

## Donald Alexander Downs Restoring Free Speech and Liberty on Campus

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### Freedom of Speech is Not Enough

What more is there to be said about the state of education in our universities since the so-called cultural wars began in the late 1980s over scholarship, teaching, hiring, and general campus ideology? Voices warning about the “degradation” of our universities have long been heard, but it was really with the publication in 1987 of Allan Bloom’s exciting and provocative book, *The Closing of the American Mind* that a spirited debate began between the Right and the Left over education and university politics. Bloom’s accusation of the academic Left for betraying democracy and impoverishing the souls of today’s students inspired a continuing wave of critical assessments. Among the most notable works we should mention Roger Kimball’s *Tenured Radicals: How Politics Has Corrupted Our Higher Education* (1990), which blamed the radicals of the sixties for taking over university classrooms to accomplish what they failed to do at the ballot box: attack standards and tradition, and advance radical egalitarianism. Dinesh D’Souza’s (1991) *Illiberal Education* also stirred the pot of debate in documenting how the politics of race and sex on campus had “diluted or displaced” the great works of Western civilization “to make room for new course requirements stressing non-Western cultures, Afro-American studies, and Women’s Studies.”

Most of the critiques were indeed coming from the Right, but there were some from the academic Left. Russell Jacoby’s *Dogmatic Wisdom: How the Culture Wars Divert Education and Distract America* (1994), for example, argued that the dismantling of the curriculum had more to do with “consumerism, utilitarianism, and market forces” than with the politics of socialists and feminists. John Wilson’s *The Myth of Political Correctness: The Conservative Attack on Higher Education* (1995) insisted that instances of transgression by the Left against free speech and liberal values were few in number. Still, the discussion on the decline of university standards was in the main initiated and led by conservatives and traditional liberals who felt that the core values of freedom, high merit, and critical reason associated with higher education were under assault by a dominant and privileged “company” of academic leftists. Deconstructionists, multiculturalists, and feminists were accused of molding their universities to meet the requirements of political correctness. The titles coming out spoke for themselves: Richard Bernstein, *Dictatorship of Virtue: Multiculturalism and the Battle for America’s Future* (1995); Alan Kors and Harvey Silvergate, *The Shadow University: The Betrayal of Liberty on America’s Campuses* (1998); David Sacks and Peter Theil, *The Diversity Myth: “Multiculturalism” and the Politics of Intolerance at Stanford* (1995), Victor Davis Hanson and John Heath, *Who Killed Homer? The Demise of Classical Education and the Recovery of Greek Wisdom* (1998).

What, then, does Donald Downs’s *Restoring Free Speech and Liberty on Campus* offer that is novel and worthwhile and not be found in these books and countless other publications, journal articles, magazines, radio and TV talk shows? It offers a vivid, updated history of America’s culture wars into the early 2000s, a real blow by blow account of the struggles over free speech and related issues; all from the perspective of a professor of political science, law, and journalism who was personally

involved as a leader of a free speech movement of students and faculty at the University of Wisconsin, Madison. In this respect the book goes well beyond a theoretical exposition into an actual political narrative by a participant of the way mobilization was used to restore liberties that had been lost through the use of such policies as speech codes and anti-harassment codes.

We are quickly drawn into the narrative. Downs recounts how he was initially, in the 1980s, “firmly committed” to PC codes established at his own University of Wisconsin to promote “diversity” and to fight race and sex discrimination. Like other proponents, he was under the impression that these codes would only limit the conduct and the “expressive behavior” of students and faculty intended to be “racist or discriminatory.” Freedom of speech would not be harmed or curtailed. But soon Downs realized that these codes could be used, as they were used, to prosecute the expression of comments that were neither racist nor discriminatory, to suspend the most basic rights of fundamental fairness, and to destroy faculty reputations. Downs eventually came to the conclusion that any limitations on free speech not involving direct incitement to physical harm or violence were detrimental to the university’s central mission, the transmission of knowledge and the pursuit of truth.

The first part of the book offers an analysis of the political and intellectual forces that drove universities in the 1980s and 1990s to repress the free play of ideas and to collaborate in the defamation of ideas that were against or different from “progressive” orthodoxies. During most of the 20th century, Downs tells us, threats to free speech came from the right and from outside the universities. In the late 1960s, however, criticisms against freedom of expression started to come from the left, and from inside the universities. It was then that Herbert Marcuse, following a well established Marxist tradition, put forward his notion of “repressive tolerance,” claiming that the free speech of capitalist societies favored the interests of powerful corporations in control of the mass media, and concluding that it was appropriate for radicals to advocate the “withdrawal of toleration of speech and assembly” from movements and policies that opposed the extension of social justice. By the late 1980s, with the rise to dominance of feminism, postmodernism, and multiculturalism, many academics came to embrace censorship in the name of promoting egalitarian goals, diversity and sensitivity, on matters of class, race, and gender.

This narrative is not told by Downs from the standpoint of someone who thinks that the ends of the left are unworthy of attention. He questions the illiberal means employed to promote diversity and justice, and while he agrees that faculty and students should enjoy the principles of free speech and assembly and thus be able to promote leftist ideas and policies on campus, he reminds us that the central mission of the university and its teachers should be the transmission of knowledge and the pursuit of truth. He also challenges “the ideology of victimhood” which assumes that minority groups treated unfairly in the past should somehow enjoy in the present special rights that protect them against “insensitive” speech. This ideology merely “infantilizes” the supposed beneficiaries of speech codes by treating them as if they were emotionally incapable of dealing with open debate.

Most of the book is dedicated to four case studies: Columbia University’s sexual misconduct policy, the anti-free speech movement at the University of California, the speech code at the University of Pennsylvania and its infamous “water buffalo” incident, and the rise and fall of the speech codes at the University of Wisconsin. It is here that the reader encounters real individuals struggling for and against freedom of speech. One meets proponents of Columbia’s “Sexual Misconduct Policy” claiming that the university had been covering up an “epidemic of rape” on campus, and arguing that

the right to be present during testimony and to confront one's accuser, to be accompanied at hearings by an attorney, among other things, would contribute to the cover-up! One learns of the many students who rallied in favor of the policy and of the very few faculty members who stepped forward to insist that basic procedural protections for the accused are indispensable in open societies. One learns too that it was mobilization from outside the university, by way of articles and op-ed attacks from the *Wall Street Journal*, the *New York Times* and the *Village Voice*, together with a number of dedicated students, that forced the university administration, by the fall of 2001, to issue a revised policy that recognized the adversarial nature of proceedings concerning sexual misconduct and incorporated some protections for the accused.

Similarly, Downs details how at Berkeley "progressive censorship" was directed to obstruct and intimidate conservative speakers in the public forum, and against student newspapers that published articles perceived to be detrimental to certain progressive causes. He tells how this censorship went on for years without the administration or faculty stepping forward to defend free speech. He narrates the notable incident which involved the publication in February 2001 by a student newspaper, the *Daily Californian*, of a paid advertisement by David Horowitz entitled "Ten Reasons Why Reparations for Blacks is a Bad Idea for Blacks — and Racist Too," which instigated a movement called "By Any Means Necessary" to denounce the *Daily Cal* as "racist," and which drove righteous leftist students to disrupt the workings of the newspaper, and to demand an apology. The editorial board gave in, publishing an apology in which the editors "confessed that the paper had allowed itself 'to become an inadvertent vehicle for bigotry.'" During this period, when the *Daily Cal* faced constant criticism for racism and insensitivity, Downs notes that "no faculty members or administrators spoke up in support of the First Amendment or free speech, either in the press or in public." It was the national media that criticized the abandonment of the principle of a free press at Berkeley, and persuaded some students associated with *Daily Cal* that they had been wrong to apologize for publishing the advertisement by Horowitz, which was not racist at all, but in fact explicitly stated its support for the Emancipation Proclamation and the principle that all men are created equal.

In contrast to these cases, Downs finds in the University of Wisconsin (and the University of Pennsylvania) clear examples of the emergence of strong pro-academic freedom groups within the universities. Drawing on his own personal experience at the University of Wisconsin, as well as extensive research, he reveals how the right kind of political organization and dedication can pressure universities to get rid of repressive rules and bring back respect for free inquiry and discourse. He narrates the political mobilization within Wisconsin that led to abolition of the faculty speech code in 1999, and resulted in the achievement of other victories favoring academic liberty. Downs sees the political experience leading to the restoration of free speech in these universities as a clear indication that the principles of free speech were still valued but needed to be reawakened by individuals and groups who were willing to take a stand and fight back against intense administrative and political barriers.

But Downs does not end on a note of celebration. He concludes that universities at large are "failing to instill in students adequate understanding of the principles of liberal freedom." He sees a need to call upon universities "to promote tolerance of diverse opinion, including opinion that dissents from the university's preferred agenda or the agenda of preferred groups." My concern with this conclusion, and the book's singular focus on struggles to maintain free speech on campus, is that it

gives readers the wrong impression that the decline of higher learning in universities – what Bloom called the “impoverishment of the student’s souls” – is a problem to be solved merely through the promotion of free speech on campus. Free speech is undoubtedly not just one value among others but fundamental to the university’s central mission. This right should never be limited except when it is used as a direct incitement to physical harm. What Downs does not think through is the relationship between “the autonomous, self-determining individual” – which he sees as “the ultimate foundation of liberal freedom” – and the rise to academic dominance of a cultural relativism which, in the very spirit of critical inquiry, has come to doubt everything including the principles of liberal democracy.

I see a conceptual link between the universal ideals of individual autonomy, objectivity or detachment in the pursuit of truth, and the postmodernist and relativist critique of Western liberalism. The modern “I think, therefore I am” that abstracts itself from all its social contexts, from tradition and from what the ancients called the “natural order of things,” and takes itself to be the only certainty, achieves a kind of freedom that in the end renders it empty and meaningless. The search for intellectual purity, impartiality, for a cleansing of the mind from prejudices was a call upon reason to look into itself, its isolated mind, to find there its truth. But once you take away from reason the horizon and supports of the past, noble themes, the belief that virtue is the highest wisdom, reason in time will be trivialized. The only truth reason will find within itself is its ability to refute and discard until it disowns its own critical capacities.

It is thus not surprising that the modern critical mind eventually found itself decrying the Enlightenment belief that reason could find a universal standpoint freed of any cultural prejudices, and that the would-be universal claims of the Enlightenment were soon seen as mere conventions of a particular culture, class, or gender. This is the postmodern mind, which followed through the critique of the Enlightenment, to argue that what was particular about Western reason was indeed its determination to subdue and dominate the identities of non-Western cultures, all in a logocentric frenzy of modernization. There were no neutral-Western principles for the evaluation of other cultures. But if cultures were self-contained within their own art and religion and language, how did postmodern critics manage to transcend the limits of their own culture to recognize all the cultures of the world from outside?

This is the well-known self-refuting dilemma of cultural relativism. The argument to be made against postmodernism, however, is not merely that, as Downs suggests, it needs to retrieve its own background in the Enlightenment and the vantage of the disinterested neutral observer whose only value is free speech. The Enlightenment call upon humanity to have the courage to critically examine all its beliefs is essential to Western freedom, but by itself this belief has been instrumental in the drastic corrosion of the ideals of higher learning. The relentless jettisoning of the history of Western civilization, the promotion of cultural diversity against Great Books programs, the excessive proliferation of social studies, the idea that teaching should be dedicated to fighting racism, sexism, and all forms of “prejudice” and discrimination, the “cult of victimhood,” are all testimony to the adverse effects of the very ideal of self-choice.

The furtherance of freedom on its own falls into insignificance outside the background of a scale of values, respect for the past. Some ideas, values, and ways of life are more substantial and virtuous than others, and their meaning does not depend on freedom of speech and majority decision.

Universities have a duty to “higher culture,” and that means upholding and preserving what Bloom calls “the treasury of great deeds, great men and great thoughts,” the finest ideas and artistic creations of humanity. Missing in Downs’s book is a realization that what needs restoring is the old spirit of liberal education with a curriculum structured around broad learning and elevation of the soul, taught by generalists with a strong grounding in the Western intellectual legacy and with the capacity to connect this tradition to other cultures of the world.

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