher education's bedrock principle is that the unfettered quest for knowledge is valuable. Not long after the ACE statement was released, a group of 16 presidents from around the globe (including six from the United States), known as the Colloquium of University Presidents, issued its own bold statement.

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# Why Higher Education Must Make Amends with Congress

By Paul S. Tribble



Problems between members of the U.S. Congress and the higher education community are significantly deeper than the fashionable debate over academic freedom. That issue is not moot, but the enormous challenges our colleges and universities face in

Washington threaten to undermine our future—unless we do something to rebuild bridges that are crumbling. As a former member of the U.S. Senate who now is a university president, I suggest that we ignore these problems at our own peril.

The challenge we face in working with Congress involves both houses of Congress and both political parties. For example, Congressman Howard “Buck” McKeon (R-CA) received widespread attention for his concern about the rising cost of college. In the last year, however, the strongest rhetoric on this issue has come from my former colleague, Democratic Senator Chris Dodd of Connecticut. In short, our challenges in Washington are not found solely in one political party or the other. Both sides of the aisle in both chambers of Congress have important concerns.

I join my presidential colleagues nationwide in fighting growing government intervention. But as a Republican and former lawmaker, I also understand the concerns of elected officials. These individuals question why too few students graduate and tuition jumps each year by a multiple of the Consumer Price Index. Further, they believe that our faculty is out of step with mainstream America.

There is too much at stake on our campuses to continue to allow political bickering to endanger our futures. Like the now shopworn debate between red states and blue states, simple political differences are to blame. The Congress and our colleges and universities must agree on common goals and work in tandem. Politics must be left outside the discussion.

As noted in many venues recently, this year Congress will make some \$80 billion available in student aid and will provide another \$25 billion to underwrite academic

research. Couple this with the reauthorization of the Higher Education Act, and the long-term congressional impact on higher education is immense.

I recently asked Rep. McKeon, who heads the key subcommittee on higher education in the U.S. House of Representatives, how college and university leaders and Congress can work together more effectively. Rep. McKeon said it is time for the higher education community to stop saying, “Everything is fine, we are doing a great job, send us more money, and leave us alone.”

In my own state of Virginia, we have stepped outside the box of conventional thinking and demonstrated that it is possible to meet difficult challenges with innovation and cooperation. Our state officials, after a year of dialogue and debate, passed legislation that will revamp the relationship between higher education and the state. Our approach means that every public institution will be empowered to manage its own daily financial and administrative operations. In return, the state will hold us accountable for meeting rigorous performance standards and statewide goals, including increased enrollment, improved retention, higher graduation rates, greater access for underrepresented populations, and an enhanced system to transfer students from community colleges to four-year institutions.

The new legislation is far from perfect, but it is a clear illustration of how government and education leaders can work together for the common good.

With this collaborative approach in mind, plans are underway for a daylong Higher Education Summit in Washington, DC, that will center on working together to solve the key challenges facing higher education. College and university leaders, key association heads, and members of Congress will be invited. Our goal is to bring 10 influential members of Congress together with 10 key higher education leaders. Rep. McKeon and David Ward, president of the American Council on Education, have agreed to participate.

We will not solve these issues easily, but we can lay the foundation for long-term success—if we come with open minds and a single goal of doing what is best for our country. There is too much at stake to do otherwise. ■

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The Colloquium document underscored that scholars and students must be able to work without fear of intimidation; scholars must resist the corrupting opportunity to peddle their own ideological baggage; and universities must remain autonomous.

### Strength in Diversity?

Here in the United States, the reality is that local challenges to academic autonomy arise daily. Almost all American public universities are funded on a year-to-year basis through unstable state budgets that leave legislators with considerable control. The members of public universities' governing bodies are usually appointed for their political service, rather than their educational acumen. In some states, universities live with a range of profound controls over their activities and funding. In Colorado, the state's General Assembly defines the missions of each public university campus and the range of courses and fields of study that each university has exclusive rights to offer (or must offer by government mandate). All publicly funded colleges and universities in Arkansas are required to "give instructions in the essentials of the United States Constitution, including the study of and devotion to American institutions and ideals,"<sup>2</sup> and students are ineligible for a degree unless they have passed a course in American history or civil government. And this year, for the first time, all institutions of higher learning that receive federal funds must present programs to celebrate Constitution Day. This mandate correctly

assumes that without government action, such celebrations are unlikely to happen.

All of this occurs within the context of a higher education landscape that is amazingly varied. For its part, the ACE statement correctly argues that "American higher education is characterized by a great diversity of institutions, each with its own mission and purpose," and that this diversity "must be valued and protected." The statement urges that each institution or higher education system should be left to "set the tone for the academic activities undertaken on campus." What academia must now debate and decide are both the characteristics of institutional diversity and the relationship of those qualities to how an institution should be treated. We cannot lean on an ill-defined concept of institutional diversity, nor ignore the more pressing issue of why hands-off higher education is a social good, rather than merely an expedient political position. Institutional diversity and local control, however, have sometimes turned into a troubling weakness, as any student of the civil rights movement in higher education can appreciate.

Institutional diversity is not the touchstone of American higher education. Rather, when viewed in an international context, the core value is a commitment to robust academic debate. The mere existence of institutional diversity does not preclude government from putting universities in a classic Catch-22 situation. The more they succeed in convincing local politicians and the general public that

## campus relief.org.

The American Council on Education (ACE) and the National Association of College and University Business Officers (NACUBO) are deeply saddened by the devastation caused by Hurricane Katrina.

We have created **www.campusrelief.org** as a community resource to enable colleges and universities needing assistance to connect with those able to offer it.



**American Council on Education**  
The Unifying Voice for Higher Education



[www.campusrelief.org](http://www.campusrelief.org)

We are grateful to TIAA-CREF for its generous support of this site.

education is central to economic development and social well-being, the more governments will feel justly compelled to intervene. Public policy, however, is like cholesterol—there is the good kind and the bad kind.

### Perceptions of Bias

Where does all of this lead us, in terms of deciding what happens on our campuses? Higher education must ask itself what constitutes intellectual pluralism and, even more importantly, how it can be achieved in the college classroom. Without honest answers, there is real reason to test Horowitz's claim for the necessity of his Bill of Rights. Some surveys reveal that university faculties are heavily tilted toward Democrats; a recent survey of elite law schools demonstrated that professors contribute disproportionately to the Democratic Party. But does this so-called liberal bias matter? The faculties of Yale and Harvard are overwhelmingly Democratic, yet Supreme Court Justices Clarence Thomas, Antonin Scalia, and the recently confirmed John Roberts, all graduates of these schools, are solidly conservative. Other surveys have revealed that some students feel that they will be penalized if their point of view differs from that of their professors, and some faculty colleagues believe that political beliefs rather than professional qualifications shape their futures. We in the academy have little guidance in how to address or investigate these matters.

The ACE statement insists that colleges and universities already have their procedures and that there is, as a result, no need for a Bill of Rights, a position that makes good sense. Still, there just might be a reason for the associations to apply their collective academic energies to the questions that Horowitz raises, since they are uniquely positioned by talent and interest to do so. We should not allow cynics to judge the statement as little more than an attempt to free higher education from the ideological whipping post to which some politicians have hitched it.

### A Cautionary Tale

A recent Harris poll revealed that the public sees teachers as the professionals most likely to tell the truth; politicians are thought to be the ones least likely to do so. The findings indicate that telling the truth is what the public expects of the academy. Only when higher education is willing to address squarely the question of whether there is a political imbalance in faculties, one-sided course readings and campus speaking events, or the existence of an oppressive campus orthodoxy, will we command full legitimacy. n

### Notes:

<sup>1</sup> "Statement on Rights Criticized as Weak," *The Chronicle of Higher Education*, July 15, 2005, p. 22.

<sup>2</sup> As quoted in "Freedoms Risked for Autonomy," *The Australian*, January 21, 2004, p. 26.

## Intellectual Diversity: A Tribal College Must

By Joseph McDonald



**Intellectual diversity is vital to tribal colleges** and to the tribes they serve. Tribal colleges are often looked at as islands of free thought and expression on American Indian reservations. It would be a sad day—and a step back in time—if the federal government took action to

limit free expression by faculty and students on America's college campuses.

From the beginning of the reservation period to the early 1950s, American Indians were forbidden by the federal government to participate in any cultural religious practices or hold powwows, which, until about 1950, were called "war dances." As children, we were taught these traditional Indian dances, performed on the night before going to war with other tribes and then again, upon returning from a successful war party.

The federal government did not want the tribes to carry on any cultural practices that would inhibit the transition of American Indians into mainstream American culture. This was even accepted by many Indian people, who thought it would be better for American Indians in general if they forgot everything they knew or practiced as Indian people.

It amounted to cultural genocide of American Indians—a practice that the tribal colleges took the lead to halt. Over the years, tribal college leaders have led the efforts on their reservations to restore tribal cultural practices and tribal languages.

Today, tribal cultural thought and feeling lead into many areas that put Indians at odds with mainstream America and even with some tribal leaders. We often take stands against developing real estate, constructing superhighways, building dams on rivers, logging old-growth forests, and even engaging in war. We lead efforts to improve local schools and teach more relevant curriculum in a format that better accommodates Indian children.

To limit this free expression and hobble tribal college leadership would send American Indian people back to the early Indian reservation days when all the life, self-pride, and creativity was taken from them. n

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