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Encroaching on Autonomy: The Influence of the Academic Bill of Rights on U.S. Higher Education

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Introduction

In 2003, David Horowitz, a well-known conservative activist and president of the David Horowitz Freedom Center¹ (formerly the Center for the Study of Popular Culture), authored and began to promote the Academic Bill of Rights (ABOR)² to address what he perceived as liberal domination of U.S. higher education as manifested in a predominantly liberal faculty, liberal indoctrination of students, and a hostile climate for conservatives (Horowitz, 2003, 2005c). To address these concerns, Horowitz's bill outlines policies that promote political and religious equality in faculty hiring and promotion, student evaluation, and curriculum development (Students for Academic Freedom [SAF], 2003a). Since Horowitz began to promote the ABOR through state and federal government, the bill has inspired numerous legislative discussions regarding higher education's intellectual diversity. For example, in Pennsylvania, a legislative committee was formed to investigate academic freedom and the rights and responsibilities of students, as a result of Horowitz's initiative (Jaschik, 2006a). In some cases these discussions have led to state and federal governments considering and/or adopting legislative or advisory documents based on the ABOR's propositions, such as a Memorandum of Understanding developed by the Colorado legislature and 33 legislative bills proposed in states throughout the country, 15 of which had failed by October 2007 (Free Exchange on Campus, n.d.; National Education Association [NEA], n.d.). Horowitz's promotion of a conservative agenda through the Academic Bill of Rights, and the government's willingness to take on his cause raise important and urgent questions regarding the long-standing autonomy of higher education.

Autonomy, defined as the ability of institutions to determine their own missions and the ways in which they achieve them (Berdahl & McConnell, 1994), has provided numerous benefits to higher education and its ability to serve society (Berdahl, 1990; Clark, 1983; Dressel, 1980; Trow, 1997). However, various constituents, including the public, state and federal government, and political interest groups, continue to impose their influence on post-secondary institutions (Bracco, Richardson, Callan, & Finney, 1999; Spring 2002). Of these groups, conservative interest groups, such as the Center for Popular Culture, have become increasingly prominent in the area of education (Apple, 2001) by influencing official governmental structures to impose educational agendas driven by political ideology (Spring, 2002).

The Academic Bill of Rights is one example of this trend of conservative attempts to shape education generally and higher education specifically through legislative mechanisms. As a result, the ABOR is the specific focus of this case study that more broadly examines the influence of conservative ideology on the

autonomy of higher education institutions. While others have expressed concerns about the ABOR's effect on academic freedom (Ehisen, 2005; Reindl, 2004), this case study will argue that, as part of a larger conservative movement, it also has potential implications for institutional autonomy within higher education. First, in my literature review, I will discuss institutional autonomy and the relationship between state government and higher education. An exploration of the growing influence of conservatism on education will follow. In the findings section, I will then use a systematic analysis to examine the potential influence of the Academic Bill of Rights, a conservative initiative that proposes guidelines for political and religious equality in higher education with the larger goal of advocating for conservative thought. The findings will begin with an overview of the Academic Bill of Rights and the reasoning behind the bill. It will then look at the background of the bill's supporters before examining the arguments of ABOR's opponents. Lastly, it will examine the campaign promoting the ABOR at both the state and federal levels. This examination of the Academic Bill of Rights reveals that while the language of the document is consistent with some standards already established in higher education, state legislatures' consideration and potential adoption of laws initiated by the ABOR could inappropriately diminish institutional autonomy in higher education.

Background

The Autonomy of Higher Education

Scholars have long debated the role and importance of autonomy in higher education. On one hand, some scholars have argued that the autonomy of the U.S. higher education system has engendered numerous benefits (Boone, Peterson, Poje, & Scarlett, 1991; Geiger, 1999) while other scholars have noted that societal and governmental oversight ensures educational quality and lawful behavior (Gladieux & King, 1999). Those who have touted the benefits of autonomy have argued that its contribution to decentralization has enhanced organizational efficiency and flexibility (Boone et al., 1991). Additionally, this decentralization has allowed for institutional diversity which has fostered mass access by providing various entry points and areas of study (Trow, 1997) and enhanced research quality by providing opportunities for mobility that are based on research skills (Clark, 1983). Lastly, scholars have linked autonomy with higher education's ability to fulfill its societal role. They have argued that institutions with substantial autonomy may be more able to ensure the academic freedom of their faculty (Berdahl, 1990), and that colleges and universities must have autonomy to fulfill their roles as objective evaluators and critics of society, as well as model problem-solvers and decision-makers (Dressel, 1980).

Other literature, however, argues that governmental oversight may also play an important role in maintaining the quality of U.S. higher education through monitoring, preventing the abuse of public funds, and creating the legal framework that guides institutions (Gladieux & King, 1999; McGuinness, 2005). For example, the federal government enforces civil rights legislation, as well as other standards established by federal legislators (e.g., Americans with Disabilities Act) and governmental agencies such as the Environmental Protection Agency (Gladieux, King, & Corrigan, 2005). State government, which holds primary responsibility for education within the United States, has a major role in providing, allocating, and monitoring higher education funding (McGuinness, 2005). Moreover, scholars have noted a trend of increased accountability to state government, as the importance of advanced education and fiscal constraints have grown (Alexander, 2000; Gladieux & King, 1999; McGuinness, 2005; Schmidlein & Berdahl, 2005; Slaughter & Rhoades, 2004; Zumeta, 2000). While accountability has been primarily concerned with student outcomes (McGuinness, 2005), state legislatures' interest in the Academic Bill of Rights can also be seen as another effort to hold higher education institutions accountable for their practices related to faculty personnel issues, student evaluation, and curriculum.

The Conservative Movement

While the Academic Bill of Rights can be seen as one mechanism through which state government could assert its influence on higher education, the ABOR can also be seen as driven by conservative interests. Scholars' conceptualization and critiques of conservatism (Lakoff, 2002; Spring, 2002) provide the lens through which the Academic Bill of Rights is examined as one example of what Michael W. Apple (2000) terms the "conservative restoration" (p. 39), referring to the success that conservatives have had in influencing social—particularly educational—policy. This emerging social movement consists of, and draws its success from a broad-based alliance that includes neoliberals, neoconservatives, authoritarian populists, a portion of the new middle class, the religious right, conservative think tanks, and the Republican party (Apple, 2000; Spring 2002).

While these groups possess varying ideologies, they have been able to form an effective alliance around such common goals as preserving traditional Western thought and values, promoting Judeo-Christian morals and maintaining traditional family values (Apple, 2000; Bennett, 1992; Lakoff, 2002). Apple (2000) has attributed their success to their ability to "win the battle over common sense. That is, [the conservative movement] has creatively stitched together different social tendencies and commitments" (p. 59) to develop initiatives that address numerous social issues, including education. George Lakoff (2002, 2004) argues that these social values include a belief in authoritarian leaders, strict moral rules, and meritocracy. Reflected in such conservative educational policies

as No Child Left Behind, these values manifest themselves in a belief that “standards [be] based on the classics of Western culture that are tried and true and have withstood the test of time. [A belief in making]... students work hard. [And a belief in using] a system of rewards and punishments... [which] grade[s] seriously and rigorously and fail[s] people who deserve to fail” (Lakoff, 2002, p. 234).

While the conservative movement possesses some common values, an examination of the goals and ideologies of individual constituencies also provides insight into conservative educational priorities. Neoconservatism emphasizes a strong state that promotes a “‘return’ to higher standards, a revivification of the ‘Western tradition,’ and patriotism” (Apple, 2000, p. 67). As a result the neoconservative agenda focuses on local control of schools while still maintaining moral and social authority through federal and state academic standards (Spring, 2002). Within higher education, this neoconservative ideology has manifested itself in an opposition to the multicultural perspectives that have been adopted by many colleges and universities (Apple, 2000). The conservative writer Dinesh D’Souza describes multiculturalism as a “denial of western cultural superiority” (Schmidt, 1997, p. x) while William J. Bennett (1992) described it as a threat to America’s foundational morals, ethics, and laws. In line with this attitude towards multiculturalism are attempts to minimize the presence of people of color on college campuses through opposition to affirmative action (Apple, 2000).

The neoliberal perspective within conservatism has been described as promoting hierarchical American and global structures that emphasize capitalism, privatization, individualistic prosperity, free market values, and a weak state, which are reflected in their promotion of school vouchers and cost-benefits educational assessments at the K-12 level (Apple, 2000; Chomsky, 1999). In higher education, neoliberal influence can be seen in the increasing privatization of higher education, which has shifted higher education funding from public (state and federal) to private sources (Marable, 2002), and promoted the perception that higher education’s primary role is to supply the job market (Giroux & Giroux, 2004).

Critics have argued that the ideologies and agendas promoted by conservatives are contradictory to many of the ideals that are, or should be, valued in education generally and higher education specifically (Apple, 2000; Giroux & Giroux, 2004; Marable, 2002). Apple (2000) points out that conservative and neoliberal ideals are in direct conflict with the more democratic ideals that should guide schools. Henry A. and Susan Searls Giroux (2004) have argued that neoliberalism prioritizes market values and the citizen as consumer instead of the democratic values and engaged citizenship that should be promoted in higher education. In addition, the conservative emphasis on meritocracy has inhibited equality in higher education (Marable, 2002) by denying the existence of societal

discrimination, and as a result, limiting access for people of color and other underrepresented groups.

This literature review provides an overview of background important to examining the Academic Bill of Rights. The contrasting importance of both autonomy and governmental oversight in higher education points to two possible influences that the Academic Bill of Rights may have on higher education. On one hand, the ABOR may have a detrimental effect on higher education by inhibiting its ability to provide for society's diverse educational interests and need for social critique. However, the ABOR may also strengthen the important role that governmental oversight has played in higher education by monitoring the behaviors of colleges and universities, in this case their practices regarding hiring and promotion of faculty and teaching and evaluation of students. Lastly, since the Academic Bill of Rights was initiated by a conservative activist, this literature review discusses the increasing influence of conservative interests on education. It discusses the values that underlie the conservative educational agenda, particularly its emphasis on traditional Western values over the diverse values that make up the United States. As a result, this conceptualization of conservatism provides for an understanding of the underlying ideology driving the ABOR and the how this ideology and, thus the ABOR, may be contradictory to the democratic ideals that should be upheld in higher education.

Methodology

Objectives

As a result of the increasing popularity of conservatism, colleges and universities have faced growing pressure to change central aspects of post-secondary education including its purpose, curriculum (Giroux & Giroux, 2004), institutional management (Marable, 2002), and faculty hiring and retention (Marcus, 2004; Reindl, 2004). One recent source of controversy that has arisen out of the conservative movement is the Academic Bill of Rights, which conservative activist David Horowitz developed and campaigned for in state and federal legislatures. The ABOR outlines principles regarding political and religious fairness in the hiring and evaluation of faculty and the assessment of student performance, with the overall goal of advocating for increased conservative presence in higher education (SAF, 2003a). Horowitz (2003) argues that this bill is a response to a lack of conservative representation in higher education, the indoctrination of students with liberal views, and an inhospitable campus climate for conservatism.

This case study examines the connection between the Academic Bill of Rights and the conservative movement. Through a close analysis of both primary and secondary documents, it attempts to examine whether the Academic Bill of

Rights is an attempt to protect the rights of the higher education community and ensure intellectual diversity, or if it is an attempt by conservatives to impose their values on colleges and universities, and inappropriately infringe on institutional autonomy. A close examination of this bill reveals that, though it bears some similarities to established higher education standards, if it is adopted as legislative policy it could have potentially negative effects on higher education's autonomy.

Data Sources

The data used for this examination of the Academic Bill of Rights included all of the documents regarding the ABOR available on the Web sites of the Center for Popular Culture (CSPC), FrontPageMag.com, and Students for Academic Freedom (SAF), three organizations headed by Horowitz. These documents included the ABOR itself, articles and letters authored by Horowitz, and conservative educational materials developed for students. In addition, all of the materials regarding the ABOR on the Web site of the American Association of University Professors (AAUP), one of ABOR's major critics, were examined. These documents included official statements and updates regarding legislative consideration of the ABOR in several states.

The last major set of data was collected from state legislatures considering the Academic Bill of Rights. The proposed or passed bills, memorandums of understanding, and resolutions inspired by the ABOR up to October 2007, were collected from states considering adoption of the bill in some form.³ Data regarding the 2007 reauthorization of the Higher Education Act was also included since federal legislators were considering incorporating some elements of the ABOR into it.⁴ Lastly, newspaper articles, and information on the conservative organizations supportive of Horowitz's work were also collected. The majority of the data for this research was collected from March to June, 2005. Considering the evolving status of the ABOR campaign, additional data collection occurred in June and November 2006, October 2007, and January 2008 in order to include the most recent data possible.

Analysis

Qualitative case study analysis was used to provide a thorough examination of the Academic Bill of Rights. A qualitative approach was chosen because it is an appropriate methodology for understanding the process and impact of an event (Maxwell, 1996). In addition, a case study was conducted because it allows for in-depth analysis of a specific bounded system or single unit, in this case the ABOR (Merriam, 1998). While most qualitative research involves fieldwork, Sharan B. Merriam (1998) points out that some studies have also been done with documents alone. Lastly, descriptions of context are provided to create

a full picture of the process, meaning and understanding of the phenomenon (Merriam, 1998).

The data collected for this case study underwent a systematic analysis including assessments of authenticity, origins and the contexts in which they were written, which follows methodology described by Merriam (1998). Documents were examined for patterns that indicated connections between the Academic Bill of Rights and conservative ideology and advocacy. In addition, the data was also examined to understand the arguments supporting and objecting to the ABOR, as well as how, and to what extent, it could influence states' higher education policies through proposed legislation. This analysis offers an understanding of the way in which the ABOR is a vehicle for conservative ideology and the ways it may potentially influence higher education through state legislation.

Findings

The Academic Bill of Rights

Authored by David Horowitz in 2003 and promoted through his organizations, the Center for the Study of Popular Culture, Students for Academic Freedom, and FrontPageMag.com, an online journal, the Academic Bill of Rights outlines a policy for political and religious equality in higher education (SAF, 2003a). It first provides an outline of the mission of the university, and the concept and practice of academic freedom. The bill then outlines eight principles. These principles state that faculty hiring, firing, and promotion should not be impacted by religious or political beliefs; that student evaluation should not be influenced by religious or political beliefs; and that curriculum should expose students to a wide range of viewpoints and reflect the "unsettled character" of human knowledge (SAF, 2003a). The ABOR also states that extracurricular activities should promote intellectual pluralism, and that the campus environment should promote the exchange of ideas (SAF, 2003a). Lastly, it states that academic institutions and professional societies should remain organizationally neutral with respect to the oppositional viewpoints that can divide researchers (SAF, 2003a).

The deceptively neutral text of the ABOR seems to describe the ways in which higher education should provide for equal treatment of faculty and students in regards to religious and political orientations. In addition it proposes that higher education promote intellectual pluralism both in the classroom and extracurricular activities. It is interesting that Horowitz chose to include religion, in addition to political views, as another characteristic by which campus community members should not be discriminated. In most of his arguments he does not address the issue of religious discrimination, except for a brief mention in which he states that libertarians, conservatives and religious Christians have been victims of

intellectual cleansing (Horowitz, 2005c). This inclusion, however, seems to indicate an attempt to broaden the ABOR's appeal to the religious right constituency within the conservative movement.

Horowitz (2005c) maintained that political neutrality was a central concern during the development of the ABOR. In describing his goals for the bill he wrote, "I was careful to make it viewpoint neutral, since it was my intention to protect all students – not just conservative ones – from McCarthy-like attacks on their political affiliations and beliefs" (Horowitz, 2005c, p. 1). These attempts to make the Academic Bill of Rights politically neutral are apparent in his description of his writing process. After drafting the bill he submitted the ABOR to three right-wing activists, Stephen Balch, Eugene Volokh, and Alan Kors, and three left-wing academics, Stanley Fish, Todd Gitlin, and Michael Berube, for critique (Horowitz, 2005c). He stated that he incorporated all of the feedback offered by the liberal scholars he contacted (Horowitz, 2005c). In addition, Horowitz attempted to ensure that the document was in line with previous higher education standards. He stated that the ABOR was based on the 1915 General Report on Academic Freedom and Tenure, written by philosophers John Dewey and Arthur Lovejoy for the American Association of University Professors (AAUP) (Horowitz, 2005c).

Overall the tenets laid out by the ABOR are already central values documented in previously established guidelines of higher education. As mentioned above, Horowitz's development of the ABOR was influenced by an earlier statement made by the AAUP. In addition, some of the AAUP's current statements have similar messages to those in the ABOR. For example, the AAUP's message, "On Freedom of Expression and Campus Speech Codes" states that "by proscribing any ideas, a university sets an example that profoundly disserves its academic mission" (AAUP, 1994).

Reasoning Behind the ABOR

While Horowitz claimed that he developed the Academic Bill of Rights to preserve the rights of people from all political backgrounds, other documents related to the ABOR and authored by Horowitz indicate his central concern for conservative exclusion from higher education. He argued that the ABOR is needed as a response to the lack of conservative representation in higher education, the indoctrination of students with liberal views, and an inhospitable climate for conservatism (Horowitz, 2003). In his writings posted on both the Center for the Study of Popular Culture's web magazine, *FrontPageMag.com*, and the Students for Academic Freedom Web site, Horowitz provided some anecdotal evidence of discrimination against conservatives. One example Horowitz (2005a) described is a pie-attack carried out on him as he was speaking at Butler University. In a fundraising letter, he used this incident as a call to arms in a

request for donations: “This is precisely what you and I are fighting against! These students and their academic consorts are underscoring our point – and they’ve taken to violence in response to the success of our National Campaign for Academic Freedom!” (Polianna.com, n.d., p. 1). In addition, Horowitz (2005b) accused institutions and administrators of failing to officially acknowledge or attend campus events at which he is speaking. He wrote,

Although I am a nationally known public figure—author of books that have been best-sellers and nominated for a national book award, a Fox News contributor and one of America’s 100 leading ‘public intellectuals’ according to a recent study on the subject, at these dinners, which normally precede my campus speeches, the absence of administration representatives is wholly predictable (Horowitz, 2005b, p. 1).

Horowitz (2004a) also described students who have felt discriminated against as a result of holding differing political views than their faculty. These students have accused the faculty of lowering their grades or verbally criticizing them in class (Horowitz, 2004a). FrontPageMag.com and the Students for Academic Freedom Web site also include first-hand accounts from these students. Lastly, Horowitz described conservative faculty who felt that they and their conservative colleagues have been discriminated against by being excluded from committees, or being victims of or witnesses to discrimination in the faculty hiring process (Horowitz, 2005b).

In addition to these anecdotal accounts of discrimination, Horowitz (2005b) also provided some limited statistics to support his argument that higher education is dominated by liberal views. Through the Students for Academic Freedom campus groups, he recruited students to obtain the political party affiliations of their faculty (Horowitz, 2005b). He documented that at the University of Colorado, Brown University, University of New Mexico, University of California at Santa Barbara, University of California at Berkeley, University of California at Los Angeles (UCLA), and University of North Carolina, Democrats comprise at least 85% of the faculty (Horowitz, 2005b). While he acknowledged that the large Democratic representation may be partially due to “the career choice of individuals who share certain values along this spectrum” (Horowitz, 2003, p. 1), he pointed out that this disparity is larger than one might expect if explained by this single reason. Instead he argued that this is evidence of a hiring bias (Horowitz, 2003).

Context of the ABOR

In addition to a careful reading of the ABOR text and the reasoning behind it, it is also important to consider the context of the Academic Bill of Rights. This

includes exploring the backgrounds of Horowitz and his two organizations, the Center for Popular Culture and Students for Academic Freedom. On FrontPageMag.com (2003) Horowitz is described as an author and lifelong civil rights activist. In this biography, civil rights activism is identified as a common theme throughout his work beginning with the founding of the New Left and the Oakland Community Learning Center, a school for disadvantaged youth run by the Black Panther party (FrontPageMag.com, 2003). He is credited with later forming the Individual Rights Foundation which battled against college and university campus speech codes. Most recently Horowitz was the spokesman for the California Civil Rights Initiative (Proposition 209)⁵ and also campaigned with Ward Connerly to promote California's Racial Privacy Act (Proposition 54)⁶ (FrontPageMag.com, 2003). His biography on FrontPageMag.com (2003) states that, "David Horowitz is an outspoken opponent of censorship and racial preferences, and a defender of the rights of minorities, and other groups under attack—including the rights of blacks, gays, women, Jews, Muslims, Christians and white males" (p. 1).

Other descriptions of Horowitz, however, offer a different view of this activist. An article in the *Chronicle of Higher Education* described Horowitz as a former leftist who became a conservative activist after a friend who was a Black Panther member was killed (Jacobson, 2005). Horowitz has been described as deeply polarizing and, by one Ohio Senator, as "a political hack" (Jacobson, 2005, p. 6). In addition to successfully contributing to the elimination of race-based affirmative action in California, Horowitz has also been identified as advocating against what he believes to be a predominantly liberal media and liberals in general (Media Transparency, 2005).

The primary organization that Horowitz created and campaigns through is the Center for the Study of Popular Culture (CSPC). He also founded FrontPageMag.com which is a conservative online journal, and Students for Academic Freedom which encourages students to form local campus chapters, track university abuses against conservatives, and collect political party information on their faculty (Dogon, Call, & Kaplan, n.d.; Jacobson, 2005). Students for Academic Freedom is the organization explicitly charged with campaigning for the Academic Bill of Rights (SAF, 2003b) and currently has over 150 campus chapters at such institutions as Yale, Princeton, and UCLA (SAF, 2005).

As the most prominent of Horowitz's organizations, the Center for Study of Popular Culture (now the David Horowitz Freedom Center) has the most information available on its own background. The CSPC identifies itself as having 50,000 contributing supporters (DHFC, n.d.a) in their mission to "defend America's free society through educating the public to preserve traditional

constitutional values of: individual freedom, rule of law, private property and limited government” (DHFC, n.d.b).

While the CSPC boasts a list of 50,000 contributors, People for the American Way (PFAW) (1996, 2004) has identified four major conservative organizations that have provided large portions of the CSPC’s funds: the Olin Foundation, the Bradley Foundation, the Carthage Foundation, and the Sarah Scaife Foundation. Before it ended operations in 2000, the John M. Olin Foundation was a major donor to the CSPC and was documented as donating \$125,000 in 1994 (PFAW, 1996). With funds from a family manufacturing business, this foundation primarily focused its giving on economics and law. It prioritized the support of elite conservative thinkers and academics by regularly funding conservative think tanks and fellowships for academics who supported Reagan-influenced economic and social policy. The Olin Foundation also funded conservative law- and economics-focused programs at institutions such as the University of Chicago, and Harvard, Yale, Stanford, and Princeton Universities before the Board of Trustees decided to phase out the organization (PFAW, n.d.; PFAW, 1996).

The Lynde and Harry Bradley Foundation also prioritizes the support of elite conservative activists with funds earned from electronic and radio components (PFAW, 1996). The organization identifies their goals as supporting “limited, competent government; a dynamic marketplace for economic, intellectual, and cultural activity; and a vigorous defense at home and abroad of American ideas and institutions” (Bradley Foundation, n.d.). Since 1989, the Bradley foundation has donated 5 million dollars to the Center for the Study of Popular Culture (PFAW, 2004). The Bradley Foundation also provides major support to National Empowerment Television (NET) which broadcasts far right and religious right programming, as well as ads for such organizations as the National Rifle Association (PFAW, 1996). They also are strong supporters of academic research and program development, and as a result fund graduate students and grants to such institutions as George Mason University (PFAW, 1996). Lastly, the Bradley Foundation funds such researchers as Charles Murray, whom they supported in his research for and writing of *The Bell Curve* (PFAW, 1996).

Funded by Mellon banking and oil, the Scaife Foundations include both the Carthage Foundation and the Sarah Scaife Foundation (PFAW, 1996; Scaife Foundation, n.d.). In 2003, the Sarah Scaife Foundation donated \$250,000 to the CSPC (PFAW, 1996). Information was not available on the donation amounts provided to CSPC by the Carthage Foundation. Overall these foundations primarily fund conservative think tanks and “New Right” causes, and have been partially credited with the growth of think tanks during Reagan’s presidency (PFAW, 1996). In addition, they have provided funds to back major political

figures such as Richard Nixon and William Bennett, as well as a range of conservative organizations (PFAW, 1996). These significant and explicit links to conservative funding sources contradict Horowitz's stance that his work with the Academic Bill of Rights is neutral. Instead they indicate that the ABOR and Horowitz's other activities and organizations are directly linked to a larger conservative movement that hopes to increasingly pressure higher education.

Opposition to the ABOR

Horowitz has stated that he created the ABOR to address discrimination based on political and religious affiliations and to ensure intellectual diversity and the protection of rights for all students and faculty (Horowitz, 2005c). In response, critics have argued that the Academic Bill of Rights is unnecessary because it echoes the standards already established by the AAUP (Reindl, 2004). Horowitz (2005d) admitted that many colleges and universities already have guidelines similar to the ABOR; however he responds to these critics by contending that institutions do not enforce these standards. He stated that, "the complaint that this would be a legislative interference in academic affairs – is answered: it wouldn't be an interference because the university itself has already adopted the principles of this bill; the problem is that they will not enforce them" (Horowitz, 2005d, p. 4).

Critics have also argued that the Academic Bill of Rights is an attempt to impose conservative views on higher education and that it endangers the stability of academic freedom by bringing it into the political arena (Reindl, 2004). The American Association of University Professors (2007) argued that this bill would involve the government at both the state and national levels in decisions regarding curriculum, teaching, and faculty hiring and promotion at both public and private institutions. This level of oversight would increase government interference (AAUP, 2003a) in a system that has become successful as result of high levels of autonomy (Trow, 1997). In addition, this bill would politicize evaluations of teaching and research quality and academic freedom by inserting political factors into faculty hiring and retention decisions, and restricting conversations regarding controversial issues (Marcus, 2004; AAUP, 2003a; Reindl, 2004). As a result of this opposition, and what Horowitz described as a lack of responsiveness by the AAUP in considering the ABOR, he decided to campaign for state legislators' adoption of the ABOR in their higher education policies.

Campaign for the ABOR

While Horowitz does not fully describe his campaign to promote the Academic Bill of Rights, there is some evidence in his documents that indicates his strategies. After developing the ABOR, Horowitz (2005c) described his

attempts to contact university administrators to promote the bill and the opposition that he met. He stated, "I already knew that this opposition was inevitable. University faculties that had purged their ranks of conservative professors and [who were hostile] to conservative intellectuals like myself...were not going to support a policy calling for intellectual pluralism and respect for political difference" (Horowitz, 2005c, p. 5). After contacting these institutions, he attempted to contact the American Association of University Professors to request their support for the document (Horowitz, 2005c). As he expected, he also received opposition from AAUP which he stated issued a public statement without engaging with him. He concluded, "This left me with only one option, which was to turn to the court of last resort: legislatures" (Horowitz, 2005c, p. 5).

Since 2004, legislation based on the Academic Bill of Rights has been or is currently being considered at the federal level, as well as in almost two dozen states (AAUP, 2007). While there has been a substantial drop in legislative initiatives influenced by ABOR, in 2007 approximately 10 new bills emerged (AAUP, 2007). An analysis of proposed legislation as of March 2006 revealed that ABOR related legislation had been primarily sponsored by Republicans with 152 Republicans among the 174 legislators involved. The remaining 22 are members of the Democratic Party. This legislation has been primarily proposed in the form of Senate and House Bills and Joint Resolutions, in addition to other forms of legislation.

Just as the forms of state legislation vary, so do the desired outcomes. While most of the state bills propose policy based on the ABOR, some require that the governing boards of institutions or institutional systems develop guidelines regarding academic freedom. Lastly, most resolutions and memorandums of understanding verify mutual agreements based on the Academic Bill of Rights without establishing policy. It was also noted that the ABOR might influence the 2005-2006 reauthorization of the Federal Higher Education Act (Wolanin, 2003). However, the legislation approved by the House of Representatives Education and Labor Committee in November 2007 to renew the Higher Education Act did not include any major changes engendered by the Academic Bill of Rights (Committee on Education and Labor, 2007; Lederman, 2007).

The legislation that has grown out of the Academic Bill of Rights has met with mixed results. From 2005-2006, of the 22 bills proposed, 13 had been withdrawn or failed while 8 were pending, and one resulted in a resolution (NEA, n.d.). At the time of this writing, of the legislation introduced in 2007, 2 bills had failed and 9 bills were still pending (Free Exchange on Campus, n.d.).

The legislative initiatives that have already come to a conclusion reveal a range of outcomes. In Ohio, the public colleges and universities agreed to address issues related to the Academic Bill of Rights upon the withdrawal of a bill

modeled after the ABOR (AAUP, 2006). The debates in Colorado and Georgia have been concluded with initiatives that have been limited in their outcomes, and fall short of the influence that a bill would have. The Colorado legislature proposed various forms of legislation influenced by the Academic Bill of Rights, including House Bill 04-1315 (2004) and Senate Joint Resolution 04-033 (2004). In the spring of 2004, Colorado resolved the debate by issuing a Memorandum of Understanding based on the Academic Bill of Rights, which was signed by the state's public institutions (Colorado Memorandum of Understanding, 2004). An informal document, this Memorandum of Understanding notes an agreement between the endorsing parties without any of the accountability that a bill might enact (Legal Dictionary, n.d.), and as a result has limited impact.

Horowitz (2004b), however, called the outcome in Colorado a victory because the House Bill was passed by the Education Committee before being set aside, and because, in some form, the Academic Bill of Rights was adopted. Sources of information on the Colorado campaign process are limited with the primary source being Horowitz himself. After Elizabeth Hoffman, the president of the University of Colorado system, stated that her institutions did not have the problems being addressed by the Academic Bill of Rights, Horowitz described appealing to the Colorado legislature (Horowitz, 2004b). He described a political battle that ensued between supporters and opponents of the ABOR-inspired legislation with numerous faculty and students described experiences of discrimination by liberals on college and university campuses (Horowitz, 2004b). However, Horowitz failed to outline the arguments of campus community members and legislators who opposed the bill. As a result of the Colorado Memorandum of Understanding (Horowitz, 2004b), Senate Joint Resolution 04-033 was passed, commending the participating institutions in their willingness to address the issues addressed by the Memorandum. In addition, Colorado University and Colorado State University have both taken steps to address these issues by revising their policies, creating task forces and attempting to bring in a broader range of speakers (Horowitz, 2004b).

Georgia also resolved the debate over ABOR by a limited initiative, Georgia Senate Resolution 661 (2004). This resolution indicated an opinion by the senate but, like the Memorandum of Understanding, had no force of law (Legislative Counsel, State of California, n.d.). This resolution was quickly passed in Spring of 2004, and included many of the same points included in the Academic Bill of Rights (Georgia Senate Resolution, S. 661, 2004). The National Campus Director of Students for Academic Freedom, Sara Dogan (2004) described the resolution as sailing through the Senate after being unanimously approved by the Senate Education Committee. Like their counterparts in Colorado, faculty and students provided testimony of discriminatory practices, but, from the limited descriptions of the process by those promoting the ABOR,

there is not much insight into opposing viewpoints or Horowitz's responses (Dogan, 2004).

Horowitz's Academic Bill of Rights initiative also resulted in the development of a legislative committee in Pennsylvania whose investigations of the state of academic freedom and students' rights as related to political viewpoints reached mixed conclusions (Jaschik, 2006a). On one hand, in their initial recommendation, the committee proposed that public colleges and universities needed to adopt policies and procedures regarding students' rights related to academic freedom, and revise their faculty evaluation procedures (Jaschik, 2006b). Horowitz and supporters deemed this a victory for his organization (Dogan, 2006; Jaschik, 2006a). On the other hand, the final report eliminated any language critical of higher education practices, instead stating that there was no evidence of discrimination against students, and urging institutions to review their existing student rights policies and faculty evaluation procedures (Jaschik, 2006b). Overall, the committee's findings indicated that Horowitz's accusations of discrimination based on political ideology were unsupported and that there was no justification for governmental intervention (Jaschik, 2006a). However, as a result, Temple University did reassess their policies regarding student and faculty rights and responsibilities, which included a streamlining of the grievance procedures for student complaints (Jacobson, 2006). Horowitz argues that these policies revisions amounted to the adoption of a student bill of rights which he promoted as part of the ABOR campaign (Horowitz, 2006), while Temple University states that these policies remain consistent with their previous standards (Eyerly, 2006).

Two of the ABOR-influenced bills introduced in 2007 have made some progress in state legislatures. Missouri House Bill 213, which was passed by the House of Representatives in April, 2007, would require public higher education institutions to report to the government on how they are promoting and protecting intellectual diversity, a process which may include status reports on intellectual diversity and policies regarding tenure and promotion (Jaschik, 2007a; Missouri House of Representatives, n.d.a). To be enacted this bill would have to also be passed by the Senate, where it is currently still pending (Missouri House of Representatives, n.d.b).

Another 2007 bill goes the furthest of any ABOR-inspired bill. Senate Bill 1542 (formerly Senate Bill 1612) would prohibit instructors in K-12 and higher education settings from endorsing, supporting or opposing any political candidate, pending legislation, regulation or rule; or litigation in court. Additionally, it prohibits teachers and faculty from advocating for any social, political, or cultural issue that is controversial, and hindering or endorsing the hindering of military recruitment on campuses (Arizona State Legislature, n.d.b; Free Exchange on Campus, n.d.; Jaschik, 2007b). Engaging in these activities could result in a \$500

fine, and/or such penalties as suspensions and terminations as determined by policies that must be developed by the state's educational institutions (Jaschik, 2007b). This bill passed through the Senate Government Committee, but continues to be held in other committees (Arizona State Legislature, n.d.a; Jaschik, 2007b).

Overall Horowitz's movement thus far has failed to gain substantial legislation; however it has brought the issue of equality based on political affiliation to the attention of legislators in about two dozen states, including Arizona, where the potential for adoption is particularly concerning. Additionally, Horowitz has stated that he will continue to promote the Academic Bill of Rights, hoping to see the development of additional committees similar to Pennsylvania's (Jaschik, 2006a). Moreover, Horowitz continues to have numerous political allies, who are committed to moving this agenda forward and remaining bills that are still pending (Free Exchange on Campus, n.d.; Jaschik, 2006a). As a result, Horowitz' Academic Bill of Rights will continue to be highly relevant in shaping the government's perceptions of and influence on higher education.

Discussion and Implications

While the Academic Bill of Rights specifically threatens the purpose and practice of higher education, it is important to see this bill as part of a larger conservative movement that is attempting to impose government standards and restrictions on higher education as a means to maintain moral and social authority over these institutions (Spring, 2002). This encroachment on academic autonomy is problematic because Horowitz provides insufficient and contradictory arguments to support and justify the implementation of the ABOR, and because it is an attempt to impose political ideology on the hiring, promotion, evaluation, and educational practices of higher education. Moreover, the implications of the ABOR are important to evaluate because of the increasing saliency that this bill has taken on in legislative considerations that could potentially impact higher education.

While Horowitz's Academic Bill of Rights has met with mixed results in state and federal government, it has caught the attention of legislators and engendered questions regarding political equality in faculty hiring and promotion and in student learning and evaluation. Additionally, the Academic Bill of Rights has carried enough influence to be considered in almost two dozen states, and there continue to be supporters who are committed to pursuing this cause (AAUP, 2007; Jaschik, 2006a). As a result, the Academic Bill of Rights still wields potential influence that is important to consider. Moreover, it is indicative of a broader conservative movement that will continue attempts to influence state and

federal government as a way to insert its agenda into higher education policies and practices.

While the Academic Bill of Rights has garnered some interest in state and federal government, evidence indicates that Horowitz has failed to provide sufficient arguments to support the adoption of ABOR. The evidence that he provided of liberal indoctrination and discrimination against conservatives is, for the most part, unsubstantiated. He provided a limited number of anecdotal stories of students who felt that they had been victims of discrimination or indoctrination. He provided even fewer stories of faculty who feel they have been discriminated against. In addition, while Horowitz stated that he is attempting to protect the rights of all faculty and students, for the most part, he only provided evidence of discrimination against conservatives.

Horowitz's argument is further undermined by the fact that the Center for Study of Popular Culture's list of donors indicated that conservatives already have a significant influence on higher education as indicated by the funding provided by conservative organizations. The Bradley Foundation, the Scaife Foundations, and the Olin Foundation donate significant amounts of money to a wide range of colleges and universities with the purpose of promoting conservative agendas in undergraduate and graduate studies and research. Moreover, these are only a few of the conservative organizations that continue to influence higher education, as well as education in general (Spring, 2002).

There is, however, some evidence that supports Horowitz's contention that there is a lack of conservative representation in higher education faculty positions. While he only provided statistics from a few institutions, more representative samples have also shown an overrepresentation of liberal faculty (Lindholm, Astin, Sax, & Korn, 2002). Yet others have indicated a slight predominance of moderate faculty over liberal faculty, with younger faculty expressing increasingly moderate political views (Gross & Simmons, 2007). Horowitz acknowledged that different values may partially explain the disparity, an idea that is supported by Lakoff's (2002) theory in which liberals may be more drawn to teaching because of their value for nurturing. However, Horowitz (2003) argued that the disparity is too wide to be explained by this one reason, and that it must be related to discrimination during the hiring and promotion process. To make this link, Horowitz will have to provide further evidence that connects the representational disparities to discrimination.

Horowitz argued that the Academic Bill of Rights is not a partisan issue, but the list of conservative organizations supporting the CSPC does not support this statement. Furthermore, the Academic Bill of Rights does not have the bipartisan support that would indicate that this initiative, as Horowitz argues, is politically neutral. The widespread Republican support and the limited Democratic support indicate that conservatives are hoping to serve their own

agendas. In addition there is a lack of evidence to support a need for the Academic Bill of Rights within state policy. Horowitz argued that, because many institutions already have guidelines that are similar to those outlined in the Academic Bill of Rights, the ABOR should be acceptable as a piece of legislation. This, however, is a problematic argument because it still fails to justify legislative interference.

Horowitz's advocacy background also may provide a reason for caution. While the language used in the ABOR reflects some standards that have already been established in American higher education, it is important to acknowledge that seemingly benign language can have a major impact on policy as both a result of the real meaning behind the document and whom it empowers. For example, two other campaigns in which Horowitz has been involved, California's Proposition 209 and Proposition 54, were widely accused of containing language that deceived voters (Chapman & Gaboury, 1998; Sen, 2003). In this case, the language used by Horowitz and his supporters may produce the impression that the document is harmless. However, the Academic Bill of Rights, as represented in various state bills that are being considered, could shift power from higher education institutions to state government, and as a result have a major impact on institutional autonomy.

The Academic Bill of Rights could become another means by which the state increases control over institutions of higher learning within a broader trend of growing accountability (Alexander, 2000; Zumeta, 2000). While memorandums of understanding and resolutions may have a limited effect on institutions, some proposed bills require that institutions enforce policies that are influenced by or uphold the Academic Bill of Rights. All of these forms of legislation could place pressure on institutions to influence hiring, promotion, classroom curriculum, and student evaluation—all areas that are traditionally determined by faculty. Since the need for the bill is not sufficiently substantiated, it can be argued that the ABOR could create an inappropriate level of influence on higher education, thus disturbing the balance of autonomy and accountability (Berdahl & McConnell, 1999; Mennell & Crouch, 1972).

Moreover, if legislation based on the Academic Bill of Rights is passed by state and/or federal legislators, it could have a significant impact on higher education practices and policies. If adopted, the ABOR could undermine the practices in place to ensure faculty and curriculum quality. As a result of the relative autonomy of U.S. colleges and universities, faculty are able to hire and promote faculty based on the academic criteria of their profession without concern for societal trends that may distort these choices. If governments adopt the role of overseeing faculty composition, it could result in a faculty that is determined by political climate and not scholarly quality.

Adoption of the ABOR could also have detrimental effects on higher education curriculum if state and federal governments also adopt oversight regarding course content. The Academic Bills of Rights states that “Curricula and reading lists in the humanities and social sciences should reflect the uncertainty and unsettled character of all human knowledge in these areas by providing students with dissenting sources and viewpoints” (SAF, 2003a). This statement is problematic because it calls into question the ability of faculty to determine quality scholarship and instead implies that well-developed and well-supported knowledge cannot be identified. By placing oversight in the hands of legislators, it leaves them with the tasks of determining what should be taught in higher education throughout numerous subjects in which they likely have no experience.

In the hands of legislators, the ABOR could have very real consequences for higher education by furthering government influence on higher education institutions. This infringement on institutional autonomy would filter down to undermine the expertise of faculty in hiring and promoting their peers, and determining curriculum. Moreover, this increased governmental involvement could undermine one of higher education’s primary roles, that of social critic. Autonomy has been noted to contribute to institutional diversification, which has ensured the avoidance of indoctrination by a central authority (Birnbaum, 1991). In addition, autonomy has been identified as necessary to foster academic freedom (Schmidtlein & Berdahl, 2005). This academic freedom allows faculty to evaluate society and propose change without fear of reprisal (Gutmann, 1999), students to develop skills to be engaged and critical members of society (Kerr, 1994), and society to be safeguarded against political repression (Gutmann, 1999). Autonomy is essential in ensuring that higher education can fulfill its role of evaluating society and proposing ways to improve society. While many constituencies have focused on the benefits of advanced education to the economy or individual degree holders, higher education’s role as social critic can potentially benefit all. It can help us better understand the challenges that society faces and the ways in which we can address them. Encroaching upon the autonomy of higher education institutions could stifle this significant way in which colleges and universities serve all people.

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Notes

¹The Center for Popular Culture was renamed the David Horowitz Freedom Center after the majority of the research was conducted for this project, as a result, the Center for Popular Culture is referenced throughout this article. The David Horowitz Freedom Center's Web site can be found at <http://www.horowitzfreedomcenter.org/>

²Available from Students for Academic Freedom Web site. (2007). Retrieved January 8, 2008, from

<http://www.studentsforacademicfreedom.org/documents/1925/abor.html>

³See NEA Higher Education, *Academic Freedom and the Academic Bill of Rights Campaign*: <http://www2.nea.org/he/freedom/aboraction.html>;

Free Exchange on Campus, *Legislation Tracker*:

http://www.freeexchangeoncampus.org/index.php?option=com_content&task=section&id=5&Itemid=61; and AAUP, *Academic Bill of Rights Legislation*:

<http://www.aaup.org/AAUP/GR/ABOR/legislationsummary.htm>

⁴Entitled the *College Opportunity and Affordability Act*, the 2007 reauthorization of the Higher Education Act (HR 4137) is available from GovTrack.us Web site: <http://www.govtrack.us/congress/billtext.xpd?bill=h110-4137> . Retrieved on January 11, 2008.

⁵Available from the Web site of the California Secretary of State, www.sos.ca.gov. See Proposition 209: *Prohibition Against Discrimination or Preferential Treatment by State and Other Public Entities. Initiative Constitutional Amendment* at <http://vote96.sos.ca.gov/bp/209.htm> . Retrieved on January 11, 2008.

⁶Also available from the Web site of the California Secretary of State, www.sos.ca.gov. See Proposition 54: *Classification by Race, Ethnicity, Color, or National Origin. Initiative Constitutional Amendment* at http://www.sos.ca.gov/elections/bp_2003_statewide_special/prop54.pdf . Retrieved on January 11, 2008.

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