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Speak Freely, Professor -- Within the Speech Code

By DAPHNE PATAI

For some years now, I have been troubled by an odd shift that has taken place in academic circles. The battle cry of "academic freedom" is still aimed at assaults from outside the academy -- no longer McCarthyism, but now corporatization and privatization. Yet encroachments on academic freedom from inside -- speech codes and antiharassment policies, for example -- are tolerated, indeed welcomed. Opposing the former makes one progressive. Protesting the latter gets one labeled conservative at best, racist or even fascist at worst.

A recent conference on academic freedom held at the State University of New York at Albany, sponsored by the faculty senate of the SUNY system and attended by administrators from many SUNY campuses, brought this development home to me in a personal way.

When I agreed to participate, I did not at first realize that I was being invited to represent a "conservative" point of view. I was astonished when, still in the planning stage, one conference organizer asked me to suggest a "conservative" substitute for a speaker who had dropped out. Perhaps that should have forewarned me.

On a two-person panel on academic freedom and the culture wars, my fellow panelist was to have been Cary Nelson, a professor of English at the University of Illinois at Urbana-Champaign. The week before the conference, Nelson was replaced by his coauthor on several books, Stephen Watt, a professor of English at Indiana University at Bloomington. In preparing for our session, I checked out their recent *Academic Keywords: A Devil's Dictionary for Higher Education* and was struck by the fact that, while covering pretty much the entire academic scene, it contained no entry on speech codes.

The book did, however, include an unpleasant and highly idiosyncratic article by Nelson on the National Association of Scholars (described in grossly inaccurate terms as an organization made up largely of

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academic failures dedicated to destroying academic freedom).

Another article by Nelson, this one on academic freedom itself, devoted some pages to a scathing denunciation of the N.A.S., but gave only the briefest attention to speech codes as a threat to academic freedom. More interesting still, the book included no discussion at all of the strange political turnabout by which former radicals are now calling for various kinds of restrictions on speech.

All that deepened my unease at being put in the position of presumptively speaking for the "conservative" side -- but, after all, Stephen Watt could not be held responsible for Nelson's essays. In fact, at the conference he read a genial paper on the nefarious effects of money on university life.

But, as I listened to other speakers and members of the audience, it became clear to me that, even at a conference devoted to academic freedom and seemingly celebrating the American Association of University Professors, a decidedly skewed view of the subject predominated. It was the defenders of a broad and nonpartisan understanding of academic freedom who were seen as conservatives, while the only attacks that I heard on academic freedom -- never, of course, made explicitly -- came from those who had no problem whatsoever with curtailment of speech in the service of such things as harassment policies.

This new alignment became apparent in the keynote address, given by Walter P. Metzger, a lifelong A.A.U.P. activist and author (with Richard Hofstadter) of the classic 1955 work *The Development of Academic Freedom in the United States.* Metzger's talk reviewed the history of struggles over academic freedom, from the founding of the professors' association in 1915 to its famous 1940 "Statement of Principles on Academic Freedom and Tenure" and beyond. At one time, Metzger noted, most complaints of violations of academic freedom came from faculty members, typically at lesser-ranked schools, who charged that their freedom in the classroom had been infringed. Metzger commented that such charges were often a good measure of the ranking of an institution.

Academic freedom was never an absolute, he said. It was always assumed that one's scholarship had to be competent, one's decorum professional. True, the definitions of competence and professionalism were set by white men, but the values they extolled were universal ones. And those values were offered mostly as admonition and advice, rather than rules.

For most in the audience, all of that was familiar history. Only when Metzger approached today's culture wars did he begin to tread on contested territory. After initially capitulating to "political correctness," the A.A.U.P.'s Committee A issued a statement in 1992 declaring that any attempt to codify punishable speech was a threat to academic freedom, Metzger said. But, although the association came out with a report on academic freedom and sexual harassment in 1994, it has been lax in defending professors against the charge that they are creating a hostile environment.

As a result, Metzger said, threats to academic freedom today come not from outside the academy, but from those seeking to enforce speech codes and policies outlawing sexual and racial harassment in the name of protecting various identity groups. Although such codes plainly infringe on academic freedom, he noted, protests from the professoriate have been few. Only one academic group has clearly spoken up -- the National Association of Scholars.

Metzger went on to criticize that association for sometimes putting its own political agenda ahead of academic freedom. More generally, he said, the way that law has become a senior partner in guiding decisions on academic procedure has been extremely dangerous -- but here, too, there has been little discussion.

Metzger's comments also included the admission that he, himself, had long been silent. He, too, had been unwilling to make "enemies on the left." Psychological intimidation of faculty members has, indeed, worked its way into the academic scene, he concluded.

Metzger's stature is such that his views encountered no audible opposition from the audience. But no endorsement, either.

Later that day, when I spoke, similarly condemning sexual-harassment policies and other feminist-inspired efforts to regulate academic discourse, I was vigorously attacked from the floor. And when Harvey Silverglate spoke the next morning, audience reactions fully revealed just how debased the notion of academic freedom has become in today's academy.

Silverglate is a Boston lawyer and civil libertarian who, together with the University of Pennsylvania historian Alan Kors, wrote the 1998 book *The Shadow University: The Betrayal of Liberty on America's Campuses.* I find the book an exemplary compilation and analysis of attacks on academic freedom and freedom of speech that occur within the university. Silverglate's focus at the Albany conference was on the

surreptitious ways in which academic speech codes, struck down wherever they have been legally challenged, have been put into effect on campuses in the guise of harassment policies.

Such policies typically list "verbal or physical acts" that are to be proscribed, he noted. But verbal acts are, of course, speech; hence harassment policies are, in fact, speech codes and do, indeed, curtail free expression.

Silverglate further rejected the arguments of critical race theorists that offensive speech uttered by historically oppressed minorities should be protected, while comparable speech by their supposed oppressors can be suppressed. Academic freedom, he warned, cannot continue to exist with such a double standard. Equality before the law depends on a single standard. Every attempt to undermine the First Amendment by oblique attack has failed in the U.S. Supreme Court.

Silverglate's observations didn't go over well. When the floor was opened to responses, several people dismissed his point with comments that speech codes are a thing of the past. One man then went on to say that equality is a dangerous concept, since it leaves inequality untouched. His statement was greeted with applause from the audience.

That was the image I carried away with me: an academic conference devoted to the defense of academic freedom in which professors, administrators, and A.A.U.P. stalwarts attacked corporatization and privatization, but applauded an attack on equality and the equal protection of free speech.

It seemed to me that the prevailing view was that curtailing free speech is acceptable if the objective is to make women and members of minority groups "comfortable" in the university. As Silverglate wrote to me after the conference: "All in all, my impression when I left was the same as it was when I arrived -- the control of speech and thought is well-advanced in the one place where it should be absent."

Forty-five years ago, Metzger and Hofstadter argued that academic freedom hangs by a slender thread. Today, instead of heeding their warning and giving serious thought to a tradition in danger of dissolution, throughout the university people convinced of their political righteousness challenge the very concepts of academic freedom and free speech, and they back that challenge with the coercive power of rules, codes, and disciplinary tribunals.

In feminist circles in particular, academic freedom is under attack by those who advocate and put into effect coercive sexual-harassment

policies that are so broad, vague, and all-inclusive that their application routinely violates the due-process rights of the accused. In these feminists' view, harassment is an ever-expanding concept, the depths of which have yet to be plumbed.

A 1996 collection of essays with the title *Antifeminism in the Academy*, for example, begins by asserting that "intellectual harassment is the most recent version of antifeminist behavior erupting methodically in the academy and in U.S. society generally." Extending an already bad, absurdly elastic idea -- that harassment consists of creating a hostile environment for various groups -- some feminists have come up with the new category of "antifeminist intellectual harassment." That is typically defined in such sweeping terms that this opinion piece would constitute an example -- as, indeed, would any criticism of feminist ideas or of the women who espouse them.

That such an inflation of the powerful concept of harassment does not immediately evoke dismissal is due to the sometimes tacit acceptance of the notion, expressed explicitly in a 1997 essay by Susan J. Scollay and Carolyn S. Bratt in the book *Sexual Harassment on Campus*, that "the academy remains an essentially single sex institution." The myth of what the authors call "systemic sexism" in the university is used to justify ever greater inroads on academic freedom.

As such ideas spread throughout colleges and universities -- and are not resisted by those afraid of antagonizing their far-from-helpless feminist colleagues -- extraordinary revisions in the notion of academic freedom take place. In the name of a feminist-friendly academy, not only can some things not be said, but other things must be said. Thus some feminists encroach on the teaching autonomy of other faculty members when they insist that feminist methodologies and perspectives -- whatever those are -- be incorporated into all parts of the university curriculum.

At my own university, where such a plan was partially successful in 1997, Ann Ferguson, director of the women's-studies program, proclaimed at a meeting of the faculty senate: "We can't lose track of the wider goal in order to defend some narrow definition of academic freedom, which might amount to a right not to have to respond to new knowledges that are relevant to someone's own field of expertise."

Meanwhile, attacks on unpopular views persist. The very week of the Albany conference, Robert Swope, a student writing a biweekly column for Georgetown University's campus newspaper, had a column critical of the university's production of Eve Ensler's *The Vagina Monologues*

rejected. When he protested, he was removed as a columnist by the paper's editor. Although the editors denied it, Swope argued that it was his views that were being censored. Ward Connerly, a well-known opponent of affirmative action, recounts in his recent autobiography that he was shouted down by students when he attempted to speak at Emory University.

Such events expose the frivolity of Stanley Fish's recent ruminations in *The Chronicle* (November 26, 1999) on the vacuousness of the liberal commitment to academic freedom. Excluding some points of view from discussion is inevitable, Fish affirmed, though liberals pretend otherwise. "All that is possible -- all you can work for -- is to arrange things so that the exclusions that inevitably occur are favorable to your interests and hostile to the interests of your adversaries." So specious an argument would never have been made by anyone who has actually been on the receiving end of forced academic conformity -- say, an East German professor, first obliged to endorse Marxism-Leninism, later fired for having done so. Such raw power risks self-destruction when the political winds shift against reigning orthodoxies, as they inevitably do.

The modern university itself stands as a refutation of all justifications for curtailing academic freedom. It was the existence of academic freedom that helped feminists establish a foothold in the academy. It was academic freedom that contributed to scholars' being able to pursue their interest in African-American and ethnic studies and queer studies.

Academic freedom protects those faculty members whose thinking challenges orthodoxy. The question now is: Which ideas have acquired the status of orthodoxy in today's academy, and where are the challenges coming from? It seems to me that the recent conference in Albany provided a clear answer: The current attacks on academic freedom are launched by what used to be called the Left.

Daphne Patai is a professor of Spanish and Portuguese at the University of Massachusetts at Amherst. Her most recent book is Heterophobia: Sexual Harassment and the Future of Feminism *(Rowman & Littlefield, 1998).*

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