



Threats to Academic Freedom in Higher Education

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Abstract

Much debate centers on the conditions of free speech and academic freedom within higher education. Underlying these debates are what appears to be increasing occurrences of ideologically based censorship battles within academia. This paper examines one aspect of those battles—e.g., how cancel culture has intruded into the academic environment of higher education. In particular, this paper explores how an ideologically based retraction practice may be infringing on academic freedom. The paper also discusses how an overly politicized academia may itself undermine the necessary conditions for academic freedom.

Keywords Academic freedom · Cancel culture · Censorship · Free speech · Retraction

Introduction

Debate has swirled throughout college campuses on the subject of academic freedom. Conservatives argue that higher education is dominated by a leftist ideology that stifles and censors any dissenting views. Liberals counter with the claim that the right overreacts and fails to appreciate the autonomy of the educational process. Conservatives fear that political advocacy is occurring inside the classroom, while liberals fear that conservatives wish to silence them in the classroom.

The debate shows no sign of dissipating, and many of the arguments in play are incapable of objective proof. What transpires in a classroom or in a student's perception of a professor's presentation, for instance, cannot generally be quantified or measured. However, in recent years, other events have occurred within academe that do provide more objective and quantifiable evidence of an increasingly fragile state of academic freedom. Indeed, as "cancel culture" comes to higher education, some attacks on free speech and academic freedom are becoming easier to identify and measure.¹

¹ This paper will only deal with threats to academic freedom posed by a cancel culture inspired by a progressive left ideological agenda. It will not deal with threats emanating from other sources, including sources affiliated with a conservative agenda, an example of which is discussed in Jennifer Schuessler, "Leader of Prestigious Yale Program Resigns, Citing Donor Pressure," In *The New York Times*, <https://www.nytimes.com/2021/09/30/arts/yale-grand-strategy-resignation.html>. A difference between the two different threats is that the former seems to be coming from within the academy, whereas the latter seems to emanate from without.

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Cancel Culture in Higher Education

The term cancel culture has become a pervasive term in our modern lexicon.² Most generally, it refers to a desire to wipe out, eliminate, or "cancel" messages or behavior that contradicts the viewpoints of the progressive left. Instances of this cancel culture are widespread. A company, Goya Foods, was boycotted simply because the CEO stood with President Trump at a White House ceremony and offered words of praise for the President. Actress Gina Carano was fired by Disney for social media posts unacceptable to the progressive left. And statues across the country have been toppled, defaced, or removed.³

² The term cancel culture is used to identify "instances of social justice mobbing – essentially, the attack on a person, place or thing that is perceived as inconsonant with 'woke' ideological narratives." Steven Kessler, "Social Justice 101: Intro to Cancel Culture," In *Academic Questions*, <https://www.nas.org/academic-questions/34/2/social-justice-101-intro-to-cancel-culture>.

³ Such statues include Edward Carmack, a nineteenth-century newspaper editor who criticized an African-American journalist writing about racial justice; Frank Rizzo, a Democratic mayor of Philadelphia, accused of having allowed violence against African-Americans during his mayoralty; Matthias Baldwin, a Philadelphia inventor, manufacturer, and abolitionist who was charged with "colonizing"; Francis Scott Key, the composer of the national anthem; John Greenleaf Whittier, a nineteenth-century Quaker poet and abolitionist who was a delegate to the first meeting of the American Anti-Slavery Convention; the statue of President Andrew Jackson in Washington, DC; and a statue of the black abolitionist Frederick Douglass, who delivered a speech in Rochester, New York, about what the Fourth of July should mean to southern slaves. The town of Arcata, California, took down a statue of President William McKinley, based on the argument that he advocated policies detrimental to Native Americans.

Reminiscent of the McCarthyism of the 1950s, contemporary cancel culture represents a serious assault on free speech, with the boycotts, firings, and personal attacks aimed against anyone who publicly disagrees with the agenda of the radical progressive left. In July of 2020, for instance, two high-profile resignations among elite journalists highlighted the workings of cancel culture. Andrew Sullivan and Bari Weiss both resigned their positions at *New York* magazine and the *New York Times* respectively because their viewpoints had exposed them to ridicule, harassment, and retaliation within a profession seemingly dedicated to free speech. And a *New York Times* editorial page editor was forced to resign because he published an op-ed piece by a US Senator calling for the use of federal troops to quell the looting and violence occurring in American cities during the summer of 2020.

Cancel culture has particularly thrived in the field of education.⁴ In 2016, for instance, students at Yale University protested a course on poets like Shakespeare, Milton, and Woodsworth, saying that the course “actively harms students” and creates a “hostile” academic culture. In 2019, the University of Notre Dame covered up historic Christopher Columbus murals in its main administration building. University leaders have tolerated and even encouraged the shaming of faculty and students who express views not in line with the prevailing ideology on their campuses. Administrators have carved out “safe spaces” where only acceptable opinions can be expressed, and some universities, such as Yale, have adopted systems of surveillance and anonymous reporting aimed at punishing speech and behavior that departs from campus orthodoxies.⁵ These surveillance policies have taken on police tactics, with “Bias Response Teams’ investigating professors’ online comments and editorial choices of student groups.”⁶

Conservative speakers have faced hostile threats and even physical violence at campuses at which they have spoken.⁷ Charles Murray and Heather MacDonald saw their invited lectures shut down by angry mobs.⁸ Brett

Weinstein was forced off campus by left-wing activists whose militancy he had criticized.⁹ Laura Kipnis has faced numerous Title IX charges and complaints for her writings criticizing the “sexual paranoia” on college campuses.¹⁰ Harvard University removed Ronald Sullivan as a faculty dean because Sullivan, a lawyer and law professor, had agreed to join the criminal defense team of Harvey Weinstein. Sarah Lawrence College professor Samuel Abrams incurred a barrage of university and professional attacks after publishing an op-ed piece discussing the ideological imbalance in higher education and the need for viewpoint diversity.¹¹ Michael Knowles was physically attacked for giving a lecture titled “Men Are Not Women” at the University of Missouri-Kansas City. Chancellor C. Maui Agrawal praised the protestors and condemned Knowles as someone whose “professed opinions do not align with our commitment to diversity and inclusion and our goal of providing a welcoming environment to all people.”¹²

MIT recently canceled the guest lecture of University of Chicago geophysics professor Dorian Abbot because his views on merit-based promotion conflicted with a diversity-based promotion system within higher education. This cancellation of the October 21, 2021, lecture occurred even though the subject of Professor Abbot’s talk—the potential for life on other planets—had nothing to do with his views on faculty promotion and diversity, which he had previously published

⁴ Jay Schalin, “We Need to Talk About Bruce,” <https://www.jamesgmartin.center/2020/10/we-need-to-talk-about-bruce/> (stating “Nowhere is cancel culture more deeply entrenched than in academia”).

⁵ Jose Cabranes, “For Freedom of Expression, For Due Process, and For Yale: The Emerging Threat to Academic Freedom at a Great University,” *35 Yale Law & Policy Review* (2017), 345, 346.

⁶ Id. at 358.

⁷ https://www.realcleareducation.com/articles/2019/04/10/free_speech_isnt_dead_on_college_campuses_but_it_might_be_ailing_110321.html.

⁸ At Middlebury College, Charles Murray, the author of a book about the white working class, was physically attacked by a mob of protestors. Robby Soave, “A Professor Who Attended Charles Murray’s Middlebury Talk is Now Wearing a Neck Brace,” In *Reason*, <http://reason.com/blog/2017/03/03/a-professor-who-attended-charles-murrays/>. Although Murray was decried as a bigot, a sample of seventy scholars who later reviewed his comments found them to be “middle of the road.” Wendy M. Williams & Stephen J. Ceci, “Charles Murray’s Provocative Talk,” In *New York Times*, <https://www.nytimes.com/2017/04/15/opinion/sunday/charles-murrays-provocative-talk.html>.

⁹ Bari Weiss, “When the Left Turns On Its Own,” In *New York Times*, 1 June 2017, <https://www.nytimes.com/2017/06/01/opinion/when-the-left-turns-on-its-own.html>;

Brett Weinstein, “The Campus Mob Came For Me – And You, Professor, Could Be Next,” In *The Wall Street Journal*, 30 May 30 2017. <https://www.wsj.com/articles/the-campus-mob-came-for-meand-you-professor-could-be-next-1496187482>.

¹⁰ See Jeannie Suh Gersen, “Laura Kipnis’s Endless Trial by Title IX,” In *The New Yorker*, 20 September 2017. <https://www.newyorker.com/news/news-desk/laura-kipniss-endless-trial-by-title-ix>.

¹¹ Samuel Abrams, *The Looming Danger for Dissident Professors, Minding the Campus*, <https://mindingthecampus.org/2019/04/03/the-looming-danger-for-dissident-professors/>. Professor Abrams describes how the questioning of prevailing orthodoxies on campus can be professionally dangerous and marginalizing. See also Samuel J. Abrams, *The Bullying and Silencing of Students, Minding the Campus*, <https://www.mindingthecampus.org/2019/03/28/the-bullying-and-silencing-of-students/?mk>. In this essay, Professor Abrams also discusses how, in reaction to a *New York Times* editorial essay in which he argued that more ideological balance was needed in higher education, he was defamed, his family’s safety threatened, and his personal property destroyed.

¹² Victor Garcia, *Conservative Speaker Who Was Assaulted by Protester: This Was a Warning Shot to Conservatives*, <https://www.foxnews.com/politics/conservative-speaker-who-was-assaulted-by-protester-this-was-a-warning-shot-to-conservatives>.

in a *Newsweek* article titled “The Diversity Problem on Campus.”¹³

In *Adams v. Trustees of the U. of N.C.-Wilmington*, a conservative Christian professor and blogger who was denied promotion, despite having previously won teaching awards and receiving positive reviews of his scholarship, sued his employer university, alleging that its denial of promotion was in retaliation for his conservative speech.¹⁴ Although losing at the district court, Adams prevailed on appeal to the Fourth Circuit, which found that his speech rights had been violated.

In a survey of college undergraduates in the USA, half of all students reported feeling intimidated by professors when expressing differing opinions in class.¹⁵ A survey of Yale University undergraduates revealed that 70% experienced political bias in the classroom.¹⁶ Such one-sided partisanship marks, to some critics, a reversion to the campus environment of more than a century ago. Before the development of free speech protections and academic freedom principles, “American higher education was an entirely close-minded arena for indoctrination into accepted opinion, rather than a place where all ideas could be put to the test and where it was acceptable, even desirable to challenge prevailing wisdom.”¹⁷

Retractions as an Example of Cancel Culture

The case of Bruce Gilley is one of the most egregious examples of how cancel culture operates within higher education. The Gilley case involves the censorious use of retraction,

which refers to a publication offer being withdrawn by the publisher that previously made that offer.¹⁸

Bruce Gilley, a professor of political science at Portland State University, faced a storm of criticism over his article outlining certain positive aspects of colonialism. Shortly after posting the article on its website, *Third World Quarterly* received petitions signed by thousands of signatories demanding the article’s retraction and asserting that the article “reeked of colonial disdain for indigenous peoples.”¹⁹ The opponents of the Gilley article labeled the article as “grossly wrong” and “grossly unjust,” even though the article had gone through the journal’s usual blind peer-review process prior to any publication offer being extended.²⁰

After the journal’s editor received death threats and fifteen members of the journal’s board had resigned, the Gilley article was retracted. The admittedly controversial article was later published in *Academic Questions*, a journal sponsored by the National Association of Scholars, which found that the Gilley article represented genuine scholarship and contributed to “an unfettered, continuous, unsettled discussion of the nature of justice and its proper application in the world.”²¹

Subsequent to the retraction by *Third World Quarterly*, Gilley was investigated by his own university’s diversity office after a group of students wrote a letter expressing their outrage.²² Following a 5-month investigation, the Portland State Office of Equity & Compliance found no violation of the university’s harassment policy, but did conclude that Gilley would “benefit from implicit bias and microaggression training.”²³

¹³ Disrupting and disinviting conservative speakers has become a recurring phenomenon on college campuses. The Foundation for Individual Rights in Education has documented this trend, with disruptions often preventing the speaker from even speaking. Disinvitation Report 2014: A Disturbing 15-year Trend (may 28, 2014), <https://www.thefire.org/disinvitation-season-report-2014/>.

¹⁴ 640 F. 3d 550, 553 (4th Cir. 2011). The professor had written a book titled *Welcome to the Ivory Tower of Babel: Confessions of a Conservative College Professor*. He had also been previously granted tenure, but was now denied promotion to full professor.

¹⁵ This survey was conducted by the Buckley Program at Yale University. <http://mclaughlinonline.com/2015/10/26/the-william-f-buckley-jr-program-at-yale-almost-half-49-of-u-s-college-students-intimidated-by-professors-when-sharing-differing-beliefs-survey/>.

¹⁶ <https://www.washingtontimes.com/news/2017/may/4/inside-the-beltway-yale-students-say-1-of-professors/>. See also <https://www.buckleyprogram.com/blog/survey-70-of-yale-students-often-experience-political-bias-in-the-classroom>.

¹⁷ Howard Gillman & Erwin Chemerinsky, “Professors are Losing Their Freedom of Expression,” In *The Washington Post*, 15 November 2017, https://www.washingtonpost.com/opinions/professors-are-losing-their-freedom-of-expression/2017/11/14/c4c7805a-c594-11e7-afe9-4f60b5a6c4a0_story.html.

¹⁸ Retractions have occurred frequently in the scientific journal area, with offers of publication and published articles being withdrawn because of concerns involving the scientific method, trustworthiness of data, or scientific misconduct arose. See, e.g., Andrea Cortegiani, et al., *Retracted Papers on SARS-CoV-2 and Covid-19*, 126 *British Journal of Anaesthesia*, e155 (2021); Zarko Alfirevic, *Retracted Papers are only the Tip of the Iceberg of Untrustworthy Evidence*, *AJOG MFM*, 1 (November 2020); Eri Boetto, et. al., *Frauds in Scientific Research and How to Possibly Overcome Them*, *Journal of Medical Ethics* at <https://jme.bmj.com/content/early/2020/10/06/medethics-2020-106639>. However, the Gilley case involves a retraction based on an ideological dispute with the content of the offered article.

¹⁹ Noah Carl, “Bruce Gilley vs. Cancel Culture,” In *Quillette*, 30 October 2020, <https://quillette.com/2020/10/30/bruce-gilley-vs-cancel-culture/>.

²⁰ National Association of Scholars, “NAS Condemns PSU-AAUP’s Defamation of Professor Bruce Gilley,” 12 March 2021, <https://www.nas.org/blogs/article/nas-condemns-psu-aaups-defamation-of-professor-bruce-gilley>.

²¹ *Ibid*.

²² Vimal Patel, *Last Fall This Scholar Defended Colonialism. Now He’s Defending Himself*, *The Chronicle of Higher Education*, Mar. 21, 2018, <https://www.chronicle.com/article/Last-Fall-This-Scholar/242880>.

²³ Carl, *op. cit*.

The following year, in 2018, Gilley was invited to give a guest lecture at Texas Tech University. This invitation prompted 23 faculty members to sign a letter demanding that the invitation be withdrawn on the grounds that the lecture “does not in any way serve Texas Tech’s efforts to promote diversity” and that “inflammatory ideas are not welcome” at Texas Tech.²⁴ Gilley’s lecture did take place, but only after the university president issued a statement expressing “our strong disagreement” with his ideas.

Gilley experienced yet another retraction when Lexington Books canceled the publication of his book, *The Last Imperialist: Sir Alan Burns’ Epic Defense of the British Empire*, just 2 weeks before the planned publication date. This retraction occurred after Lexington Books received a petition of more than 1000 signatures calling for retraction. The petition wrongly claimed that Gilley’s previous article had been retracted because it had not undergone peer review, even though the article had actually undergone a double-blind peer review.²⁵ The petition campaign had been led by a self-described Maoist who was not even an expert in the field in which Gilley was writing and who apparently equated anyone who did not fully support the cause of anti-colonialism with white nationalism.²⁶ Subsequent to learning that his book had been canceled, Gilley shared with the publisher a letter from Professor Tirthankar Roy of the London School of Economics, which described Gilley’s book as a “finely written evidence-based biographical study” and further stated that by canceling the book the publisher had caved “to a crowd that has internet power but no apparent credential to judge scholarship.”²⁷

Bruce Gilley provides perhaps the most revealing case of cancel culture within academia. But as the website *RetractionWatch* demonstrates, retractions are growing.²⁸ And while many retractions are legitimately based on faulty scholarship, others may be based on ideological differences and a desire to cleanse a certain viewpoint or ideology from the academic discourse.

²⁴ Ibid.

²⁵ Ibid.

²⁶ Paul du Quenoy, “A Series of Unfortunate Cancellations,” In *The Critic*, at <https://thecritic.co.uk/a-series-of-unfortunate-cancellations/>.

²⁷ Carl, op. cit.

²⁸ Colleen Flaherty, “Is Retraction the New Rebuttal?” In *Inside Higher Ed*, <https://www.insidehighered.com/news/2017/09/19/controversy-over-paper-favor-colonialism/> (citing, for instance, calls for retraction of a paper comparing transgenderism to transracialism, and of a paper on training a computer to recognize gay and straight faces). Ms. Flaherty wonders “if retraction threatens to replace rebuttal as the standard academic response to unpopular research.” A paper on abortion policy was retracted by the journal *Contraception* because of flaws in the study; however, much controversy and charges of conflict of interest surrounded the retraction decision and explanation. <https://retractionwatch.com/2019/01/22/showdown-over-a-study-of-abortion-policy-leads-to-a-retraction-and-leaves-no-one-happy/>.

Cancel Culture Contradicts Academic Freedom

Cancel culture not only violates the spirit of free speech in society, but in academia, it also undermines academic freedom. As set forth in 1915 by the American Association of University Professors,²⁹ academic freedom encompasses such principles as “unfettered discussion” and “freedom of speech” and freedom from the “prescribed inculcation of a particular opinion upon a controverted question.”³⁰ The authors of the 1915 Declaration never wavered in their belief in “the desirability of teachers having minds untrammelled by [partisan] loyalties, unexcited by [partisan] enthusiasms, and unbiased by personal political ambitions.”³¹ The goal “was to insure that politics and other influences deemed extrinsic to intellectual work would not be the sole, the primary, or even the major determinants of scholarly expression.”³² In addressing situations in which instructors present “controversial matter” in the classroom, the 1915 Declaration required those professors to present all “the divergent opinions of other investigators.”³³ The U.S. Supreme Court in *Sweezy v. New Hampshire*³⁴ stated that “mere unorthodoxy or dissent from the prevailing mores is not to be condemned... [because] the absence of such voices would be a symptom of grave illness in our society.”³⁵

Cancel culture, which incorporates an ideologically based retraction practice, characterizes a politicized academia that itself contradicts the principles of academic freedom that are meant to govern institutions of impartial learning and scholarship.

The 1915 Declaration clearly distinguished the academic function of the pursuit of truth from the more political or partisan function of a propagandist “propagation of specific doctrines.”³⁶ The elevation of partisanship

²⁹ Comm. on Academic Freedom & Academic Tenure, Am. Ass’n of Univ. Professors, “General Report of the Committee on Academic Freedom and Academic Tenure,” *BULL. AM. ASS’N U. PROFESSORS*, vol 1 (1915) pp. 15, 20.

³⁰ Ibid., p. 22.

³¹ Thomas L. Haskell, “Justifying the Rights of Academic Freedom in the Era of Power/Knowledge,” In *The Future of Academic Freedom*, ed. Louis Menard (Chicago: University of Chicago Press, 1996) p. 58.

³² Ibid., p. 80.

³³ AAUP, *Declaration of Principles On Academic Freedom and Academic Tenure*, (1915), p. 298.

³⁴ 354 U.S. 234 (1957) (overturning a contempt citation of a university professor who had refused to answer questions about his political beliefs pursuant to an investigation into groups like the Communist Party).

³⁵ Ibid. p. 251.

³⁶ AAUP, op. cit., p. 399.

within academia becomes “deeply inimical to academic freedom.”³⁷ When politics becomes too engrained in an academic institution, it renders the goals of impartiality and objectivity unattainable.³⁸ Stanley Fish makes this argument, asserting that if “academics are functioning not as academics, but as political advocates, then they do not merit academic freedom.”³⁹

As Fish further explains, whenever a teacher “tries to promote a political or social agenda..., he or she has stepped away from the immanent rationality of the [academic] enterprise and performed an action in relation to which there is no academic freedom.”⁴⁰ Political indoctrination is not a legitimate academic function and hence is undeserving of special constitutional protection.⁴¹ Fish distinguishes between academic activity and political indoctrination by revealing ways in which the latter abandons academic content. Two such ways are through instructional bias and classroom imbalance, when teachers

fail to allow presentation of contrary views.⁴² Instructional bias, which occurs when faculty create a classroom environment “objectively offensive to some students based upon their intellectual point of view,” not only causes political indoctrination but also violates AAUP’s code of professorial conduct.⁴³

As suggested by the presence of a cancel culture within academia, American higher education institutions are being driven increasingly by a certain political ideology and agenda. Higher education has become more of a political arm of a defined ideology than an impartial forum dedicated to the pursuit of truth—and as such, it has strayed far afield of the principles of academic freedom.

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³⁷ Haskell, op. cit., p. 80.

³⁸ Ibid., p. 81.

³⁹ Stanley Fish, *Versions of Academic Freedom: From Professionalism to Revolution, 19* (Chicago: University of Chicago Press, 2014), p. 19. Fish also relies on the AAUP Declaration regarding its assertion that academic freedom not be used as a shelter for “uncritical and intemperate partisanship” and instead should “help make public opinion more self-critical and more circumspect, to check the more hasty and unconsidered impulses of popular feeling.” Ibid., pp. 10–11. Robert Post also argues that “academic freedom does not include the freedom to politically indoctrinate students or to confuse political activism with scholarship.” Robert Post, “Why Bother With Academic Freedom?” *Florida International University Law Review*, vol. 9 (2013), p. 18.

⁴⁰ Stanley Fish, *Save the World On Your Own Time* (New York: Oxford University Press), p. 81.

⁴¹ Kenneth L. Marcus, “Academic Freedom and Political Indoctrination,” *Journal of College & University Law*, vol. 39 (2013), p. 730.

⁴² Ibid., p. 732. Classroom imbalance tends “to have an indoctrinating effect, because the students are taught to think only in the preferred manner, and contested opinions are given the appearance of universally accepted truths.” Ibid., p. 738.

⁴³ Ibid., p. 740.