

SAFS Newsletter

Society for Academic Freedom and Scholarship

Maintaining freedom in teaching, research and scholarship
Maintaining standards of excellence in academic decisions about students and faculty

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REPORT ON SAFS 10th ANNUAL MEETING, MAY 4, 2002

Clive Seligman, President

The annual general meeting, held at the University of Western Ontario, was attended by 40 people, with 25 staying for the business meeting. Once again, we thank Daniella Chirila, our SAFS secretary, for coordinating the conference, arranging morning coffee and lunch, and booking the meeting rooms.

A) As president, in my opening remarks, I commented on several cases we had taken on in the past year. SAFS had written to the Dean of the Medical School at UBC to protest their plans to 'set aside' 5% of their places for aboriginal students. In his reply to SAFS, Dean Cairns said, in part, "The Faculty of Medicine, in line with policies and procedures in other faculties at UBC, has chosen to orient the selection processes for aboriginal students towards our understanding of the systemic issues that exist for aboriginal students in accessing post-secondary education." The admission criteria include "academic and non-academic qualities, both counting for about 50% of the admission decision." The conflict between admission procedures that emphasize admitting the best students versus admitting those with minimal qualifications, who also have desirable "non-academic" qualities, seems lost on the UBC Medical School. This is a troubling issue, and it would be worthwhile for SAFS members to investigate how far the professional schools at their own universities depart from the merit principle in student admission policies. The media coverage of this issue was mixed, showing that there still is work to be done in making the case that racial discrimination in admissions to medical school is a bad idea.

SAFS decided to support the case of retired Professor Jeffrey Asher in his human rights complaint against his

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FUREDY ACADEMIC FREEDOM AWARD: *Established in memory of Bela and Magda Furedy*

Presentation to Doreen Kimura: The Opinions of The Wise Versus The Comfort of The Many

John Furedy

Department of Psychology, University of Toronto

It's appropriate that the SAFS board should have chosen our founding president to receive the academic freedom award on this, our tenth anniversary. But there is a more substantial reason why the choice is particularly apt. In her defence of academic freedom, Doreen Kimura represents, in the Socratic phrase, 'the opinions of the wise' standing firm against the 'opinions of the many.' Socrates, who was killed by 'the many' of Athens for 'corrupting the youth,' symbolizes those who put the search for truth above societal concerns such as offensive speech and disturbing views.

Causing offense or discomfort remains an inevitable aspect of good education. Doreen won't take offence, I'm sure, if I say that this has been something of a signature theme in her career. As she put it when receiving one of her honorary degrees a few years ago:

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former employer, Dawson College. Professor Asher alleges that he was forced out of his position because of his views on feminism. The case is now before the Quebec Human Rights Commission.

Last Spring, Osgoode Hall Law School of York University investigated one of its students for allegedly engaging in hatemongering, based on an article he wrote for the Law School paper, *Obiter Dicta*. SAFS wrote a letter to Osgoode Hall Dean Peter Hogg and to York University President Lorna Marsden to protest that these actions violated the student's academic freedom. In the end, after many months, the complaint was withdrawn, and the student is in good standing at the Law School.

Professor David Healy was hired, and then "unhired" by the Centre for Addiction and Mental Health (CAMH) in Toronto even before he took up his new job, after he gave a lecture during which he claimed that the drug prozac may be unsafe. We wrote to Dr. Paul Garfinkel, CEO, and Dr. David Goldblum, Physician-in-Chief at the CAMH, to express our concerns that Professor Healy was not treated fairly. The case was complicated by suggestions of improper interference by Eli Lilly, the maker of prozac and a contributor to CAMH. Professor Healy sued for breach of contract, and ultimately the matter was settled out of court.

Another case that we followed last year involved Professor David Noble who was a candidate for a chaired professorship at Simon Fraser University. It was suggested that, during the interview process, the university inquired of referees whether they thought Professor Noble would represent the university's views. We wrote to President Michael Stevenson to suggest that expecting professors to conform to the

university's positions was a violation of academic freedom. As in the Healy case there were other complicating factors, including Professor Noble's refusal to submit a complete vita and to allow the university to contact its own external referees. Initially, Professor Noble was turned down for the Woodsworth Chair by the Provost. In a second, new search, Professor Noble was turned down by the appointments committee. There have been several investigations of the case, and the university appears to consider the matter closed. CAUT is expected to report on its investigation shortly.

There was very positive coverage in the BC news media regarding the hiring statistics that Doreen Kimura collected, which were reported in the April, 2002 *SAFS Newsletter*.

Finally, it was noted that the process for ethical review of research with human participants appears to be a growing concern. (As it turned out it came on us faster than expected, and SAFS response is posted on our website).

B) The winner of this year's Furedy Award for Academic Freedom was Doreen Kimura, SAFS founding president. John Furedy presented the award to Doreen, and his and her remarks are published elsewhere in the current *Newsletter*.

C) The morning session, entitled "Academic freedom in the light of September 11," consisted of presentations by Nancy Innis, Jan Narveson, and Ken Westhues, followed by a lively question and answer period.

Nancy Innis gave a historical perspective on the threats to academic freedom by retelling the story of the loyalty oath controversy at the University of California in the early 1950s. By describing the event in some detail, Innis showed that an important threat to the Academy came from within, from some fellow faculty members and particularly the administration. However, when a few courageous faculty were willing to stand up and fight for academic principles, academic freedom was able to survive.

Jan Narveson began his talk with a concern over the increased restrictions on liberty due to security concerns over terrorism, and raised the question "when and why are restrictions on liberties appropriate?" He sought to answer the question with regard to the

appropriateness of restrictions on academic freedom. After consideration of criteria such as honesty, competency, and controversy, he suggested that tolerance of different positions, ideologies, religions, and the like was a key guide as to what should be allowed to be said on campus - "intolerant religions and ideologies not only do not need to be tolerated but, in the light of 9/11, ought not to be tolerated."

Ken Westhues considered the attacks of September 11 as "a dramatic intrusion of the real world on postmodern goofiness." He examined the factors that led to the attractiveness of "right-minded dreaming" over facts of reality, which have led "many scholarly groups to lose touch, to apologize for what our civilization has achieved, and to accord equal value to societies where the infant mortality rate exceeds the literacy rate as to our own." He ended his talk with the hope that one consequence of September 11 will be the quickening pace of reduction of politically correct panic, which he thinks peaked in 1994. He sees hope in today's students whom he believes possess a sense of irony about life.

D) Our keynote speaker, Dr. Alan Kors, professor of history at the University of Pennsylvania and president of the Foundation for Individual Rights in Education (FIRE) spoke on the theme of "Betrayal of Liberty and Dignity on America's Campuses," elaborating and updating the thesis presented in his book *The Shadow University* that he co-authored with Harvey Silverglate. In a wide-ranging and impassioned speech he described the transition of the student radicals of the 1960s who once fought for free speech and who now, when in power in the universities, implement speech codes. He showed that the terms diversity and multicultural education are not really about those lofty goals, but are about supporting a particular political point of view that excludes many groups who do not accept the appropriate criticism of Western culture. Kors considers current university agendas based on group identity rather than on the individual to be an affront to liberty and dignity of the individual. He went on to show how FIRE's public opposition to university abuses of the US constitution and academic freedom of faculty and students has been effective in restoring justice on many campuses.

E) The Annual Business Meeting was held at the end of the day. The minutes are circulated to the members with this issue.

See *SAFS website* for further details on the cases discussed here. □

Furedy... continued from page 1

"I have taught at a university for over 25 years, and I hope that in that time I have offended many students, in the sense that I have suggested ideas to them that they had not entertained before, and which they therefore found disturbing."

When political correctness began to take hold in Canadian campuses a decade ago, with speech codes and penalties against those voicing offensive or disturbing opinions, Doreen took the initiative to protect the academic freedom of first one and then all of the Canadian academic community. I'm sure this was not an easy move because she is, by nature, a scientist rather than an advocate.

Once she publicly joined the fight against political correctness, the disciples of 'diversity' turned their *ad hominem* artillery on her with a vengeance. Perhaps the most odious example of this was the photograph of Doreen published by *This Magazine* in a scurrilous piece on SAFS in 1995. (Written by Krishna Rau and Clive Thompson, it was entitled "Hate 101," and argued that SAFS' opposition to employment equity was based on racist theories, that SAFS was linked to white supremacists, and was spreading hate on campuses). Doreen was interviewed, and provided a photo for the magazine, but the interviewer insisted on taking numerous pictures of her for twenty minutes. The result was a large, distorting, almost demonic picture to illustrate the article.

Doreen responded, as usual, in a cool, rational, and witty way. In a letter to the magazine (reprinted later in the July 1995 *SAFS Newsletter* under the title "THIS fails Logic 101") Doreen dissected some of the article's more obvious falsehoods, using logic and evidence to defend SAFS. Ultimately we got the last laugh on *This Magazine* (which, by the way, enjoyed both provincial and federal governmental funding, and was edited by Naomi Klein). We used the distorted photograph to illustrate how the politically correct attempt to demonize those with whom they disagree. Subsequently, when Doreen and I had our disagreements over email about SAFS tactics, I would threaten to present only the bad photo of her at my next talk!

In the April, 'convention,' issue of the *SAFS Newsletter*, in discussion with Nancy Innis, Doreen has conveyed the bare facts about the assaults on academic freedom that led to the founding of our

society. She rightly mentions those who joined her in protesting infringements of academic freedom, but I am convinced that there was no other individual who could have succeeded in launching SAFS in those early nineties. She was, and is, a scholar of great renown, a fellow of the Royal Society of Canada, and recipient of other notable honours. Without someone of her scholarly stature at the head, SAFS could easily have been dismissed as being merely a bunch of middle-aged, white, male professors, protecting their parochial and irrelevant interests.

Her scholarly status, however, did not make her too shy to call a spade a spade in defending SAFS's principles. The titles of what she terms her "non-science" writings include:

- *Affirmative action is junk science;*
- *Universities and the thought police;*
- *How the thought police threaten education;*
- *Thought police have no place in a university.*

This is not the sort of stuff that is likely to make her welcome among those who wish to increase the feeling of comfort in universities. She has garnered no awards from the deans of 'diversity', nor, to my knowledge, has she been offered any equity officer positions. Instead, she has had to content herself with awards like the Nora and Ted Sterling prize in support of controversy presented to her by Simon Fraser University in 2000.

Doreen's wise judgment on the many tactical choices that the Society faced in the early years, in determining what issues and cases to take up, how best to make a public impact, and how to deal with attacks upon us, were of untold value. Her writings on these matters are models of clarity and directness.

During those early days of SAFS, most of our activity was directed at defending academic freedom. Later, in what was to be a nine-year career as president and/or board member of SAFS, Doreen also took up defence of the second of SAFS's basic principles, that of merit. In Canada, the main source of attack on the merit principle came from sexist institutional policies that discriminated against males. Perhaps the most blatant example of this sort of discrimination at a federal level has been the NSERC faculty fellowships (restricted to women and to aboriginal men). In her arguments against this sort of unjustifiable discrimination, Doreen

drew upon her unique scientific expertise in the field of group sex differences in cognitive abilities. She has also written cogent comments on the topic of women and science. I like to think that, in the eyes of the politically correct ideologues, she has indeed become "Doreen the Demon," wielding her sword of logic and rationality to devastating effect.

At the risk of embarrassing her, I should mention that there have been many times that Doreen has put the interests of academic freedom and of SAFS goals ahead of her personal needs. Her second period as president demanded a considerable sacrifice. She took on the job again when our arrangements for a successor to me suddenly fell through. Doreen was intending to retire from the SAFS board, being about to move from her professorship at the University of Western Ontario that she had held for more than three decades to the west coast at SFU, where she had a busy programme of research and writing lined up. She had to shift the SAFS office from Toronto to Vancouver, while engaged in her own move from Western to SFU. She dealt with this problem with her usual cool efficiency, an administrative feat which still leaves me stunned. Yet through it all she wrote her book on *Sex and Cognition*, and has garnered great academic and scientific acclaim. Those who cherish the cause of academic freedom and merit in Canadian universities owe her a great debt of gratitude for her heroic efforts during this crucial period.

But I do not want to give the impression that Doreen deserves the academic freedom award only on account of her unflagging efforts for our Society. By arguing the case for individual merit against collectivist and discriminatory policies in institutions, she has made a weighty contribution to the broad debate in Canadian society on employment equity in particular, and on what constitutes a just and genuinely fair society in general.

Recently Doreen has provided empirical data on an important issue: whether current tenure-stream hiring employment-equity policies merely equate opportunities between men and women, or actually discriminate against men. Following up earlier work of Clive Seligman, and providing results consistent with it, Doreen has presented clear empirical data showing that recent women candidates have about twice the success rate of male candidates in gaining appointment for tenure-stream faculty positions. This sort of systematic empirical evidence is critical for

countering misconceptions about so-called 'equity' policies.

Doreen's scientific authority but, more importantly, her knowledge of the complexities of sex differences in cognitive abilities are unmatched by those with whom she argues. Her writings will stand the test of time not only in Canada, but throughout the international community, or at least that part of it that Bronowski called the "democracy of the intellect". I am sure that scholars will look back on this clear voice of reason in the midst of the Orwellian doublespeak that permeates the thinking of many in positions of leadership.

Speaking personally, in the past decade, I have come to know Doreen as a wise, loyal, and clear-thinking friend, as have others in SAFS. In her steadfast commitment to fairness and to science, she has earned the gratitude of all those who retain the vision of the university as a place where both faculty and students are dedicated to the search for truth, a place where the opinions of the wise are still valued over the opinions and comfort of the many.

Doreen Kimura's Response

I feel extremely honoured to receive the Furedy award for academic freedom. I know that there are others who have equally deserved it. But I am willing to accede to the Board's wish to make a sentimental choice, on this the occasion of our 10th anniversary. As president of SAFS off and on for several years, I was most often speaking for the Society when I composed letters or made media commentary on matters that concerned us.

When we started out many years ago, I don't think any of us knew where we would be in ten years. Along the way, we've had the usual bumps on the road that any organization will have, and I'm sure they are not at an end. But given the relatively small size of our organization, I think we can credit ourselves with having had a significant impact on both our goals - the maintenance of academic freedom, and of the merit principle, in post-secondary educational institutions. In fact, although we constantly strive to enlarge our membership, it may well be the fact that we are not huge in numbers that has allowed such cohesive action when it was called for. The strain on the president and board has been heavy, but as a society we got the job done.

Nobody who publicly espouses SAFS' goals will escape some name calling in this country. Negatively loaded labels have been the main defence against SAFS' arguments, and they are freely offered by our opposition in lieu of rational discussion. I've certainly had my share, but it's been worth it, and, truth to tell, it has usually been fun.

Thank you for an award I will hold very dear. □

Ethical Review of Research with Human Subjects

SAFS response to the proposed new governance structure by the Interagency Advisory Panel on Research Ethics is posted on our website. This critique has been mailed to all Canadian university presidents, chairs of psychology departments, and the Canadian Psychological Association. The Canadian Society for Brain, Behavior and Cognitive Science has provided a link to our critique on their website. Of course the new governance structure for the ethical review of research will affect the work of scholars in many disciplines, not just the behavioral sciences. Thus we urge you to draw this to the attention of your colleagues. □

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SAFS STATEMENT ON ANTI-ISRAEL BOYCOTT

July 31, 2002

This spring a petition, begun by British Professor Steve Rose of The Open University, called for a European boycott against Israeli cultural, research, and academic institutions to protest the Israeli government's policies toward the Palestinians. Last month, as one expression of the boycott, Professor Mona Baker, of The University of Manchester Institute of Science and Technology (UMIST), and the editor and owner of two academic journals, *The Translator* and *Translation Studies Abstracts*, fired Israeli professors, Miriam Shlesinger and Gideon Toury, from the editorial boards of her journals. These actions are only the most publicized of the anti-Israel boycott. For example, *HonestReporting* (July 21, 2002) announced that "French social scientists have refused to conduct a peer review of Israeli counterparts, and Norwegian veterinarians have rejected a request to supply a DNA clone sample to a Jerusalem research institute."

SAFS condemns these actions as contemptible, political attacks that violate academic freedom, diminish the dignity of the individual, and debase the scholarly process. Academic freedom means the right to engage in free inquiry – to research, teach, and otherwise communicate without regard to prevailing doctrine. To deny academics participation in the normal activities of scholarship, simply because they work in Israel, is to deprive them of their academic freedom.

The boycotters fail to distinguish between the individual and the nation. They refuse to acknowledge the importance of the individual Israeli's thoughts, feelings, or accomplishments; in short, they declare that the individual is of no account except as a pawn of international conflict.

Excluding Israeli academics and scientists from the scholarly community weakens science and the search for truth. The boycott impedes the progress of scholarship, denies full opportunity to Israeli and Arab students at Israel's universities, and hinders, and perhaps destroys, dozens of international projects that Israelis are involved in with nationals of many countries, including Palestinian scholars.

The hallmark of science and scholarship is reasoned

debate, based on logic and evidence. Political boycotts of scholars are antithetical to truth seeking. It is problematic whether boycotts are effective in achieving even their short-term political goals, but they are certainly destructive to the growth and application of knowledge.

Enough harm has been done. We call on the signers of the anti-Israel boycott to withdraw their support of it, as did Professor Richard Dawkins, and for the reinstatement of Professors Shlesinger and Toury to their editorial boards. It is time to end this disgraceful episode of academic cannibalism.

See SAFS website for statements by the NAS and the AAUP on this issue. □

SAFS STATEMENT ON ANTI-FREE SPEECH RIOT AT CONCORDIA UNIVERSITY

September 12, 2002

According to numerous media reports, on Monday, September 9, 2002, pro-Palestinian supporters resorted to violence - physically blocking the movement of people, throwing chairs, and breaking windows - to prevent Benjamin Netanyahu, the former Prime Minister of Israel, from giving a speech at Concordia University in Montreal.

The Society for Academic Freedom and Scholarship condemns these violent actions by hooligans that forced the cancellation of the speech. The mob's behavior prevented not just one speech from being heard, but also assaulted important freedoms that Canadians take for granted, those of free speech and freedom of assembly. These rights are not luxuries, but are fundamental to our democracy. And without them the Academy cannot exist. The pursuit of truth is not possible without reasoned debate of opposing positions. All of us have a stake in preserving these freedoms.

Thus we call on our political and civic leaders, and especially our university presidents, to condemn such reprehensible and destructive behaviors and assert that these freedoms will be forcefully defended in the future. We strongly support the right of dissenting groups to protest in a peaceful manner that does not curtail other people's free speech. But that is not what happened at Concordia. Accordingly, we expect that those individuals found to be responsible for abusing

free speech rights and for engaging in violence against persons and property will be appropriately dealt with according to law and Concordia University's policies. Finally, we ask Concordia University to end its moratorium on "the use of university space for events related to the Middle East conflict" as quickly as possible. Although it is understandable that the senior leadership would feel that a cooling-off period might be useful, a prolonged moratorium will send the message that free speech at Concordia University can be hijacked by thugs. Such an impression must never be given in a free society. □

DIVERSITY DEBATES: UNIVERSITY OF TORONTO

The followings five letters were published in the University of Toronto *Bulletin*. See SAFS website for additional letters on this topic.

1. As judged by the comments of Professors Vivek Goel, vice-provost (faculty), and Angela Hildyard, vice-president (human resources), this year's report on employment equity has the enthusiastic blessing of the administration (Positive Trends in Employment Equity, April 22). Especially on the "representation of women" in "positions of academic leadership," Vice-Provost Goel states that the "longer term trends are clearly in the direction that we want." Vice-President Hildyard, presumably in an elaboration of the "excellence-through-diversity" doctrine, states that U of T will be looking for the "best staff" who in her view "are also those who increase our diversity, so that we can deal with our more diverse student population."

I am less enthusiastic than these administrators about the employment equity report. In my view, there are two important issues that are not adequately addressed in our annual reports, either this year's or previous ones. The first arises from the claim that diversity of people, rather than of ideas, is necessary for excellence in higher education. This is stated at the end of the first paragraph of Section 1, Equity and Diversity at the University of Toronto: "we cannot expect to be excellent without being diverse," and, further, without diversity we cannot have a significant impact on "our local and international environment."

This claim appears to me to stem from an "identity politics" view of relations in society. According to this position, what is important is the colour of people's

skin, or the nature of their genitals, rather than — to adapt Martin Luther King's phrase — the content of their ideas.

That this view is quite extreme is demonstrated by how very easy it is to think of counterexamples. For instance, if the claim of necessity is true, then the all-male economics department of the University of Chicago (with its seven Nobel laureates and a well-known reputation for debate and the conflict of ideas) was not an excellent one and the so-called "Chicago Boys" had minimal impact on the "international environment." The latter point is convincingly refuted by the current documentary series "Commanding Heights," if nothing else.

The second overlooked issue is the role of "equity" in faculty hiring. One problem of principle that we should carefully consider is the conflict between equity and merit considerations in what is, in the end, a competition that only one candidate can win. And whereas in the past this may have been an abstract, conceptual issue, there is now systematic evidence (such as that recently published by Professor Doreen Kimura of Simon Fraser University in *UBC Reports*, Jan. 10, 2002, or by Professor Clive Seligman of the University of Western Ontario in Newsletter of the Society for Academic Freedom and Scholarship, #28, April 2001) of "reverse "discrimination" against young white males in university hiring in Canada, with men having only about half the success rate of women.

I hope both that the next annual report will pay attention to these issues and that the university community will debate them with more depth than it has done so in the past.

John Furedy, Department of Psychology, University of Toronto, May 6, 2002.

2. John Furedy's letter attacking equity hiring doesn't take into account several important things (Employment equity report flawed, May 6).

First, the statistics gathered by Kimura and by Seligman that Furedy mentions in support of his view do not distinguish between tenure-track and limited term jobs. A few years ago, one woman I know had a temporary job (over a 5 year period), during which she was recorded as 5 female hires (she was renewed each year), while a male who went into a tenure-track position was a single hire. Her home university bragged that they had hired 5 times as many females as

males during that period. Of course, this is just an anecdote, but it illustrates the problem of failing to make the distinction. I don't know if Stats Can now distinguishes between them, but they didn't at the time of earlier studies. I know from anecdotal experience that many departments, after hiring a male, would (under some sort of pressure) fill a one-year job with a female. Statistically it looks like equality, but it's highly misleading without the extra information about the type of job.

I served as chair of the Equity Committee for the Canadian Philosophical Association during the mid-90s. We gathered hiring figures (into tenure-track positions) and PhD figures. During the three-year period we looked at, women obtained 33 percent of the PhDs but only 28 percent of the jobs. Given that some places really do have effective affirmative action policies, this suggests that there are others who are discriminating against women. The idea that white males can't get a job is laughably absurd.

Second, there are other reasons for affirmative action besides getting the right ratio given the candidate pool: role models, for instance. Take the example of black or native job candidates. They are probably one percent of the philosophy candidate pool, if that. But hiring such a candidate would help the image of philosophy greatly among black or native students, who, as a result, might come to think the subject has something to do with them after all and they might, in consequence, start thinking about becoming an academic philosopher themselves. Being content with hiring at the one percent pool rate would be absurd in cases like this. Admittedly, the women's case isn't as bad as this, but the problem (to a lesser degree) is the same, nevertheless.

Third, there is an epistemic bonus to having unusual people around. People with different backgrounds and different prejudices see things in different ways and this can be enormously useful in the objective search for knowledge. For this consideration, pool rates are simply irrelevant. This is not a case of sacrificing the pursuit of knowledge for the sake of some social goal. A diverse collection of researchers actually improves the quality of research.

James Robert Brown, Department of Philosophy, University of Toronto, June 10, 2002.

3. In his letter of June 10, Professor Jim Brown refers to a study concerning hiring that he was involved with where it was concluded that women "obtained 33 percent of the PhDs but only 28 per cent of the jobs."

In his report, which is available online at the Canadian Philosophical Association website (www.acpcpa.ca), Brown comments that "of the 97 students receiving a PhD during the period from July 1, 1993 to June 30, 1996, 32 were women (33%)" but that, in 1996, only 29 per cent of the jobs went to women. (These are Canada-wide statistics for Philosophy). He then concludes that "the rate of hiring women is very far from the goals set by the CPA and, in fact, does not even match the candidate pool of 33 per cent women. Even those who oppose affirmative action and want gender blind hiring practices should be upset with these results, since they suggest a slight discrimination against female candidates."

However, it's important to point out that Brown is reporting about a total of only 7 positions nationally. Thus, had just one more position gone to a woman, say, then the percentage of women hired would have jumped to 43! Had just one more position gone to a man, say, then the percentage would have fallen to 14!

To suggest that such small numbers are statistically significant is clearly something of a stretch, to say the least. This is especially true in light of much more widely confirmed and statistically significant data gathered over many years and in several studies that points to the opposite conclusion.

Andrew Irvine, Department of Philosophy, University of British Columbia, July 22, 2002.

4. Professor James Robert Brown responded to the hiring statistics provided by Kimura and Seligman, as cited by Furedy in his letter of May 6, with anecdotes and assertions, supposedly in the hope that the readers of *The Bulletin* are not sophisticated enough to distinguish between a group's average response and any one individual's response and between a fact-based argument and an intuition-based pronouncement (Diversity improves quality of research, June 10).

Brown is concerned that statistics that show that women are hired in greater numbers than their representation in the applicant pool are only valid if one combines tenure-stream and non-tenure-stream

appointments. The University of Toronto's 1999-2000 employment equity report, Table 13, provides data on exactly this point. Women were 28 per cent of the applicants for tenure-stream appointments but 33.3 per cent of the new hires, a finding consistent with what Kimura and Seligman reported for faculty appointments at UBC, SFU and UWO.

Brown further clouds the discussion by reporting a study he did where women "obtained 33 per cent of the PhDs but only 28 per cent of the jobs." He did not report the more critical comparison of the percentage of new hires of women with the percentage of women in the applicant pool. Without knowing how many women applied for positions, Brown cannot logically conclude, based on his data, that female applicants were discriminated against.

Finally, Brown assumes that minority students' need for role models requires giving hiring preferences to minority applicants for faculty positions. The mere presence of these minority professors, according to Professor Brown, would then improve the image of his field (philosophy) "among black or native students, who, as result, might come to think the subject has something to do with them after all..." I don't know which is more irksome: his patronizing attitude towards minority professors and students or his belief that philosophy has merit to the degree that students' skin color matches that of their professors.

Making academic decisions based on race or sex is always a bad idea, whether done to keep out minorities by placing state police swinging nightsticks in the entranceway or by having Professor Brown usher them in waving racial and gender preferences.

Clive Seligman, Department of Psychology, University of Western Ontario, June 26, 2002.

5. Paul Muter reproaches Professor John Furedy for objecting to the employment equity report (Diversity can increase excellence, May 21). "Professor John Furedy apparently fails to recognize," Professor Muter writes, "that there are at least two conditions under which increasing diversity tends to increase excellence" — the composition of police forces and the entry of blacks into major league baseball. The examples are fine; diversity helps where it's relevant. But is there any evidence that it's relevant in the university, which is what Professor Furedy wrote about?

In baseball, blacks were not merely discriminated against, they were barred outright from the entire structure of organized baseball. As a result, as every baseball follower knows, a large pool of talent built up in the Negro Leagues. Is there any evidence that pools of talented physicists, economists and geneticists are denied entry into the universities or face barriers within them? Furthermore, now that the barrier to black players has long gone, diversity appears irrelevant in the teams' search for talent. Performance is what counts.

Does anyone suggest that medical research would be improved if the seemingly disproportionate number of Jews and Chinese in that field were diluted? In the same vein, the ranks of professional football and especially basketball players consist entirely of males and mostly of blacks. Where are the proposals to achieve diversity and thereby strengthen these teams by hiring women and more whites?

What these examples show is that the issue is not diversity. That word is a euphemism and smokescreen for a patronizing program of social engineering that has little relevance to the universities.

James Robert Brown also takes issue with Professor Furedy (Diversity improves quality of research, June 10). His conclusion is emphatic: "A diverse collection of researchers actually improves the quality of research." But his long letter contains not a thing that supports it.

Leo Zakuta, Department of Sociology, University of Toronto, June 26, 2002. □

SUBMISSIONS TO THE SAFS NEWSLETTER

The editor welcomes short articles, case studies, news items, comments, readings, local chapter news, etc. Longer items are preferred on a 3.5" (MS-DOS) disk in Word Perfect or Word 95, or by e-mail attachment.

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CANADA RESEARCH CHAIRS POLITICIZED

The following two letters and editorial were published in the National Post.

1. René Durocher, executive director of the Canada Research Chairs Program, has embarrassed himself and demeaned female scholars by advocating the politicization of appointments to these prestigious chairs. Referring to the fact that 15% of the chairs have been awarded to women, he said: "We have been talking to the universities and telling the presidents they must improve the situation."

Without explicitly claiming discrimination or providing any evidence, he irresponsibly implies that discrimination is at work in that university selection committees are bypassing deserving women in favor of less deserving men. If he does not mean to suggest discrimination, then what is the problem he wants the university presidents to improve?

Instead of expressing pride in how successful the Research Chairs program has been "in improving Canada's research capacity ...reversing the brain drain, as well as attracting international research stars," Durocher confused achievement with entitlement, violated university autonomy and willingly sacrificed academic freedom for sex-based social engineering.

Canada Research Chairs should be appointed through the normal academic processes, using well-established criteria for judging research excellence of individuals. Imagining the quality of the chairs could be improved by taking into account the sex of the candidate is not a harmless fiction, but a recipe for mediocrity, exactly the opposite goal for which the chairs program was instituted.

Canada's university presidents should speak out loudly against any attempts by Mr. Durocher to interfere with how research chairs are selected.

Clive Seligman, President, Society for Academic Freedom and Scholarship, June 1, 2002.

2. At least since the federal employment equity bill of 1986, Canadian universities have used not only merit but also sex in competitions for tenure-stream faculty positions. The more academically prestigious Canada

Research Chairs (CRC) have, however, been protected against this sort of sexist discrimination; they are awarded solely on the basis of outstanding research performance. Now Rene Durocher, the director of the CRC program, proposes that the nature of the genitals of outstanding researchers be a criterion for selecting CRC competition winners, and that universities not meeting "targets" (i.e., quotas) be financially penalized ("Women awarded only 15 per cent of federal research chairs, May 29, 2002).

Academic research excellence may seem rather arcane and esoteric to many tax-paying Canadians, so let's consider a hypothetical example from a field with which more are familiar: professional basketball. Suppose that the NBA Commissioner had instituted a skin-color, "employment equity" requirement that stated that all NBA teams must aim to recruit a "representative" percentage of white players, and that, some years after instituting this recruiting policy, the Commissioner now complained that not enough white players had been selected as MVPs and/or members of All Star games. Suppose further that the Commissioner proposed to penalize teams and All-Star selecting committees who did not meet their "targets". How long would such a Commissioner keep his job?

John J. Furedy, Department of Psychology, University of Toronto, May 30, 2002.

3. Social engineers have their eyes on the \$900-million Canada Research Chairs Program that the federal government founded two years ago. Its purpose is to create 2,000 research chairs at Canada's universities by 2005. To date, 500 chairs have been funded by Ottawa and 15 per cent of them have been awarded to women. This is too few according to the Humanities and Social Sciences Federation of Canada, a group that represents over 24,000 Canadian academics.

The \$900-million fund, 80 percent of which is destined for research in the sciences, is supposed to add lustre to Canada's poor research and development credentials, reverse the brain drain and help universities attract the world's best minds. Rightly, Ottawa told universities to award the chairs on merit alone.

Wendy Robbins, the vice-president for women's issues of the federation, thinks this is a mistake. "Women

researchers," said Dr. Robbins in an interview, "ask different questions than men and we need to make sure that way of looking at the world is protected." She is demanding that Ottawa make the grants dependent on universities meeting quotas for female appointments.

We have gone down this road before. Canada's Natural Sciences and Engineering Research Council, which will support 8,700 university researchers in Canada in 2001-2002, diverts \$2.7-million a year exclusively to women. It does so because of a phantasm called "systemic discrimination," which believers say prevents women from getting ahead in sciences. In his letter to the editor today, René Durocher, executive director of the Canada Research Chairs program, promotes the same mischief, implying discrimination exists without any supporting evidence.

All this retards the promotion of science. The goal of the Canada Research Chairs Program and Natural Sciences and Engineering Research Council should be the promotion of good science, without the taint of social engineering. The only "fair share" that male and female researchers are entitled to is the share they win based on merit.

Editorial, June 1, 2002. □

UNIVERSITY PRESIDENTS REMEMBER SEPTEMBER 11, 2001

1. Robert Birgeneau, President, University of Toronto

Last September, at our memorial event in the aftermath of the September 11th attacks on the United States, I urged the University of Toronto community to exhibit tolerance and civility in the face of those terrorist acts by not directing our condemnation towards innocent members of our own community. At the same time, I affirmed the community's need to condemn those acts of terror and those individuals who perpetrated them.

Pressing international issues have a particularly significant impact on the University of Toronto because society looks to us for leadership, analysis and understanding. The University of Toronto is a composite of numerous nationalities, cultures, religions and creeds. As an institution, we are, in microcosm, a mirror of the world itself. However, precisely because we are a centre of higher learning, we must not become a mirror of the kind of intolerance

and suspicion that would most often occur during times of unsettling events both here and abroad.

Particularly as we prepare to begin a new academic year, and as the one-year anniversary of September 11 approaches, we must reaffirm our civility and be respectful of each member of our community. We must, as a community, set an example for the rest of society by coming together and reasserting our common bonds. In recent months, incidents have occurred at this university that to some appear to call into question these fundamental standards. They stand as highly visible examples of the sometimes tenuous balance between the rights and the responsibilities that flow from another fundamental university principle - that of academic freedom.

As a centre of great expertise and human talent, the University of Toronto has an obligation to focus its resources on the problems that afflict society. We should work to better our world by promoting understanding between peoples and by finding remedies for the most complex problems confronting humanity. This is the leadership that those of us in institutions of higher learning can and must give in times of crisis.

These efforts must not infringe on our fundamental principles of freedom of inquiry and free speech. The University is almost unique in society in guarding these principles that have been won over the centuries in the face of numerous attempts to thwart them. I would contend that there is a far greater risk to our society when these tenets are denied or made subservient to doctrine and intolerance. However, academic inquiry and reporting must also be based on responsible scholarship so that its conclusions, no matter how unpopular they may be, can be supported. To pursue any other course is to endanger the principles of academic freedom by undermining the validity of scholarship and debasing the very purpose of academic research in a free society.

As we begin a new year of teaching, learning and research, in a world forever changed by the events of September 11, 2001, I encourage all members of the University of Toronto community to remember the unique role our institution plays in world understanding. I ask that each of us embrace the challenges and the opportunities that our diverse community affords us in helping to build a world of greater tolerance, understanding and respect. Finally, I

remind all of you that the University will not tolerate harassment, in any form, against any members of its community. All the members of our community must be free to express their values, faith and views without fear of reprisal.

University of Toronto Bulletin, September 9, 2002.

2. Paul Davenport, President, University of Western Ontario

One year ago, on September 11, 2001, we at Western were witness to brutal terrorist attacks on the people of the United States. On this first anniversary of that horrific day, we again express our condolences to all those Americans, Canadians, and others around the world who lost loved ones in New York, Washington, and Pennsylvania.

Our University community continues to feel both sadness and revulsion at the events of a year ago, and a deep sense of solidarity with those American families who are mourning the loss of so many loved ones. The professional, personal, and family ties between those of us at Western and our American friends are many and profound.

As was the case one year ago, we are reminded of the importance to our community of free inquiry, openness of thought and expression, and personal respect for all on our campus. These values lie at the heart of a just and civilized community, and shape the University's contribution to our larger society.

Western News, September 12, 2002. □

BEQUEST TO SAFS

Please consider remembering the Society in your will. Even small bequests can help us greatly in carrying on SAFS' work. In most cases, a bequest does not require rewriting your entire will, but can be done simply by adding a codicil. So please do give this some thought.

Thank you.

Clive Seligman, President.

Your Opinion

We are launching a new section of the Newsletter - "**Your Opinion.**" We encourage members to submit opinion pieces for this section and to respond to the opinion pieces contributed by others. Our first contribution is from SAFS member Sidney Knowles.

INTERNATIONAL TREATIES AND THE CANADIAN CHARTER

Freedom from discrimination (Purpose 2 of SAFS) is a legally protected human right in Canada. When the United Nations was established in 1945, one of its objectives was "promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion" [UN Charter Article 1]. In 1948, the United Nations adopted the *Universal Declaration of Human Rights*. Although the *Declaration* is not a legally binding instrument, subsequent human rights instruments based on the *Declaration* are.

In 1966, the UN General Assembly adopted two human rights Covenants - the *Covenant on Civil and Political Rights* and the *Covenant on Economic, Social and Cultural Rights* - which are legally binding on states that adopt them. In 1976, both covenants came into force in Canada. The *Covenant on Civil and Political Rights* prohibits discrimination. Article 26 states:

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

There are no exceptions, limitations or restrictions on Article 26 anywhere in the *Covenant* or in any other international human rights instruments.

Because the *Covenant on Civil and Political Rights* is a treaty, the rules for its interpretation are set out in the *Vienna Convention on the Law of Treaties* which requires that all terms in the Covenant be given their "ordinary meaning" unless stipulated otherwise (see Schabas, 1996, p. 50). It follows, therefore, that, if the *Covenant on Civil and Political Rights* is to "guarantee to all persons equal and effective protection against discrimination on any ground," discriminatory "special programs" are prohibited. International human rights instruments that have the force of law in Canada, such as the *Covenant on Civil and Political Rights*, prohibit discrimination including the employment discrimination found at Canadian universities.

The relationship between international human rights instruments that Canada has acceded to or ratified and the *Charter of Rights and Freedoms* is quite simple. The current law, named the Dickson Doctrine, is that the Charter "should be presumed to provide a protection that is at least equivalent to that included in Canada's international obligations" (Schabas, 1996, p. 232). The *Charter of Rights and Freedoms* cannot be used to deny the absolute prohibition against discrimination that exists in Canada's international human rights obligations. Section 15(2) of the Charter, therefore, does not allow discrimination because it cannot override Canada's obligations to "guarantee to all persons equal and effective protection against discrimination on any ground."

Why then are discriminatory programs operating in Ontario?

One reason is that Keith Norton of the Ontario Human Rights Commission believes that there are provisions in international human rights law that allow discrimination to occur (personal communication). Unfortunately for Norton, there is nothing in any international human rights instrument adopted by the United Nations that allows for discrimination. [See *The United Nations and Human Rights 1945-1995*, Volume VII, United Nations Blue Books Series, Department of Public Information, United Nations, New York.] "Special measures" are allowed, in fact encouraged, under some international human rights instruments but these instruments make it clear that these measures must be non-discriminatory.

There is nothing in any United Nations document that supports Norton's position that discrimination is allowed under international human rights law but Norton and the Commission still claim that

discrimination is allowed under international human rights law. A Freedom of Information request, however, revealed that there is nothing in the Commission's files that would support Norton's claim of "allowable" discrimination under international human rights law. Yet every discriminatory "special measure" in Ontario is based upon this unproven claim.

A logical chain can be constructed which starts with the *United Nations Charter* and continues with the *Universal Declaration of Human Rights*, the *Covenant on Civil and Political Rights*, and the *Canadian Charter of Rights and Freedoms*. I want to make four points:

I. Section 15(1) of the *Charter of Rights and Freedoms* states:

Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

Section 15(2) of the *Charter* states:

Subsection (1) does not preclude any law, program, or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

If you interpret 15(2) as allowing discrimination, then 15(2) logically contradicts 15(1), and the *Charter of Rights and Freedoms* would both prohibit (15(1)) and allow (15(2)) discrimination. This leads one to conclude (assuming that the *Charter* has a logical underpinning) that 15(2) allows only non-discriminatory affirmative action programs. In addition, if an affirmative action program discriminates against selected individuals on the basis of sex, for instance, then these disadvantaged individuals could seek redress under section 15(2) given that all people are guaranteed equality under the law. If you are discriminated against as a result of a discriminatory 15(2) program, you can have your condition ameliorated under another 15(2) program

that discriminates against somebody else. This would be absurd and would lead to a never-ending round of discriminatory programs.

Assume for a moment that Section 15 of the *Charter* in its entirety allows discrimination on the basis of sex, colour, race, etc. In this hypothetical case Section 15 would contradict Section 26 of the *Charter*, which states:

The guarantee in this *Charter* of certain rights and freedoms shall not be construed as denying the existence of any other rights or freedoms that exist in Canada.

The *Charter of Rights and Freedoms* came into effect in 1982. The *Covenant on Civil and Political Rights* has been in force in Canada since 1976.

The right to be protected against discrimination set out in Article 26 of the *Covenant* would have been an existing right in Canada in 1982 and this right cannot be denied under Section 15 of the *Charter*, in the hypothetical case that Section 15 allows discrimination.

While there is a widespread belief that the *Charter of Rights and Freedoms* allows discrimination, it is very difficult to find an argument that supports that claim and it would be much more difficult to construct a logical argument that would support the claim that discrimination is allowed under the *Charter*.

II. Some international human rights instruments allow for “special measures” to assist people to exercise their human rights and fundamental freedoms. There have been claims made that these special measures allow discrimination. These claims, however, lack support. The *International Convention on the Elimination of All Forms of Racial Discrimination* allows for “special measures.” These measures cannot discriminate on the basis of race as can be deduced from the title of the instrument. The *Convention of the Elimination of All Forms of Discrimination Against Women* also allows special measures.

The differential measures in international human rights instruments address the reality that in some areas of the world discrimination on the basis of race and sex is widespread. The *International Convention on the Elimination of All Forms of Racial Discrimination* was written in the days of South African Apartheid. People

who are not in a position to exercise all of their human rights and fundamental freedoms can be included in programs to put them in a position to exercise all of their rights and freedoms. That is to say, people who are not in a position to exercise all of their rights and freedoms can be treated differently from people who can exercise all of their rights, if the objective is to have all people exercise and enjoy all of their human rights and fundamental freedoms.

All international human rights instruments are logically consistent with each other. Thus the *International Convention on the Elimination of All Forms of Racial Discrimination* and the *Convention on the Elimination of All Forms of Discrimination Against Women* are logically consistent with Article 26 of the *Covenant of Civil and Political Rights* that prohibits any discrimination. The international human rights system is based on the concept that all human beings have inalienable human rights simply because they are human beings and all these rights must be respected and protected. Let me note here that the concept of “equality of outcome” is not mentioned in any of the three listed instruments. The argument that people can have their inalienable right to be free from discrimination alienated in order to attain “equality of outcome” is not an argument based on international human rights instruments.

Paragraph 401 of *The United Nations and Human Rights 1945-1995* states that all special measures undertaken under the *Convention on the Elimination of All Forms of Discrimination Against Women* must be non-discriminatory. The paragraph also defines the term “discrimination against women.” Any program that did not treat men and women on a basis of equality would be in violation of the *Convention*, as well as other international human rights instruments.

III. Representatives of Canada when appearing before the United Nations Human Rights Committees have, since the inception of the Canadian *Charter of Rights and Freedoms*, stated that the *Charter* is consistent with all of Canada’s international human rights obligations. This means that no discrimination is allowed under the *Charter of Rights and Freedoms* because no discrimination is permitted under the international human rights instruments that Canada has acceded to or ratified.

A 1998 speech made by Anne McLellan, the then Minister of Justice and Attorney General of Canada,

made this point when she set out the relationship between the *Charter of Rights and Freedoms* and international human rights instruments that Canada has acceded to or ratified. Although not referenced in the speech, the information contained in the speech can be found in Schabas (1996). McLellan's speech was addressed to an international audience that was for the most part familiar with international human rights instruments and it is consistent with what Canada has told international human rights authorities about the role of human rights instruments and in the interpretation of the Canadian *Charter of Rights and Freedoms*.

IV. The fourth point I want to make has to do with the underlying basis of international human rights. Prior to the Second World War, it was believed that the era of individual rights was over. The idea of "community" rights or group rights determined in such a way as to maximize community welfare was the prevailing philosophy in circles both inside and outside the academy. The Nazis showed that a system based on group rights could result in massive horrors and it was for this reason that the then newly established United Nations rejected a Utilitarian, or any consequentialist, approach to human rights and established a system based on the idea that all human beings, simply because they are human beings, have certain inalienable human rights that must be respected and protected. International human rights instruments have a Natural Law foundation. Even if everybody in the world except one believes that the world would become a paradise if the human rights of that one individual were violated, the international human rights system that Canada has agreed to accept, would not allow that violation of human rights to occur.

In many discussions on human rights in Canada, there is a presupposition that human rights can be expanded or scaled back depending on the preferences of the speaker or writer. A claim (most times unproven) based on some Utilitarian or other consequentialist calculation is often presented at the beginning of a discussion on human rights and from then on it is assumed that individual inalienable rights can be violated so as to achieve some "greater good." These discussions are not about what international human rights instruments say, but what they would have to say to mirror the interests of the speaker. For example, because some people believe that the world would be a better place if the makeup of every institution in the world statistically represented the population of the world, the human rights discussion ceases to be about

how to protect the human rights of all people, but how the end of a statistically representative institution justifies the violation of people's human rights. It is not uncommon in the Canadian media to have a person who is described as a human rights advocate advocating the violation of other people's human rights in order to achieve a goal favored by the advocate but unattainable if human rights are respected. Let me point out that the people making these arguments have no right under international human rights instruments to deny others human rights protections.

SAFS can make a number of points in debates and discussions about discriminatory policies at Canadian universities. SAFS can challenge on the interpretation of the *Charter of Rights and Freedoms*. SAFS can challenge on the relationship between international human rights instruments that have the force of law in Canada and the *Charter of Rights and Freedoms*. SAFS can challenge on the basis of the improper use of a Utilitarian or other consequentialist moral theory when interpreting the moral aspects of international human rights instruments. SAFS can win all of these challenges in any debate, and these challenges should be raised for this reason in every debate and in every context.

Schabas, W. (1996) *International Human Rights Law and the Canadian Charter*, Second Edition. Scarborough: Carswell.

Sidney Knowles, Mississauga, Ontario. □

Jan Narveson Honored

SAFS member **Jan F. Narveson**, Professor of Philosophy at the University of Waterloo, has been named an Officer of the Order of Canada. In part, the Governor General's citation read: "His scholarly work has been the impetus for informed national and international debate on social issues.... he enjoys a reputation for excellence and, since joining the University's Centre for Accounting Ethics, has imparted to his students the importance of adhering to the highest professional standards."

Congratulations, Jan! □

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Dues Reminder

RECEIVING MEMBERSHIPS ON TIME IS IMPORTANT FOR THE SOCIETY

For those of you who still have not paid your 2002 year dues, please do so as soon as possible. The costs of producing and mailing the newsletter are high and we are unable to continue sending copies to past members beyond a courtesy mailing. Please check your status and send in your dues if you have forgotten! Thank you!

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