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### **Restoring Free Speech and Liberty on Campus**

Donald Alexander Downs, 2005-12-03. The Independent Institute, California

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Downs's new book focuses on "threats to free speech and civil liberty that have sprung up on America's campuses following the wave of so-called progressive reforms instituted in the late 1980s and 1990s". These reforms included speech codes discouraging sexist and racist talk, broad anti-harassment codes and programs to promote "an ideology of sensitivity".

The book relates how all these good intentions, "designed to foster civility, tolerance and respect", came unstuck when "the new policies often provided tools for moral bullies to enforce an ideological orthodoxy that undermines the intellectual freedom and intellectual diversity that are the hallmarks of great universities".

As the proverb says, the road to Hell is paved with good intentions.

Downs admits that other books have been written about this dilemma and "how and why it took place", but his book goes one step further as it "explores how faculty and students, and even administrators can retrieve liberal principles of freedom on campus through conscientious political commitment and mobilization".

The bulk of the book contains four case studies, in which two succeeded in restoring liberty and free speech to campuses (Penn State and Wisconsin) and two (Columbia and Berkeley) did not.

The deterioration in liberty and free speech in the US (Downs uses the word 'America', but he means US), has also occurred in many other countries in the democratic world and has echoes going back as far as Ancient Greece where liberty *eleutherias* and free speech *parrhesias* were constantly threatened by the succession of tyrants (many trained in the Socratic Academy) who ruled sporadically in Athens after the Peloponnesian War.

In Downs's study people were condemned for what they taught and what they said. Likewise in Athens at the trial of Socrates "No specific acts against the city are alleged. The complaints are against the *teaching* and *beliefs* of Socrates. Neither in the indictment – nor at the trial- was there any mention of any overt act of sacrilege or disrespect to the city's gods or any overt attempt or conspiracy against its democratic institutions. Socrates was prosecuted for what he *said*, not for anything he *did*." (I F Stone "The Trial of Socrates" page 198). Socrates was executed because he taught that democracy was a flawed idea and that the state should be ruled by "one who knows" – the Philosopher-King. Shelley agreed with him declaring, after a school life of brutal bullying, that "The majority is always wrong".

Coming right up to the present day, Downs points out that "Terrorism and the reaction to it also have brought about new threats to academic and intellectual freedom." He notes that the terrorists themselves are antagonistic to liberty and free speech, but that "On the other side of the ledger, such private groups as Campus Watch have begun monitoring classes and denouncing faculty whose views they consider unpatriotic".

Part 1 of the book begins with an analysis of the Free Speech Movement at Berkeley which was a reaction to University of California President Robert Sproule's policy of 1936 "banning the use of university buildings for holding partisan political exercises".

In those days University Presidents held the power on their campuses, which in Australia was recently grabbed by the previous Australian Minister for Education. Dr Nelson never explained his "no campus politics" policy in such profound terms as Sproule, who said "The function of the University is to seek and to transmit knowledge and to train students in the processes whereby truth is to be made known. To convert, or to make converts, is alien and hostile to this dispassionate duty". Instead the Australian Minister asserted that students who do not use a service should not be forced to pay for it. The same specious argument could be made by a person refusing to pay a portion of his Council Rates on the grounds that he does not use the Municipal Library, or the heated swimming pool.

Downs points out that "Political activists pursue causes, not truth, pitting them in some fundamental sense at odds with the pursuit of truth. Truth has a way of being inconvenient to any cause." During a long life on a number of campuses the author of this review has noticed that when the truth is uttered, it always infuriates somebody. In fact he would go as far as to say that if a statement or an idea did not infuriate somebody then it can be assumed that it is probably not true.

However, the students at Berkeley were determined to seize the day and win for themselves the political freedoms enjoyed by the adult world. Their platform was that "civil liberties and political freedoms which are constitutionally protected off campus must be equally protected on campus for all persons...The Administration may not regulate the content of speech and political conduct."

The Free Speech Movement succeeded in the end, but the results were unexpected. Downs concludes "Even at Berkley, one of FSM's lasting legacies is not free speech but censorship by the students themselves."

Again one is reminded of the ancient world, where Emperor Julian the Apostate tried to re-introduce the old pagan Gods as an option for Romans to choose if they so wished. This move was successfully opposed by the "Christians who used their newly won political power to attack freedom of worship and thought. The persecuted had become the persecutors." (I F Stone, page 210). The Christians won their final victory when "the Emperor Justinian closed down the Platonic academy and the other philosophical schools in Athens forever under the pressure of Christian intolerance ... So from the sixth century BC to the sixth century AD, philosophy enjoyed freedom in Athens. That was twelve hundred years, or about twice as long as the period of free thought from the Renaissance to our own day. After Justinian came the Dark Ages." (I F Stone, page 246)

The above ancient conflict lives on today in what Downs calls the Proprietary Universities, which are devoted "not to advance knowledge by the unrestricted research and unfettered discussion of impartial investigators, but rather to subsidize the promotion of opinions held by the persons, usually not of the scholar's calling, who provide the funds for their maintenance"... "The older proprietary university was concerned with preserving a certain vision of the world, not with critical enquiry."

The conflict is encapsulated by Dana Villa in his book *Socratic Citizenship* “The implication of Socratic examination is that virtually every moral belief becomes false and an incitement to injustice the moment it becomes unquestioned or unquestionable.” Downs adds that “This point is consistent with the principles of checks and balances in the Constitution. The framers institutionalized the checks and balances not because they feared the clash of different interests but because they feared the tyranny of the majority.”

So did Socrates and so also did Shelley.

The bulk of the book (pages 67 to 260) analyses the four case studies. In summary these are:

- Columbia’s sexual misconduct policy: civil liberty versus solidarity [“Solidarity” in modern politics has come to mean that it does not matter if we are wrong, so long as we are all wrong together.]
- Berkeley and the successful rise of the anti-free speech movement
- Undue process at Penn State where, after a long fight, the University’s speech codes were scrapped, and
- The successful rise of the free speech movement at Wisconsin in which Downs plays a major part.

In his concluding chapter Downs asserts that academic freedom has too often been compromised by well-intentioned pressure groups which believe that the majority must always be right, even though history has demonstrated time and again that an individual, or a small minority, has as much chance of being right as the majority. He declares that “universities must ... promote tolerance of diverse opinion, including opinion that dissents from the university’s preferred agenda or the agendas of preferred groups. Thus far, universities have not done a good job performing what is admittedly a delicate balancing act. They will not do so until they begin to take the principles of liberal individualism and freedom seriously again”.

Reading this book should be a prerequisite for anyone seeking university leadership in the present age.

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