

COMMENTARY

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EDUCATION, RIGHTS AND THE SPECTRE OF CONSUMERISM

There can be no doubt that anyone with the intellectual potential and ability to benefit from higher education should have the opportunity to study at that level. No-one should be denied the opportunity on irrelevant grounds such as race, ethnicity, gender, age or poverty. Anti-discrimination laws and policies, wider availability of scholarships and loans, and more flexible forms of study such as part-time programs and distance learning courses, mean nowadays that far more people than before are able to take the opportunity to study in higher education. That is as it should be. A civilized country needs a talented and educated population, not merely for vocational reasons but also because education provides the best means for ensuring that human beings – and the communities and nations they create – live together pleasantly and peacefully.

Unfortunately, however, debates over widening access to higher education have been hijacked by the language of law. The breaking down of barriers of privilege has led to the perception that the experience of higher education is to be enjoyed as of right. This paradigm shift towards a ‘rights culture’ in education has led to the universities’ being haunted by the spectre of consumerism. The term ‘consumerism’ denotes the belief that individuals obtain both gratification and social standing primarily through their consumption of tangible products. So far as higher education is concerned, consumerism implies that students cease to see higher education as a vehicle for self-improvement in the broadest sense. Instead, they come to see higher education only in terms of the obvious, tangible benefits it provides, especially in the form of paper credentials for future employment.

The intrusion of a legal paradigm into higher education has laid the foundations for educational consumerism in two respects. First, usage of the language of ‘rights’ has shifted the focus from the *provision* of education to the existence of a *right* to education. Secondly, as part of a wider development in Western legal culture, rights have become reified. Formerly the idea of a legal

right was that it represented a type of relationship between individuals or between an individual and society at large. Now, however, a right has come to be seen as an object or thing to be possessed. ‘Having’ first the right to an education and, subsequently, the right to advertise a Bachelor’s or graduate degree is thus becoming more important than becoming educated.

Instead, therefore, of focusing on how best to provide quality higher education for all those capable of benefiting from it, the rhetoric of public policy regarding universities seems increasingly to focus misguidedly on legal issues of rights. This paradigm shift might be more acceptable if the existence of a ‘right’ to something automatically meant that that ‘thing’ itself was provided, but everyone knows that having a right and being able to exercise that right are two very different things. A ‘right’ means an entitlement; it does not mean the fulfilment of that entitlement. Indeed, most people do not obtain their education because of some putative ‘right’ but as a result of their good fortune in having reasonably enlightened parents. Moreover, the existence of a ‘right’ to education also fails to address issues of equity since having a ‘right’ to education says nothing about the *quality* of the education provided to each individual. As the Association of American Colleges and Universities has recently reported, while there are many top quality higher education programs, there are also many others whose educational value is very much open to doubt.

Some commentators have mistakenly identified this problem as one of ‘commodification’, arguing the cost of university access effects a cultural cheapening of higher education. This argument is, however, both simplistic and misleading. Education always has been bought and sold. It was the case, for example, at Plato’s Academy way back in 387 BC, yet it can hardly be argued that advances in mathematics, astronomy or medicine attributable to advanced study by the Ancient Greeks were cheapened because students had to pay for their education. Indeed, the very model of a modern university was created by the Palace School of the Emperor Charlemagne as long ago as AD 782: again, all students were forced to pay for the privilege. Education has not recently become commodified – it has always been a commodity.

But never before has a student been seen as a consumer. Farrington has pointed out that: “In the medieval universities, scholars had particular obligations to fulfil if they were to remain

matriculated”.¹ Students of a consumerist bent, however, are unlikely to be interested in studying or working at anything which has no clear connection with their grades or future employment prospects. Instead, they are increasingly ready to challenge any grades that are not as high as they feel they require for their chosen career path – regardless of the intrinsic worth of the piece of work produced – since the only purpose which they can identify for higher education is to give them the right to say that they possess a particular qualification. According to this view, students are not obliged to take responsibility for their own learning precisely because they have the *right* to an education – something that entails no obligations on his or her part. It is simply the responsibility of the professor to ensure that the student is educated. But since a right cannot be worthwhile unless it can truly be represented by some tangible ‘thing’, students demand paper qualifications and transcripts which record good grades. So the right to higher education becomes the right to demand a good degree, regardless of student capability or achievement.

Unfortunately, universities themselves must take some of the blame for this. Universities frequently advertise their ‘wares’ as though brands on offer in a sort of educational Wal-Mart. In the current era in the United States, for example, all too many college presidents not only describe students inappropriately as customers, but also stand by while their institutions’ catalogs describe in detail the supposed utility in the job market of obtaining a degree while singularly failing to explain the inherent worth of the education which it is ostensibly that institution’s mission to provide. At the same time, academics not only ‘dumb down’ courses so that few students can fail them, they are also becoming increasingly wary of giving students bad grades for fear that this will sully the reputation of the institution – because it needs to be known as a place where an easy route to subsequent employment can be found. Sperber has called this a “non-aggression pact ... between many faculty members and students” in which “[t]he glue that keeps the pact intact is grade inflation”.²

The picture is not, however, one of total doom and gloom. Ironically, one of the major obstacles to the unbridled application of consumerism in higher education has proved to be the judiciary. The actual application of legal rights – as opposed to the misplaced rhetoric of rights – simply

¹ *The Law of Higher Education* (London: Butterworths, 1994) p. 355.

² ‘How Undergraduate Education Became College Life – and a Personal Apology’ in R.H. Hersh and J. Merrow, *Declining by Degrees: Higher Education at Risk* (New York: Palgrave Macmillan, 2005) p. 138.

does not mix well with higher education. Time and time again the courts have emphasised that they will not second-guess matters of academic judgment. It is long overdue for universities to regain their self-confidence and to reassert a true sense of mission. Their function is not to train but to educate; and so far as admissions are concerned, the issue is not one of universal rights but of equity.

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