

A Collapsing Academy IV: How Did Memory and Gag Laws Gain Admission?

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Memory and gag laws offer two distinct attack vectors against academic freedom, either by legislating revisionist history or suppressing the speech of those who might challenge partisan agendas.

Facts can never be consistently relied upon to support partisan positions. Capricious things, these facts that can spring from nowhere on the unprepared observer. Although facts serve scholarship well, they can be terribly inconvenient when it comes to promoting false narratives, justifying indefensible beliefs

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and opinions, and avoiding blame and responsibility. From this perspective, facts are simply nonserviceable. They are irreconcilable with the stuff of which myths and false beliefs are made, and thus poorly serve non-reality-based communities and the authoritarians that lead them. Although facts tend to cohere, nonfacts tend to fall apart and unnecessarily increase the entropy of any information system that includes them. To illustrate, the fact that the Phoenicians circumnavigated Africa around 600 CE was incompatible with the received view in the 15th century that Europeans inaugurated intercontinental exploration, so the fact was largely ignored in Europe. The seasonal phases of Venus were observable for centuries but ignored because the observed phenomenon undermined the prevailing geocentric model of the solar system. Satellite photographs of Earth reveal a sphere, but flat eartherism remains. Manual audits of presidential elections undermine claims of corrupted digital voting machine tallies, but that doesn't disabuse stop-the-stealers. There is no shortage of examples where dogma has been discredited by the bastion of partisan epistemic inconvenience—the fact.

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So what are the impassioned members of a nonreality-based community to do with facts that erode the foundations of their authority and beliefs? For recorded history, the default course of action has been suppression. But as facts are immutable and persistent, they tend to leak out over time and take on a life of their own. Thus, a blueprint for suppression requires some serious planning and organization, such as that so carefully articulated by George Orwell and Aldous Huxley in their famous dystopic novels.^{1,2} Although newspeak, doublethink, thought police, and memory holes are Orwellian, their nonliterary attendants include the more mundane activities that we are very familiar with today: censorship, defamation,

that don't comport well with common sense and their understanding of reality. Educated parishioners will disfavor dubious dogma. Educated slaves are more likely to rebel. Educated soldiers are more likely to challenge authority and ill-advised orders. Education has always been toxic to authoritarianism.

The preferred way to deal with contrarian views in education has been indoctrination. This simultaneously 1) prepares students to accept partisan or sectarian opinions and beliefs over facts and 2) discourages independent thought and contrarianism. The concept of liberal education was developed to minimize these effects. The current wave of memory and gag laws used to bring indoctrination back to the classroom by state intervention.

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disinformation, cancel culture, fake news, alt-facts, lying, and an ever-widening array of rhetorical chicanery. Memory and gag laws are but the latest tactics used to normalize authoritarian discourse and assail nonserviceable facts when it comes to education. Orwell would have them ensconced in the Ministry of Truth, but today they are used by state legislatures. It is the new normal.

THE ACADEMY AS A DEBUNKER OF GRAND DECEPTIONS

So why target education with memory and gag laws? The answer is simple: education threatens social control and political manipulation. A well-educated workforce is disinclined to accept changes in the workplace that disadvantage them. Educated voters are disinclined to accept disinformation from politicians. Educated students are disinclined to accept explanations

But that is but one source of external pressure on education. Another is a utilitarian, demand-side orientation³ that equates the value of education with efficacy in serving fee-paying customers: parents, students, potential employers, taxpayers, donors, and the like. Of course, this erosion of values is resisted by academic traditionalists who continue to embrace the opposite, supply-side view of education where education is considered an end in itself that produces scholarship, discoveries, and most important, a reflective, open-minded, and informed electorate. But the current momentum is shifting quickly against these traditionalists. Memory and gag laws are transitional devices that accelerate the shift away from a diversified, well-rounded education to indoctrination, pure and simple.

Decreased public and political support of postsecondary education, the imposition of performance-based

funding as measured by metrics only occasionally correlated with core values like quality, value or public good, and the introduction of a class of professional administrators beholden to outside interests are all accelerating the move to demand-side academics.⁴⁻⁶ Where the public was once accustomed to measuring the success of a university by the qualities of the breadth and depth of the educational experience of students, it is being conditioned to settle for the trade school model of skill development and job training. The notion of a well-rounded education continues to give way to market-oriented academic capitalism. The modern student-centric university is more centered around the economies of job placement than the enrichment of knowledge. Memory and gag laws are tools that are being used to reinforce the more extreme, partisan, demand-oriented educational objectives.

ENDURANCE DECEIT AS A FRAMEWORK FOR REFRAMING A HISTORICAL RECORD

For lack of a better term, we call the broader framework to construct serviceable, authoritarian narratives, *endurance deceit*. The adjective emphasizes the importance of a long time span on the effectiveness of the deceit. Endurance deceit, whether pathological or superfluous, is a pedestal in which unknowledge and unjustified false beliefs may be comfortably ensconced. Gaslighting⁷ and big lies,⁸ for example, are made possible by endurance deceit.

Although an occasional "big lie" might prove useful, its effect will pale in comparison to a sustained repetition woven into a much larger fabric of disinformation. Even though I risk being accused of reaffirming Godwin's law,⁹ I would be remiss were I to fail to mention that the political potential of endurance deceit was successfully demonstrated by Adolf Hitler, Josef Goebbels, Joseph Stalin, and a rogues'

gallery of other tyrants and dictators over past centuries. It should be noted that the contribution memory and gag laws make is providing anchors for the deceit. They serve to codify key components of a suite of disinformation in law by either prohibiting educators from discussing certain topics, mandating what the official position on an issue must be, or silencing opposing voices.

Senate Bill (SB) 694, introduced in the Missouri Senate in 2022, illustrates the point¹⁰:

“School districts are prohibited from ... (1) teaching about the 1619 Project or any successor theory or concept, critical race or any successor theory or concept, any divisive concepts, or theories substantially similar to The 1619 Project or critical race theory ... [but] (4) If a teacher does choose to teach [a current controversial topic of public policy or any particular social issues] the teaching shall be done with an aim to teach the issue from both sides and without preference or deference to one perspective.”

A brief introduction of the 1619 Project is appropriate as it is a weapon of choice for authoritarian politicians at the moment to justify memory and gag laws. The Pulitzer Prize-winning 1619 Project seeks to reframe the issue of slavery from the perspective of slaves. Asymmetrical narratives on slavery are to be expected depending on which side of the chains and shackles one is on, so this slave-sympathetic perspective breaks with traditional accounts offered by nonslaves. But the slave-sympathetic narrative isn't the real problem. The 1619 Project has rekindled past passions over slavery economics and the Civil War, inflamed regional politicians, and invited no end of insubstantial commentary,¹¹ partisan pedantry, and copious hand-waving from critics.¹² From the point of view of authoritarians and

myth preservationists, the 1619 Project is paradigmatically nonserviceable. Thus, partisan interests in several states, including Missouri, deal with the nonserviceability by legislating a prescribed, state-required instruction. The reader can form their own opinion by reference to constative primary¹³ and objective secondary¹⁴ references. I take no position on the project itself but only on statist reactions such as SB 694, vis-à-vis the First Amendment.¹⁵

We need to be careful on this point to avoid a flame war. Self-censorship in education, as in journalism, is a fact of life. Reasonable people support the

compliance with the act. Any school district that violates the provisions of the act shall have 50% of the district's state aid under chapter 163 withheld until the district presents evidence to the Department of Elementary and Secondary Education that the district is no longer in violation of this section.”

So, in Missouri the penalty for failure to present the “other side” of slavery and racism in the classroom could cost you your job—but that's way better than the torture and death that

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prerogatives of educators and journalists to teach or write about topics of their choosing, recognizing full well that such prerogatives are constrained by school boards, publishers, political climate, and market forces. Wishing for a more enlightened attitude is laudable but unrealistic. However, and this is the critical point, SB 694 and its siblings are the result of a government intrusion, and not the product of any refined and professionally inspired insight. In Orwell's terms, SB 694 has Big Brother's fingerprints all over it.

So there you have it. SB 694 codifies a partisan position in law to suppress the proliferation of unserviceable facts by providing a legal framework of a historical record effective 28 August 2022. From that date forward, critical race theory and “successor theories [and] concepts” and so on are, by law, officially untrue in Missouri, and historical discussion must necessarily present “both sides [of what isn't clear] and without preference.” The kicker is at the end of SB 694¹⁰:

“The Attorney General may investigate school districts for

could await you in Orwell's Ministry of Truth, so the Missouri legislature has that going for it. After all, any government-mandated historical negationalism worthy of the name must demand consequences. In this way, SB 694 addresses the larger issue of what ideals the state of Missouri expects future students of its educational system to hold (or not hold).

Thus, SB 694 serves as a lynch pin for Missouri's brand of an endurance deceit that both attempts to minimize or negate any social responsibility for slavery as well as ensure that the positive side of slavery economics and on America's trade balance and the economic advantages afforded the landed gentry are defended. It's the law! “King Cotton” must have its day in the court of public opinion.

SB 694 IS NOT UNIQUE

Missouri is not alone. State memory and gag laws that coincide with release of the Trump administration's 1776 Report that promotes his version of indoctrination called *patriotic education*.¹⁶ This partisan, undocumented polemic is recommended reading

because it nicely characterizes an authoritarian program for education that is prescriptive, nonvalue neutral, and emphasizes job training. The report clearly states that liberal education is to be replaced by a “values-oriented praxis over fact-based knowledge”—which is necessary for endurance deceit to be successful.

The 1776 Report mentions many topics featured in memory laws in the United States: social justice causes such as critical race theory, white supremacy, the 1619 Project, immigration, separation of church and state, and so forth. Of course, memory and gag laws are global phenomena and recommend a wide range of partisan issues for political amnesia (<https://relatedwords.io/memory-laws>). Even the U.S. Congress used them. In 1835, the U.S. House of Representatives passed a gag law that tabled any discussion of slavery that remained in effect for 10 years.¹⁷

Although memory and gag laws may occasionally arise from good intentions (for example, making it illegal to deny a holocaust), they can be quite insidious.¹⁸ Another example is the recently enacted Idaho HB 377, which makes it illegal to promote the view that some subpopulations (for instance, Caucasian) were responsible for actions like slavery against other subpopulations (for example, African-American).¹⁹ As in the case in Missouri, it is difficult to imagine how any historically accurate account of slavery can be discussed in Idaho schools after HB 377.

Oklahoma House Bill (HB) 1775²⁰ adds a strawman argument to the effort to prohibit teaching principles like racial supremacy, racial discrimination, and racial stereotyping—which were unlikely to occur in the classroom anyway—and then slips in a “hold harmless” clause similar to Idaho’s. And, as with Idaho and Missouri, a kicker arises in the subsequent compliance clause that prohibits schools from “adopting programs or utilizing textbooks, instructional materials,

curriculum, classroom assignments ...” that violate the prohibitions. HB 1775 could expose teachers who assign *Raisin in the Sun*, *Black Like Me*, or *The Autobiography of Malcolm X* at serious risk in Oklahoma. How would any legitimate scholarly treatment of the 1921 Tulsa Race Riot be reconciled with HB 1775? As an aside, teachers can’t even send students on a field trip to Kansas to read these books as such travel is prohibited under Section 210:10-1-23 (d)(4). Don’t take my word for this, look it up.

But it was Texas’ HB 3979, passed in 2021, that set the gold standard for legislative polypragmatism.²¹ In one legislative breath, it enumerates a social studies curriculum that includes the history of Ona Judge (Martha Washington’s slave who escaped from Mount Vernon), the three voting rights amendments to the constitution (but not the Bill of Rights), Abigail Adams’ letter *Remember the Ladies*, and familiarity with the American GI Forum, while blocking any discussion of the 1619 Project or mention that any racial group might bear any responsibility for actions committed in the past by that racial group. This is especially ironic given Texas’ Declaration of Causes for seceding from the Union in 1961, which accosts northern states for²²

“... hostility to these Southern States and their beneficent and patriarchal system of African slavery, proclaiming the debasing doctrine of the equality of all men, irrespective of race or color—a doctrine at war with nature, in opposition to the experience of mankind, and in violation of the plainest revelations of the Divine Law.”

Presumably, any account of the Civil War provided in Texas schools must give equal time to the doctrine that the concept of equal rights is debasing and at war with natural and divine law. To argue otherwise would involve entanglement with HB 3979. A responsible electorate should read these pieces of

legislation, for they directly impact the objectivity and historical accuracy of Civil War education.^{23,24}

The aforementioned examples are hybrid memory and gag laws. In each instance, a case is made for some curricular orthodoxy as well as punishments for educators who refuse to comply. This second feature is actually the gag dimension of the hybrid law. Where the memory law provision seeks to legislate the historical record, the gag law provision seeks to silence or punish those who offer a different perspective. We emphasize this distinction as it isn’t always made. For example, the American Association of University Professors (AAUP) subsumes both in their searchable database of educational gag order (EGO) bills indexed by the state.²⁵ According to the AAUP, of the 26 state EGO bills introduced in 2021, eight were signed into law, two of which, the Oklahoma and Idaho bills discussed previously, specifically included higher education. In 2022, 120 EGO bills were introduced in state legislatures, 47 of which targeted higher education and 80 of which were still active as of 31 March 2022.

GAG LAWS

In addition, the year 2021 witnessed a unique expansion of pure gag order legislation by Florida to censor University of Florida (UF) educators outside the classroom. Section 26.2.(h)(1) of the 2021–2024 University of Florida Collective Bargaining Agreement extended the faculty “conflict of interest” policy to outside activities during the summer even if the faculty member has no summer appointment and receives no salary.²⁶ This is the same state and university administration that earlier censored faculty who attempted to serve as expert witnesses for plaintiffs in a lawsuit that challenged the most recent Florida voting law.²⁷ The official UF policy was that the university had the right to deny faculty testimony whenever doing so would either be “adverse to the university’s interests as a state of Florida institution,” or “may

pose a conflict of interest to the executive branch of the State of Florida [or] the University of Florida.”²⁸ Although a U.S. District Court issued a preliminary injunction against UF implementing its conflict-of-interest policy,²⁹ the order is under appeal at this writing. The censorship issue is likely to expand under the authoritarian leadership of the state and the university.³⁰

We note the different spin of this legislation in terms of interfering with customary educational prerogatives than the aforementioned memory laws. As near as I can tell, the state of Florida has taken the leadership role in Orwellian repressive regimentation in higher education at this writing. Of course, Orwell claimed that much more needs to be done to create a genuine dystopia, but one must begin somewhere. My point is that the current spate of memory and gag laws are Orwellian overtures that need to be taken seriously by anyone who is committed to the goal that a diverse, well-rounded education is an end in itself. The Florida experience echoes the “values-oriented praxis over fact-based knowledge” model of indoctrination suggested in the 1776 Report. These recent threats on the academy are more alarming when one studies comparative historical analyses of societies that tolerated government restrictions on pedagogy. For example, as measured by its share of Nobel Prizes, Germany was the world leader in the sciences until WWI.³¹ The intrusion of a fascist government into the German educational system put a quick end to that.

BUT THERE'S MORE: BOOK BANS

These memory and gag laws are complemented by an unprecedented level of book bans in public and school libraries. According to the American Library Association's 2021 Annual Report, more than 700 book bans occurred with the following breakdown: 18% of the challenges came from parents, 24% from patrons, 18% from

oversight boards, and 10% from political/religious groups. This affected school libraries, public libraries, and schools by 44, 37, and 18%, respectively.³² The Cable News Network reports that more than 1,000 books were banned in 86 school districts in 26 states in 2021, with Texas accounting for nearly 50% of the total, and Pennsylvania and Florida close behind.³³ But what is most worrisome is the involvement of politicians in book banning. The San Antonio School District pulled more than 400 books from its shelves in reaction to pressure from Republican lawmakers; the majority

Brothers and banking firm BB&T.³⁶⁻³⁸ These endowments have included influence over faculty hires, textbook selection, and curricula at major universities.^{39,40} In the BB&T case, students of economics programs that receive endowments must require a novel, Ayn Rand's *Atlas Shrugged*, as a textbook.⁴¹ In other cases, such as the proposed Liberty Institute at the University of Texas, private, mostly anonymous donors have worked with university and state officials to create and budget US\$3 million for a research center with input from neither faculty nor the public.^{42,43}

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of these books were written by women, people of color and LGBTQ writers, and cover topics including teen pregnancy and abortion.³⁴ In 2021, Texas Republican State Representative Matt Krause, chair of the House Committee on General Investigating, began an investigation into the availability of 850 specific books in Texas public libraries that span topics such as critical race theory, abortion, sexual mores, and so on.³⁵ These efforts are motivated by the same ideologies as memory and gag laws such as Texas' HB 3979.

The authoritarian mantra on education appears to be “learn very little of a controversial social issue, and nothing well.” In some states this is becoming law!

Memory and gag laws reinforce partisan and provincial interests and complement and reinforce the external demand-side pressures put on education. In the United States, they are augmented by hard-money lobbying for agenda-based education, the poster children for which are the “pay-for-play” endowments associated with the Koch

Thus, memory and gag laws are but the latest in a long list of tactics to bend education to conform to the bias of dominant political influencers. Other tactics include cancel culture,⁵ removing transparency from administrative decisions,^{44,45} censorship and restricting academic freedom,⁴⁶ and outright dismissal.^{47,48} The next big push will be to end academic tenure, which is the last bastion of academic freedom protection that remains in higher education. Of course, the motives for all of these efforts are the same: an attempt to reduce academic influence over social policy, historical records, and public narratives on social issues.^{49,50}

Critical race theory and the 1619 Project are just the current grist for the authoritarian legislative mills. Likely future candidates would include the legitimacy of Hawaii's annexation; to what extent documented treaty violations justify indemnification to native Americans; legitimacy of entitlement programs for the homeless, impaired, and disadvantaged; separation of church and state; the legitimacy of evolution; ownership of public lands; the militarization of law enforcement;

tolerance of white nationalism/supremacy groups; civil rights issues; climate change; foreign policy, animal rights, and the list goes on and on. In each case, if there are identifiable, entrenched, special interests who rigidly defend their bias, it will be open season on educators who challenge this bias.

If current memory and gag laws go unchallenged, it is inevitable that they will be expanded to controversies that will impact all of academia. It is a mistake of the first order to assume that the impact will only be felt in humanities, the soft sciences, and the arts. Over time, the best teachers and researchers (also known as, the *most mobile*), will move on and leave behind quality vacuums in jurisdictions that oppose or restrict their academic freedom. It is inevitable that it will carry over into the sciences; engineering and professional schools. Academic freedom and free speech are both binary variables—they either exist or they don't. **■**

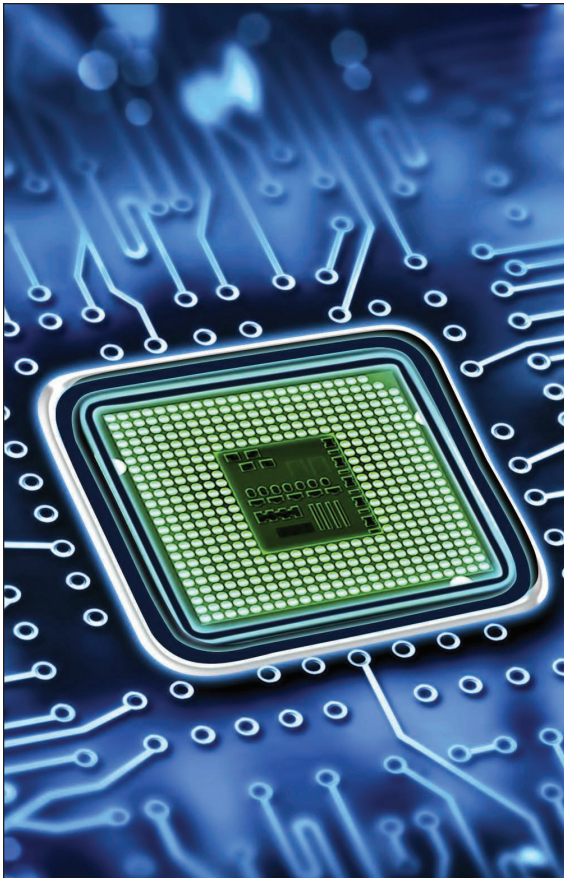
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