

Ramblings

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Free Speech Is Under Attack at the Nation's Universities as a "Heckler's Veto" Takes Hold

Freedom of speech is under attack at many of our leading universities, and too few Americans seem to be aware of the dangers to academic freedom inherent in these efforts to limit the free expression of ideas.

In November, 1999, citing a "concern for safety" stemming from a mild student protest of the event, Columbia University essentially brought a conference of conservatives to a halt. Among those scheduled to speak at the meeting sponsored by Accuracy In Academia were anti-affirmative action activist Ward Connerly, author Dinesh D'Souza and *U.S. New and World Report* columnist John Leo. Because of alleged concern for "disturbances," Columbia effectively banned the second day of the conference. Connerly was met by a protest of some 150 students in which he was called a "race traitor" and "bigot." The meeting, however, went off without a problem. Columbia then told the sponsors that the next day's meeting would be closed to the public, and open only to Columbia students. Those who were not students and had preregistered for the event would be unable to attend. By banning the spectators instead of the speakers, Columbia found a unique way to censor an event.

In March 2000, Brandeis University demanded that a conservative student group inviting Charlton Heston, the president of the National Rifle Association, had to provide a bomb-sniffing dog, two full-body metal detector wands, at least ten security guards and four units of the guest's blood type if the meeting were not to be canceled. Citing the speaker's "controversial views" as the reason for their actions, Brandeis, in effect, required the students to provide security costing more than \$6,000.

In his book *Free Speech for Me—But Not For Thee*, Nat Hentoff calls an approach such as this

... the heckler's veto—the power of the threat or apprehension of violence to cause public officials to suppress unpopular speech or assembly. . . . As for the money argument, just what is the price of the First Amendment? At what number of cops or state troopers, at how many hours of overtime, does it become too costly to protect greatly unpopular speech?

In *Terminiello v. Chicago* (1948), Justice William O. Douglas declared:

A function of free speech under our system of government is to *invite dispute*. It may indeed best serve its purposes when it induces a condition

of unrest . . . or even stirs people to anger.

What, then, is the responsibility of a university—or of government? Consider the successful amicus brief of the American Bar Association in a 1939 case in which Mayor Frank Hague of Jersey City wanted to remove the CIO from his jurisdiction:

It is the duty of the officials to prevent or suppress the threatened disorder with a firm hand instead of timidly yielding to threats. . . . Surely a speaker ought not to be suppressed because his opponents propose to use violence. It is they who should suffer for their lawlessness, not he.

Universities are making a mockery of free speech. The University of Connecticut has gone so far as to prohibit “inappropriately directed laughter.” At Yale, a Christian sophomore who distributed a broadside satirizing Gay and Lesbian Awareness Day was found guilty of harassment and intimidation, and sentenced to two years of probation. At Cornell University, vandals stole and burned hundreds of issues of *The Cornell Review*, a conservative journal, while campus administrators and officers looked on. After an article parodying “ebonics” appeared in the publication, campus militants stole bundles of the *Review* because of so-called “race baiting.” Dean of Students John Ford declared Cornell’s new standard of free speech: “If it offends people, if people say they are offended by it, it is something we should not tolerate.”

Diversity on the nation’s campuses does not seem to include diversity of opinion. If only inoffensive speech is permitted, the very notion of free speech has come to an end. In their book, *The Shadow University, The Betrayal of Liberty on America’s Campuses*, historian Alan Charles Kors and First Amendment attorney Harvey Silverglate point out that,

Protection of free speech is not needed for inoffensive, popular speech with which all or most members of a community agree. Such speech is not threatened. Freedom is required precisely for unpopular speech, the toleration of which is one of the marks of a free society. What is popular speech in one time and place, of course, becomes unpopular in another. That is why, morally and practically, none of us enjoys more freedom of speech than is accorded the least popular speaker.

In the 1960s, controversy stirred the Yale campus as officials welcomed Black Panther advocates of violence, but refused to permit Governor George Wallace of Alabama, a candidate for president, to appear, and effectively banned other controversial speakers as well.

In an article challenging Yale’s limitations of free speech, Professor Donald Kagan wrote:

Freedom of speech is vital, but it is not free; it has a high price. It compels us to go against our natures, to hear unpleasant and even hateful things, to tolerate unpleasant and even hateful people. . . . Here at Yale we have not

been willing to pay the price.

In 1975, a report was issued to the Fellows of the Yale Corporation about the state of free speech on the campus. Its author was the distinguished historian C. Vann Woodward.

The Woodward report declared:

To curtail free expression strikes twice at intellectual freedom, for whoever deprives another of the right to state unpopular views necessarily also deprives others of the right to listen to those views. . . . If a university is a place for knowledge, it is also a special kind of small society. Yet it is not primarily a fellowship, a club, a circle of friends, a replica of the civil society outside it. Without sacrificing its central purpose, it cannot make its dominant value the fostering of friendship, solidarity, harmony, civility, or mutual respect. To be sure, these are important values; other institutions may properly assign them the highest, and not merely a subordinate priority; and a good university will seek and may in some significant measure attain these ends. But it will never let these values, important as they are, override its central purpose. We value freedom of expression precisely because it provides a forum for the new, the provocative, the disturbing, and the unorthodox. Free speech is a barrier to the tyranny of authoritarian or even majority opinion as to the rightness or wrongness of particular doctrines or thoughts. . . . It may sometimes be necessary in a university for civility and mutual respect to be superseded by the need to guarantee free expression.

The Yale Corporation accepted the Woodward Report, which concluded:

A significant number of students and some faculty members appear to believe that when speakers are offensive to majority opinion, especially on such issues as war and race, it is permissible and even desirable to disrupt them. . . . The banning or obstruction of lawful speech can never be justified on such grounds as that the speech or the speaker is deemed irresponsible, offensive, unscholarly, or untrue. . . . Disruption of a speech is a very serious offense against the entire University and may appropriately result in suspension or expulsion.

Since 1975, when the Woodward Report was issued, things have deteriorated dramatically on the nation's campuses. Freedom of speech is seriously threatened by a generation of teachers and students addicted to notions of "political correctness," and oblivious to the history of free speech and how many battles have been fought to insure it as one of the bases upon which a free society can continue to exist.

Perhaps our current teachers and students need a crash course in American history. They might, for example, review the opinion of Oliver Wendell Holmes in *U.S. v. Schwimmer* (1928):

If there is any principle of the Constitution that more imperatively calls for attachment than any other it is the principle of free thought—not free thought for those who agree with us but freedom for the thought that we hate.

The Case for a National Missile Defense Remains Strong Despite the Failure of a Recent Test

The case for proceeding with a missile defense system remains strong despite a test in July in which a “hit-to-kill” missile did not separate from the second stage of its liftoff rocket and failed to intercept or destroy a dummy warhead in space over the Pacific Ocean.

President Clinton “ought to decide to . . . keep the process moving forward . . . notwithstanding this disappointment,” declared Senator Joseph Lieberman (D-Ct).

Senator Lieberman, a member of the Armed Services Committee, said the president should at least authorize the beginning of the construction of radar facilities at Shemya Island in the Aleutians.

Defense Secretary William Cohen says that the failed test was not a major setback and that he could still recommend going ahead with the project. “The test itself was a disappointment,” he said,

. . . but it was one of those failures that was least expected. . . . That happens from time to time—that you have a failure of something that’s fairly routine.

The missile test failed when the nonexplosive “kill vehicle” did not separate from the second stage. As a result, the interceptor fired from an island in the Pacific Ocean failed to hit a target warhead fired minutes earlier from Vandenberg Air Force Base in California.

“The failure here was not the failure of the most sophisticated elements of it,” said Secretary Cohen.

That’s something that’s not fatal to the programs, and so I would reserve the judgment until I get all the way through the analysis.

The missile-defense system—estimated to cost \$60 billion—has been tested three times, failing twice. In October, an interceptor missile successfully slammed into a target warhead. A second test in January was close to an intercept, but a coolant problem led to a miss.

After the failed test, an amendment was proposed in July in the Senate to require more stringent and thorough testing of the proposed missile defense system. It would have required testing of the project against decoys and other counter-measures intended to foil the system. The amendment was defeated largely on party lines by a vote of 52 to 48.

Observers agree that the July test shed little light on the system’s feasibility,

because it never gave the sophisticated radar, sensors and communications systems a chance to demonstrate their abilities.

To have a defense system in place by the target date of 2005—when North Korea is expecting to have the capability of hitting the U.S. with a long-range missile—construction must begin on a radar system on Shemya Island near Alaska next spring.

With the presidential election in November, politicians from both parties hope that the test failure in July will persuade Clinton to bow to growing demands that he leave the decision to his successor. Republican George W. Bush said he was “disappointed” by the test but said the nation should press forward with a missile defense system. He repeated a promise to make it a top priority if he is elected.

Expressing a widespread view, *USA Today* argued that a hasty decision would be unwise:

The strategic threat posed by “rogue” states such as North Korea, Iran and Iraq is very real. So even before the telemetry has been fully assessed, the decision is plain: Proceed with testing, but not yet with construction. As it stands, the debate features unpersuasive arguments on both sides. Critics brush off the dangers posed by [newer] nuclear states. But advocates have yet to justify the system’s \$60 billion cost or the potential damage the system could do other arms-control initiatives. Russia and our European allies, for instance, fear an anti-missile system would violate existing arms control treaties and obstruct new ones, including the Start III accord to limit nuclear warheads. . . . There’s no need to rush. . . . Prudence dictates that before committing tens of billions to a system that uses . . . complex technology, we better be sure it’s both feasible and effective. Test by all means. But for the moment, do no more.

Proponents of the missile-defense program say it is justified because of a new threat, one posed by so-called “rogue” states such as North Korea and Iran that are acquiring increasingly sophisticated missile technology capable of delivering not only nuclear warheads but also biological and chemical weapons. Former Secretary of State Henry Kissinger states:

Today the threats have moved into different areas. Deliberate vulnerability, when the technology is available to avoid it, cannot be a strategic objective, and cannot be a moral objective for any American president.

Texas Governor George W. Bush has said that he wants a missile shield “as soon as possible.” But he also wants to thoroughly research alternative technologies, including sea-based and space-based components that are not as fully developed as the components of the Clinton administration’s land-based plan. “I want to make sure we explore all options,” Bush said.

Vice President Gore has said that he, too, generally favors a missile-defense program, but has stopped short of offering specifics on what kind of system he would advocate.

The fact is that many critics of a missile-defense system are not so much concerned with how—and whether—such a system will work, but are against it in principle, arguing that it would be a destabilizing force in the world and would anger other nuclear states, such as Russia and China.

Advocates of a missile-defense believe that defending the United States from possible incoming missiles, if it is technically possible to do so, is a program which must be pursued. What American would oppose defending the country, they ask? If other powers are disturbed with the fact that we have such a defensive system, we can ease their concerns, perhaps, by sharing the technology with them.

Among technically knowledgeable observers on all sides of the debate, there is agreement that the generally low-tech breakdowns that have caused the recent test failures say little about whether the program will eventually succeed. “Every program has gone through failures,” said Louis Deeter of Quantum Research International in Huntsville, Alabama, a retired colonel who for three years was government program manager of the Army’s theater high-altitude area defense, or Thaad, anti-missile effort.

“I don’t think there’s anything, today, that says the system won’t work,” he said.

The scenario which seems most likely to occur is this: Sometime this fall, President Clinton will authorize the Pentagon to seek bids for initial site preparation for a radar system at Shemya Island. But actual construction wouldn’t begin until next year, enabling Clinton to contend that he has taken no action that would violate the ABM treaty’s ban on building a missile-defense system. Critics argue that the ABM treaty is, in effect, null and void since the country with whom we made the treaty, the Soviet Union, no longer exists.

The big decision about a missile-defense system may be left to President Clinton’s successor. This, in turn, should make the question of how to proceed with a missile-defense system a major issue in the forthcoming campaign.

Many Fear a Vietnam-like Quagmire in Colombia’s Drug War

House and Senate leaders have approved \$1.3 billion to help Colombia’s war on drugs. President Clinton said he was pleased that the Colombia aid package was passed. He said:

They’re in the fight of their lives for their very way of life, with the combined pressure of a guerrilla war that’s been going on for decades and the rise of the narco-traffickers. . . . The quicker we can reach agreement and show that the U.S. is committed to a democracy and to fighting the drug wars in Colombia, the better off we’re going to be.

Much of the Colombian money, which was approved by a bipartisan coalition, would go toward training special counter-narcotic battalions in the Colombian military and for American-made helicopters. Colombia is the world’s largest exporter of cocaine.

Many in Washington are critical of this involvement in Colombia, fearing that it will lead the U.S. into a Vietnam-like quagmire. Critics in both parties have warned that the aid to Colombia would be a dangerous escalation in an unwinnable Vietnam-style conflict that has already claimed thousands of lives in the past four decades.

Colombia, critics argue, is a country with a fragile civilian government and a military with one of the worst human rights records in Latin America. The country is faced with left-wing guerrilla groups and right-wing paramilitary groups, all financed by drug money. The U.S. aid, it is said, will be carefully supervised by the U.S. military so that it goes only to fight drug trafficking, not to get involved in Colombia's civil wars. Critics doubt that this is possible. They note, as well, that the U.S. has been spraying coca fields and aiding military forces in Latin America for twenty years. Yet, cocaine is now cheaper and more available on our streets than ever. As long as the demand for illegal drugs booms in the U.S., they declare, someone will supply it because the profits are so great.

Senator Slade Gorton (R-WA) states:

There has been no consideration of the consequences, cost and length of involvement. The bill says let's get into war now and justify it later.

Rep. Mark Udall (D-CO) states:

There's no "exit" strategy. There is no way to ensure farmers won't resume cultivating drug crops once this billion-dollar assistance package dries up.

The package includes eighteen Blackhawk helicopters and forty-two Huey II helicopters that are needed to ferry special Colombian Army battalions and Colombian National Police. The mix of aircraft represents a compromise between the House, which favored the larger, more expensive Blackhawks, and the Senate, which wants only the less costly Hueys.

To help address the critics' concerns about the Colombian military's poor human rights record, the bill included \$122 million for programs to promote human rights and justice in the region, \$29 million more than the Clinton administration had requested.

With fears of an open-ended military commitment hanging heavy over many members of Congress, the bill has a provision that limits the number of American military personnel in support of the Colombian mission to five hundred at any one time, unless more are needed for a rescue mission.

"We are sending them helicopters, but not troops," said Rep. Sam Farr (D-CA), who lived in Colombia for two years as a Peace Corps volunteer, "but only if they assure us they will not violate human rights."

The American aid is going to support an antidrug plan that Colombian President Pastrana announced last year, after working closely with U.S. officials. The strategy, called Plan Colombia, seeks \$3.5 billion in interna-

tional aid in the next three years. Beside the enforcement components, the plan envisions public investment to stimulate Colombia's economy.

President Clinton said,

With this funding, we will be able to support the courageous antidrug efforts of Colombia, which can, in turn, help curb the flow of drugs in our nation.

Between the years 1994 and 1998 the U.S. went to extremes to isolate the then-president of Colombia, Ernesto Samper, as it suspected him of receiving \$6 million in campaign contributions from the Cali drug cartel. Yet, the U.S. continued fighting its war on drugs in Colombia by circumventing Samper's office and working directly with the Colombian National Police and its respected commander Gen. Rosso Jose Serrano. Many U.S. officials now admit the isolation of Samper was a mistake because it weakened the Colombian state at the very time both paramilitary and guerrilla groups were gaining strength in the countryside.

Now, believing the situation in Colombia could spin further out of control and possibly spread into neighboring countries, the Clinton administration is trying to compensate for its earlier misguided policies—and the continued failure of the war on drugs in general—by spending \$1.3 billion over the next two years to Samper's successor, Andres Pastrana.

Professor Russell Crandall of Davidson College, who recently spent time in Colombia researching a book project on U.S. policy toward Colombia in the 1990s, fears that the U.S. aid will fail to solve the real problem. He states that,

Many policymakers in Washington seem to be arguing that the massive size of this aid package alone ensures that it will be able to at once stabilize Colombia and win the long and elusive war on drugs. Yet the type of "reform" promoted by Washington is predicated on domestic political concerns rather than the situation in Colombia. It could potentially do even greater harm than was done during the Samper years. Both Congress and the executive branch are well aware the American public remains weary of military involvement in complex conflicts in "far away" lands. With this in mind, the White House has continued to insist aid be geared toward only drugs, not guerrilla insurgencies. . . . Yet, a more stable Colombia—something all agree is the first step in addressing the drug problems—will not come about because the Colombian military is better able to fumigate coca plants and "bust" drug labs. Rather, peace will only come when the Colombian military can better ensure citizen safety and increase its battlefield strength to force guerrillas into a negotiated settlement—prerequisites for the establishment of rule of law in any society.

Professor Crandall fears that more antidrug aid may not be able to make a dent in Colombia's cultivation and export of illicit drugs:

For instance, the linchpin of the revved up antidrug assistance is the delivery of more than fifty helicopters, including several state-of-the-art Blackhawks and the creation of several “elite” counter-narcotics battalions culled from the ranks of the Colombian military. Yet, U.S. diplomats in Bogota insist quietly that there is no way the Colombian military is able to handle the massive influx of armaments. In the past year there has been more than one Blackhawk accident involving poorly trained Colombian pilots; also, the first “crack” counter-narcotics battalion inaugurated last year is still far from full combat readiness. If current policy runs its course over the next several years, the U.S. will pump more than \$1 billion into Colombia to push the military into a highly dubious drug war.

Some observers argue that in Colombia, a firm resolve to do something about the decades-long and increasingly violent civil conflict is still lacking, and no amount of U.S. aid will make a dent in the situation until this changes. For example, to date, combat troops in the Colombian military are predominantly from the lower classes, while high school and college graduates are exempt from combat duty.

Former assistant secretary of state for inter-American affairs Bernard Aronson believes that:

To sway the balance toward a negotiated settlement, the U.S. must become as actively engaged in the Colombian peace process as it has previously been in Central America, the Middle East and Northern Ireland, and it must press its allies in the hemisphere, Europe and the UN to do the same.

Whether the U.S. has the will to make such a commitment—and whether it is wise to do so in the confused post-Cold War world of today—is a question still very much open to debate. Ω