

Question: What are the implications and likely consequences of David Horowitz's "Academic Bill of Rights"?

Prompt: Evaluate a ^{current} proposal about academic policy in its political and cultural contexts, using multiple sources.

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Politically Incorrect: Would an Academic Bill of Rights "Balance" Academia—or Tip the Scale?

In 1993 the University of Pennsylvania pursued serious disciplinary action against first-year student Eden Jacobowitz under the school's Racial and Ethnic Harassment Code, a code designed to protect a multicultural non-hostile campus environment, for addressing the epithet "water buffalo" at a number of African-American women engaged in a late-night sorority celebration. While Jacobowitz insisted the comment had nothing to do with race, and the term is in fact the literal translation of the Hebrew "behemoth," Penn remained bent on seeking serious penalties against the freshman. In the five months the dispute took to reach resolution—with Penn dismissing the proceedings contingent on Jacobowitz apologizing for his "rudeness"—the story received coverage from national news sources including *Time*, the *New York Times*, *NBC Nightly News*, and the *Wall Street Journal*. Apart from more general qualms about forbidding certain types speech, commentators were baffled at how "water buffalo" could draw reprimand as, or even be fleetingly considered, a racial epithet. The case appears in hindsight as the apotheosis of a movement characterized, at least on the Right, by the term "political correctness." Penn, a private university, reformulated their policy in response to the incident.¹ "Political correctness" in the academy, however, continued to serve as a major focal point for the ire of those critics, such as David Horowitz, who viewed universities in the United States as institutions staffed by entrenched liberal academics seeking to enforce their political views as orthodoxy.

In a 1997 book, Horowitz explained the term "political correctness" as "a Mao Tse tung-inspired euphemism for the party line."² Regulations to enforce diversity and multiculturalism as mandatory "values" on campus meshed perfectly with Horowitz's larger narrative of a left with its roots in the totalitarianism of the 20th century, bent on enforcing its ideology through whatever available means. In 2003 he went on the counterattack, founding the organization Students for Academic Freedom with the goal to "end the political abuse of the university"³ by influencing state and federal governments to adopt an "Academic Bill of Rights" guaranteeing that public universities and their faculty would remain politically and ideologically neutral in hiring, teaching, and grading.⁴ Horowitz argues that his proposal is "based squarely on the almost 100-year-old tradition of academic freedom that the American Association of University Professors (AAUP) has established."⁵ Opponents, including the AAUP, claim that allowing academics—rather than politicians—to set and uphold the standards for research, teaching, and evaluation is fundamental to that tradition. They also dispute Horowitz's assertions of pervasive and pernicious liberal bias in the academy.⁶ In his more widely targeted appeals, Horowitz often frames the Academic Bill of Rights as a response to the current state of American academia as a machine of "indoctrination" controlled by an "imperial faculty."⁷ In other publications, however, Horowitz admits his willingness in other circumstances to go to any means necessary to advance his own political ends, precisely the problem with allowing ideology, and politicians, to regulate academia.⁸ Horowitz's proposal should be examined within the

context of the backlash against “political correctness,” and the liberal takeover of academia that conservatives including Horowitz—himself a lapsed 1960s radical—claim it epitomizes.⁹ While the Bill of Rights paints itself as the final step in the protracted removal of this radical movement from America’s classrooms, in reality the proposal amounts to an imitation rather than a refutation of speech codes. Horowitz’s proposal not only addresses a problem that exists only in anecdotes, but in giving politicians the prerogative to evaluate academic arguments, it further politicizes the classroom in a manner inimical to constructive education.

The Academic Bill of Rights, as published by Horowitz in the trade publication *The Chronicle of Higher Education*, includes eight imperatives a university would have to meet in order to fairly treat its students and faculty. The clauses advance three major objectives. The first is that professors teach of their own disciplines in a “balanced” manner: the bill provides for hiring faculty “with a view toward fostering a plurality of methodologies and perspectives” and for curricula which “welcome a diversity of approaches,” as well as for “intellectual pluralism” among on-campus speakers and student activities. The second aim is a professor should not be hired or fired on the basis of “political or religious beliefs.” The third is that professors should keep these beliefs from entering their pedagogy in the form of “indoctrination.” Other corollary issues are addressed (students should not be graded on the basis of their political or religious beliefs, nor personnel committees selected on that basis, nor should professional academic organizations take sides on “substantive disagreements”), but the bill’s basic stated ends are 1) teaching that is balanced regarding disagreements within the subject and free of the instructor’s politics and 2) fairness in hiring.¹⁰ The bill synthesizes two distinct sets of rights: the rights of students and the rights of faculty.

In some cases, a student’s right to balance within the classroom is equivalent to ideological fairness in hiring, itself a right of potential faculty, but not in all. One can imagine learning the principles of great liberal philosophers from a staunch conservative and vice versa; and of course a student ought to be able to learn Chaucer from either. If Academic Bill of Rights supporters believe that the ideological breakdown of the faculty must be balanced for

teaching to be balanced, they must admit that their first desire—for *each course* to provide balance—is not truly possible. To hold that the propositions of balance in the classroom and balance in hiring are identical, or even closely related, is to hold that no professor with any opinion (on, or unrelated to the subject at hand) is capable of teaching a “balanced” class. In that case, we would need not only parity in hiring, but even for a professor’s ideological affiliation to be published in the course catalogue, with a distribution requirement that students be equally taught by instructors of all ideologies. Most would admit, however, that an individual teacher *can* be capable of adequately presenting multiple interpretations with appropriate “balance.” The ability to present multiple conflicting “truths” represents, after all, one of the purposes for which instructors are trained and selected. In reality, then, the two propositions—balance within the classroom, and political neutrality in hiring—are admittedly distinct. By naming his organization “Students for Academic Freedom,” however, Horowitz blurs the distinction and masks his second, more political, end: to increase the number of conservatives in the academic community,

1 Donald Alexander Downs, *Restoring Free Speech and Liberty on Campus* (Oakland, CA: The Independent Institute, 2005), 154-89; Associated Press, “Penn to Alter Harassment Rules to Balance Free Speech and Privacy,” *New York Times*, November 17, 1993, <http://www.lexis-nexis.com>.

2 David Horowitz, *Radical Son* (New York: The Free Press, 1997), 405.

3 Students for Academic Freedom, “About SAF,” May 22, 2006, <http://cms.studentsforacademicfreedom.org>.

4 David Horowitz, “In Defense of Intellectual Diversity,” *The Chronicle of Higher Education*, 50, no. 23 (February 13, 2004). Students for Academic Freedom, “Academic Bill of Rights,” <http://www.studentsforacademicfreedom.org/abor.html>.

5 Horowitz, “In Defense”

6 American Association of University Professors, “Academic Bill of Rights,” *Academe*, 90, no. 1 (Jan./Feb. 2004).

7 David Horowitz, *The Political Assault on America’s Universities*, Center for The Study of Popular Culture, http://cms.studentsforacademicfreedom.org/files/pdf/political_assault.pdf. 7.

8 David Horowitz, “The Art of Political War,” in *Left Illusions* (Dallas: Spence, 2003), 349.

9 Horowitz, *Radical Son*, provides an account of Horowitz’s journey from 1960s Marxist to late-century conservative.

10 Students for Academic Freedom, “Academic Bill of Rights.”

Isamu Noguchi, (1904-1988). *Red Cube*. 1968.

Red painted steel.

Marine Midland Bank,
New York, NY

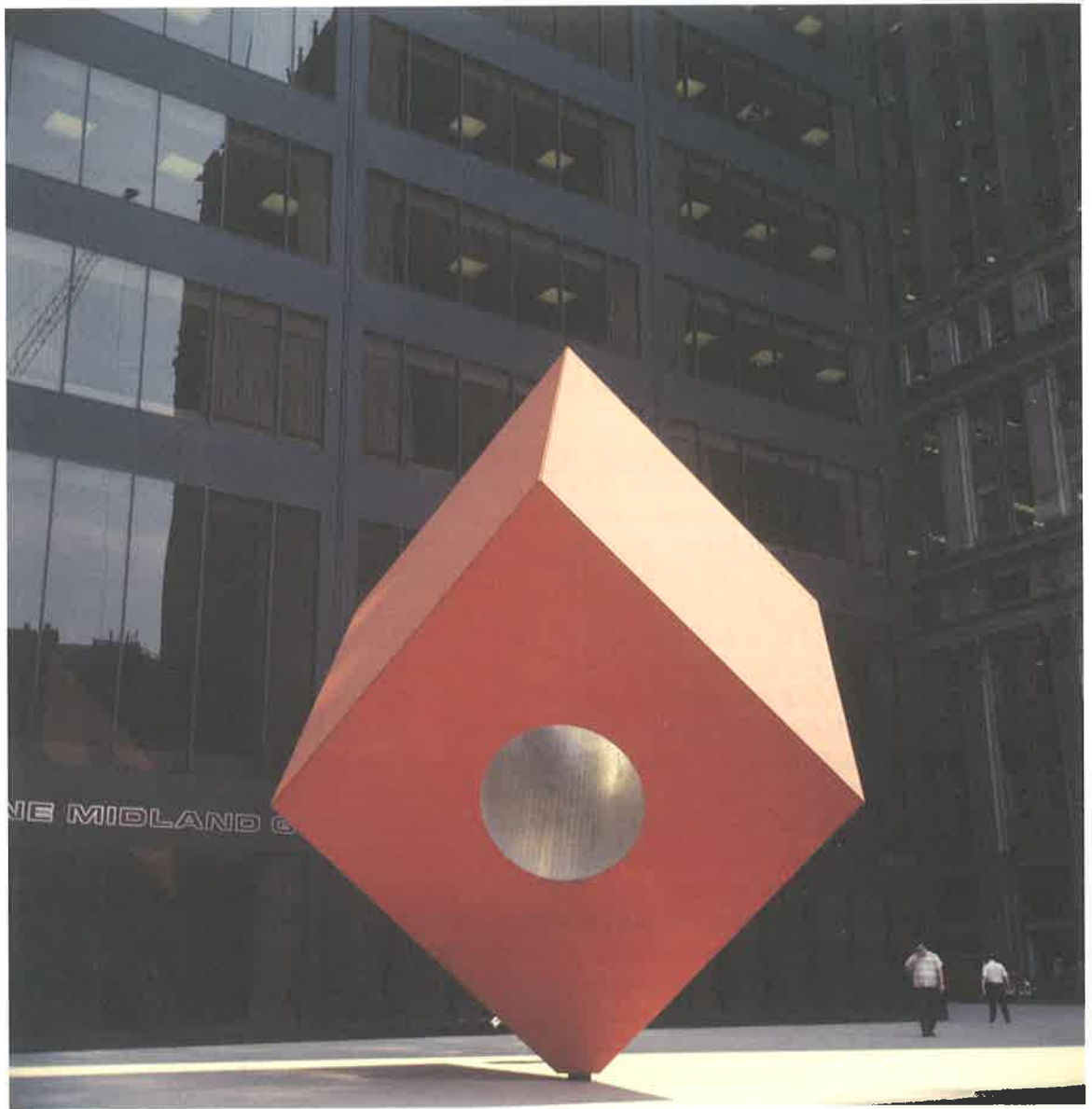
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Isamu Noguchi

Foundation and Garden
Museum, New York/

Artists Rights Society
(ARS), New York.



regardless of whether this improves classroom education. Increasing the clout and platform of conservatism in academia is understandably less affecting a cause than student's rights, but an examination of Horowitz's political background reveals its unspoken relevance to the academic freedom debate.

David Horowitz began his political career as a sixties radical and transformed into a self-proclaimed conservative icon. In his view, however, the academic mainstream has evolved in the opposite direction, away from preservation of a traditional (conservative) culture and toward the radical demolition of such a culture.¹¹ Horowitz's memoirs provide evidence that his interest in the politics of academia aris-

es from the boom in "political correctness" and "multiculturalism" that resulted as the children of the sixties—his former co-conspirators—became the academic establishment. Horowitz saw the "PC" movement as requiring a counter-movement equally directed at protecting the rights of the persecuted:

In November 1991, I attended a conference at the University of Michigan which called itself "The PC Frame-Up." This turned out to be a rally of leftists claiming that "political correctness" was something invented by right-wing

¹¹ Horowitz, *Radical Son*, 408.

witch-hunters. It featured a cast of radical academics.... Even the audience was provided by a huge lecture class in communications, whose professor had made attendance virtually compulsory, counting it as a third of the grade. I regarded the whole spectacle as a violation of the students' academic freedom—the right *not* to be politically indoctrinated by their professors.¹²

In addition to being specifically tied in origin to the political-correctness debate, it is clear that Horowitz's framing of the issue is informed by that debate. Academic freedom has traditionally been associated mainly with the protection of esoteric or unpopular scholarship, especially as threatened by reactionary forces such as McCarthyism and the USA Patriot Act.¹³ Though Horowitz's proposal references the freedom of faculty in conducting research and holding political opinions, his public statements focus on the rights of students to be free from indoctrination. His framing of the issue, that students in a university's minority (i.e. conservatives) are having their rights abused and disrespected by those holding power over them, is nearly identical to the framing of the anti-discrimination issue in decades past: Horowitz has learned a lesson from his opponents. The frame of the rights of oppressed students is a winner, and it has carried over even into naming his organization: Students for Academic Freedom resonates even with the ears of his political opponents. Horowitz has simply substituted the power structure to be fought, replacing the battle against race, class, and gender bias with the battle against the ideological bias of academics.

Horowitz believes that the success (as he sees it) of the Left can and must be imitated; hence his manifesto-like "Rules of Power," from a 2000 article, comprise a list of "principles of political war that the Left understands, but conservatives do not."¹⁴ By his account, much of the Left's success comes from the treatment of politics as an essentially amoral sphere, and so it would not contradict his detestation of the Left to imitate the Left's political correctness codes, even while opposing them. He enumerates six principles that conservatives must understand:

1. Politics is war conducted by other means.
2. Politics is a war of position.

3. In political warfare, the aggressor usually prevails.
4. Position is defined by fear and hope.
5. The weapons of politics are symbols evoking fear and hope.
6. Victory lies on the side of the people.¹⁵

Given the turn-about-is-fair-play ethos underlying the above "rules," and the incitement toward aggression contained within them, it is easy to posit—though perhaps impossible to prove—that Horowitz has modeled his academic code off of the speech codes imposed on college campuses by the Left. He and the Right were plenty riled by the codes which, in the name of multiculturalism and preventing discrimination on campus, banned otherwise permissible acts of speech forms when seen as "hostile" to minority rights.¹⁶ Both speech codes and Horowitz's bill introduce further regulation as a means to ostensibly (and paradoxically) *increase* freedom. The first case claims to advance the freedom of women and minorities to feel comfortable in their environment, and the second imparts "academic freedom" as termed by Horowitz. Each set of rules places the duty to ensure such freedom in the hands of a body not customarily charged as its regulator—speech is traditionally free from regulation, and Horowitz rightly points out that ensuring "academic freedom" has been a prerogative of the American Association of University Professors and its constituents, rather than government, for nearly 100 years.¹⁷

So Horowitz may be imitating tactics he condemns on the left, but perhaps his case could still be justified, if he could establish that *his* code addresses a legitimate issue while *theirs*

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¹² Ibid.

¹³ Matthew J. Streb, "The Reemergence of the Academic Freedom Debate," in *Academic Freedom at the Dawn of a New Century: How Terrorism, Governments, and Culture Wars Impact Free Speech*, ed. Evan Gerstmann and Matthew J. Streb (Stanford: Stanford University, 2006), 3.

¹⁴ Horowitz, "The Art of Political War," 349.

¹⁵ Ibid.

¹⁶ Horowitz, *Radical Son*, 418. Downs, 59.

¹⁷ Horowitz, "In Defense."

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doesn't; unfortunately, he cannot. In a sense, Horowitz has unwittingly fallen into the same trap of the PC police he condemns; in appropriating their methods, his ideology has guided him to propose an overly ambitious blanket solution to a minor and localized problem. His solution certainly benefits his political ideology, but it is much less evident whether it would benefit the studentry at large, whom he claims to act on behalf of. Let us return to the two separate aims of the bill: the first to provide a better education for students and the second to ensure fair hiring of professors. The evidence Horowitz offers to establish that there is a problem in either respect is insufficient. Regarding bias in the classroom, he offers numerous anecdotes; a "socialist tract on poverty" assigned to all incoming freshmen at one university,¹⁸ a professor encouraging the disruption of Horowitz's own speaking event at another,¹⁹ liberal political cartoons in the offices of professors at a third.²⁰ Concerns with such incidents can seem legitimate, especially given the general perception of academia as a liberal bastion. But a smattering of provocative, and not so provocative, classroom incidents is not in and of itself sufficient justification for bringing in the political cavalry: the scope of the educational problem—as opposed to the faculty's political leanings—must be demon-

strated by more than a few op-ed page clippings. Furthermore, before they take action, Academic Bill of Rights supporters ought to be able to establish that their solution—calling in the government to regulate, as conservatives are generally loathe to do—is a constructive approach to classroom teaching. Evidence in support of Horowitz's assertions of bias in hiring is even more lacking than evidence of substantive bias in the classroom. He does not even cite a single *anecdote* where a conservative or person of faith has been denied a position or tenure. If the problem of ideological bias in hiring is widespread, surely Horowitz must be able to find some wronged soul eager to make a national case out of his or her story. In other words, not only are Horowitz's

accusations of hiring bias somewhat immaterial to students' rights, they are also entirely unsupported.

Yet, even given all the evidence against it, Horowitz's anecdotal case *is* appealing. The radical liberals of the academy do sometimes cross the line of "balance" in a manner that deserves reprimand. Horowitz's presentation of his case also takes advantage of the difficulty academics have in credibly rebutting him, since his academic opposition faces dismissal as merely an interest group defending their localized power. Why should academia remain an intellectual priesthood unresponsive to the public's accusations that their scholarship has crossed the line? Because it's better than putting the politicians in charge. Conservatives generally recognize the general benefit of avoiding government interference; some (like Ronald Reagan) even hold it as a truism.²¹ Horowitz, however, has apparently not strayed as far from his leftist roots as he would like to believe; Mao after all was quite adept at pitting one bureaucracy against another—including calling on students to denounce their instructors to the government, as Horowitz seems want to do—and Horowitz's conviction that the government should be the final arbiter on issues of academic propriety could certainly find support within the little red book.²²

Horowitz asserts that biases in the classroom and in hiring are rooted in academic programs that are "partisanly" premised on the study of injustice, making the claim that politics has already conquered the classroom, and his bill's goal to remove—rather than introduce—the partisan. Horowitz refers to the Kansas State University's Women's Studies Department, whose course catalogue description claims that students

18 Ibid.

19 Horowitz, "The Political Assault," 18.

20 Horowitz, "In Defense."

21 Reagan was fond of referring to those "nine most terrifying words in the English language" of "I'm from the government and I'm here to help." See for example, "President's News Conference on Foreign and Domestic Issues," *New York Times*, August 13, 1986, <http://www.lexisnexis.com>.

22 See Roderick MacFarquhar and Michael Schoenhals, *Mao's Last Revolution* (Cambridge, MA: Belknap, 2007), for an account of Mao's Cultural Revolution as a clash of bureaucracy, as well as its mobilization of student organizations for political purposes.

who complete the major will have shown "Their understanding of how and why gender inequality developed and is maintained in the United States and in our global society."²³ To Horowitz, this constitutes not an academic proposition, but instead a "partisan" political view:

The statement takes a non-academic, partisan view of issues that are controversial—whether women are in fact "oppressed" in the United States... [The Department's] core courses for establishing a major are not courses about women, but are courses in the history, theory and politics of a particular ideology of women, namely radical feminism.... The hiring procedures for Women's Studies programs in Kansas and across the country amount to a political blacklist for those who do not ascribe to radical feminist views.²⁴

Yet in framing the issue as a "partisan" issue, Horowitz illustrates exactly why politicians should not be making these decisions. Certain disciplines require a shared academic hypothesis as foundation: for instance that the study of gender disparities is important, or that markets are an efficient method for the allocation of resources (a view challenged in the political sphere as rightist, but which all economists are forced to hold in varying degrees), or that human beings evolved from lesser creatures (generally accepted in the discipline of biology even as politicians and theologians may challenge it). In some quarters, each hypothesis is seen as radical, but all have evolved out of academic discourse, a discourse distinct and segregated from "partisan" politics. To confuse the two spheres—to claim that academic propositions are inherently "partisan"—severely harms the credibility of Horowitz's assertion that he seeks to ensure their separation. Such is the nature of academic study, to rise above "partisan" questions, and for this reason the ability to decide what is academically "balanced" within a given discipline ought not be left to the discretion of politicians.

"Discretion," in the sense of authority to make clarifying judgments within a set of guidelines, is a concept intrinsic to the notion of "balance" as it applies to this debate: the dispute arises mainly from a disagreement over who stands to decide what is properly "scholarly."

The regulation of "academic freedom" will necessarily entrust some authority with discretion to pronounce when parties stand in violation the rules, for the same reason that the regulation of "harassment" must. In light of the 1993 case at Penn, an installment of the comic "Doonesbury" noted that even a president dedicated to compiling "as comprehensive a glossary of forbidden speech as any currently offered by a major university," would not have thought to include the term "water buffalo" on such a list.²⁵ Similarly, no legislation could conceivably specify every scenario in which some professor or student's right to as abstruse a concept as "academic freedom" has been abridged. We must realize that any set of rules governing academic freedom will leave specific cases to be resolved upon the interpretation of rules by some authority, and so the debate occurs as much over who has that authority—to interpret the rules—as it is over what those rules are. Both parties in the Academic Bill of Rights debate—conservatives like Horowitz and their professorial adversaries—agree that some ideal of balance within the classroom is good, stipulating that views presented should be "significant scholarly viewpoints"²⁶ in the bill's words. The dispute revolves around who in society qualifies to judge one viewpoint scholarly and another indoctrination. The Bill of Rights, as Horowitz readily admits, tends to legally codify tenets already covered by the policies of the AAUP and individual universities, making its regulations redundant.²⁷

But, as legislation, the Bill invests the legal structure—rather than the academy—with making distinctions such as whether an instructor has

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23 Horowitz, "In Defense."

24 Ibid.

25 G.B. Trudeau, "Doonesbury" July 11, 1993, quoted in Downs, *Restoring Free Speech*, 178.

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27 Students for Academic Freedom, "Academic Bill of Rights."

28 Horowitz, "In Defense."

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sufficiently “welcome[d] a diversity of approaches to unsettled questions”²⁸ in her classes, and so its main effect is to shift the prerogative to decide what is scholarly away from scholars and toward politicians. Legislators and judges would also be inserted in the question of at what point discussion of competing political ideologies, or even competing research methodologies, has crossed the line into instructors’ “use of their courses for the purpose of political, ideological, religious or anti-religious indoctrination.”²⁹

Were we designing an academic system subject to John Rawls’s “Veil of Ignorance”³⁰—without knowledge of which social institutions were partisan to which ideologies—the legislature would clearly not be designated the best body to define, nor the judiciary to evaluate, which views constitute legitimate academic arguments and should be presented for balance. Politicians will assuredly pressure their personal hobbyhorses into university curricula if they are made arbiters of “balance;” such is the nature of politics. As surely as the proposed Academic Bill of Rights must be understood in the context of the political movements that created it, its ultimate merit must be evaluated on the basis of its potential to alter the academic environment. But in foisting the prerogative to evaluate academic merit on branches of government ill-suited to so evaluate, Horowitz is promulgating the use of conservative legislative power in a coercive fashion. The potential for misuse is immense: the student paper of the University of Florida, *The Independent Florida Alligator*, quoted a statement made by the sponsor of an Academic Bill of Rights proposed in that state’s legislature:

Some professors say, “Evolution is a fact. I don’t want to hear about Intelligent Design (a creationist theory), and if you don’t like it, there’s the door,” [Representative Dennis] Baxley said, citing one example when he thought a student should sue.³¹

Such an application of the Bill likely violates Horowitz’s vision of “welcoming a diversity of approaches to unsettled questions.” Nonetheless, such is the vision of the Bill’s legislative sponsor

in the state of Florida, who also lamented the rise of “dictator professors,” and faculty who “think they can do what they want and shut us out.”³²

Horowitz has recognized that in representing students as the aggrieved party in the Bill of Rights debate, rather than conservative academics or scholarly discourse as a whole, he can gain sympathy and a constituency. In entrusting the definition of their education to Representative Baxley, however, the Academic Bill of Rights would harm rather than help those whose rights it supposedly protects. Ironically it is usually the Right that accuses the Left of claiming victimhood in order to advance their agenda.³³ In this case, however, Horowitz has learned the tactical lesson suggested by his political “rules,” that turn about is fair play. Accordingly, Horowitz has framed his own quest to push academia rightward as a crusade on behalf of the powerless. Despite his case’s appeal, however, he cannot convincingly rebut the contention that legislative interference will do more harm than good.

The ideal result of the academic freedom debate would be an increased vigilance by professors and universities in enforcing their own academic freedom guidelines, and absolutely no action taken by legislators. In this vein, the Ohio state legislature removed an academic freedom bill from its slate in 2005 after university presidents within the state affirmed their “commit[ment] to respecting diverse viewpoints and that neither students nor faculty will be

28 Students for Academic Freedom, “Academic Bill of Rights.”

29 Ibid.

30 See Martha Nussbaum, “The Enduring Significance of John Rawls,” *The Chronicle of Higher Education*, 47.44 (13 July 2001): B7; John Rawls, *A Theory of Justice* (Cambridge, MA: Belknap, 1999).

31 James Vanlandingham, “Capitol bill aims to control ‘leftist profs’: The law could let students sue for untolerated beliefs,” *The Independent Florida Alligator Online*, March 23, 2005, <http://www.alligator.org/pt2/050323freedom.php>.

32 Ibid.

33 See for instance David Horowitz, “Ten Reasons Why Reparations for Blacks is a Bad Idea for Blacks—and Racist Too,” *FrontPageMagazine.com*, January 3, 2001, <http://www.frontpagemag.com/Articles/ReadArticle.asp?ID=1153>. The document is an advertisement regarding slave reparations that David Horowitz submitted to dozens of college newspapers in the 2000-2001 school year which reads in part: “Streb, 12.”

34 Streb, 12.

evaluated based on political opinions.”³⁴ The legislature’s assent to remove academia from the political arena and from the crosshairs of the culture wars should be commended. But in other states, the dispute over who holds the authority to define the “academically correct” remains unresolved. To Horowitz, “liberalism” seems to mean the government takes over *everything*, while under conservatism the government only takes over everything he doesn’t like. Regardless of his distaste for the mainstream of the academy, however, he ought to recognize that the proper way to make it less “partisan” can’t be to cart in the politicians. After all, that’s not in their job description.

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