

# 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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## ACADEMIC FREEDOM AND CANADIAN LAW

*Kenneth H.W. Hilborn*  
*University of Western Ontario*

In a nation at war or under apparently imminent threat of attack - especially attack by fanatical foes believed to have infiltrated its own society - the freedoms that individuals enjoy in normal circumstances must inevitably be curtailed to some extent.

Believers in liberty should insist, however, that all resulting restrictions on individual freedom should be demonstrably necessary, or at least clearly relevant to the purpose of enhancing national security and frustrating the enemy. Otherwise security may become a mere pretext for expanding the powers of the state at the expense of the public.

In the aftermath of the terrorist crimes of September 2001, the government in Ottawa extended the scope of Section 13(1) in the Canadian Human Rights Act - originally applicable only to telephonic communications - to make it apply also to the Internet.

Section 13(1) permits legal action against persons whose statements are allegedly "likely" to expose racial, religious and various other identifiable groups to "hatred or contempt." In his book *The New Anti-Liberals*, published in 1999 by the Canadian Scholars' Press, A. Alan Borovoy - for many years the general counsel of the Canadian Civil Liberties Association - expressed alarm about the "sheer breadth of the prohibition against speech" even in the statute as it then existed.

Without gaining any real advantage in the struggle against terrorism, the government's action has potentially ominous implications for academic freedom - the Internet having become a significant

Conference Issue  
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**CONFERENCE INFORMATION  
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means of scholarly communication - as well as for freedom of expression in Canadian society at large.

As Borovoy points out, the Act does not recognize any defence based on "truth or reasonable belief in the truth of the statements at issue." Truth or lack of it is simply irrelevant. Thus, if it makes points distasteful to a particular group, even a scrupulously documented scholarly work may provoke a legally valid complaint.

There is also no need for an accuser to provide evidence that the accused had any intention or desire to promote "hatred or contempt." Like truth, intention is irrelevant.

To make matters worse, an accuser is not required to show that the words of the accused really did promote "hatred or contempt," but merely that they were "likely" to do so. An assessment of the "likely" consequences of anything is bound to be more subjective than a judgment based on ascertainable facts about what has actually occurred.

Moreover, since the prohibitions included in the Human Rights Act are not part of the criminal law, an accused can be subjected to penalties without either trial by jury or a requirement that guilt be proved beyond a reasonable doubt.

Borovoy warns that even if such repressive legislation is not often used, the threat of legal sanctions may well be enough by itself to inhibit the expression of controversial views, including "important political, historical, and social commentary." For example, an historian's account of atrocities committed by a group in the past, or a sociologist's discussion of a group's exceptionally high rates of crime, alcoholism, or out-of-wedlock births, could be said to expose the group in question to "hatred or contempt."

In Canada, unlike the United States, the judiciary cannot be counted upon to overturn legislative attacks on freedom of expression as unconstitutional. To protect individual liberty, the law should be drastically revised.

*Published in Western News, January 23, 2003.*

*Ken Hilborn, Professor Emeritus of History, is a SAFS member and a former member of the Board of Directors. □*

## ACADEMIC FREEDOM OR VOCATIONAL LICENSE?

*Benjamin D. Singer*

*University of Western Ontario*

In recent months, there has been rising concern over the use of university classrooms and other facilities by some instructors to promote their personal political agendas by propagandizing their students. It's not just university students who are subjected to propaganda in the classroom: CNN reported recently that certain Maine grade school teachers had been creating anxiety among students-some of them the children of National Guardsmen called up to duty for possible action in Iraq-by condemning U.S. policy toward Iraq. And a letter by a 10th grade student in *The London Free Press* on February 27 complains of teachers using their captive student audiences to present an "unbalanced" condemnatory picture of U.S. policy toward Iraq. Concern over teacher conduct was also highlighted recently when South Florida University fired a faculty member because of his alleged use of the university's facilities and name to conduct activities in behalf of Middle East terrorist groups.

The rationalizations for use of the classroom to conduct propaganda activities are often couched in terms like "academic" freedom or "freedom of speech," but never as vocational license - which may be a more realistic description of such conduct. Vocational license is the unjustified arrogation of power and privilege by a paid employee for personal benefit. And what is mendaciously called "academic" in such cases has nothing to do with scholarship but everything to do with its antithesis, bias and propaganda.

University teachers using the classroom as a venue for propaganda may include such material in lectures and assignments, course outlines and personal web sites

that are linked to the course. Moreover, instructors may cancel scheduled classes, exhorting students instead to attend meetings that promote the instructors' politics in place of classroom instruction for which they are paid. But class time, facilities and university web sites that students are required to consult for course information are not the personal property of the instructor. They are university property.

Students often bitterly resent enrolling in a course advertised in the calendar as one thing only to find out that they are being subjected to an onslaught of non-academic personal exhortations and inflammatory propaganda that have a tenuous, contrived relationship to what was advertised-or none at all. Yet the student, ever conscious that the instructor conducting the course will be assigning him or her a grade, feels intimidated and hesitates to appeal to a departmental chairman or dean. And with good reason, for the chair may be on the same wavelength and a protector of the teacher or may lack the courage to investigate the complaint.

School administrators, who should be aware of grievous violations of academic norms, all too often prefer to devise ways to ignore them - even in the face of impassioned complaints by students. This may be because they themselves believe that academic freedom is a grant of vocational license or perhaps are fearful they will be subject to protests from noisy campus mobs who themselves agree with the ideology of the abuser. As well, they may not themselves understand the limits of "academic" freedom.

All too easily forgotten is the classic statement on the true limits of academic freedom by the American Association of University Professors: "Teachers are entitled to freedom in the classroom in discussing their subject, but they should be careful not to introduce into their teaching controversial matter which has no relation to their subject." This is clear enough: there is a distinction between "academic" freedom and vocational license.

I would hope that universities - perhaps under prodding from their public and academic constituencies - pay more attention to that distinction and stop permitting abuse of what has been a traditional safeguard of legitimate scholarship. For the real threat to academic freedom does not come from reasonable expectations by reasonable people but from those who would, as Judy Genshaft, president of South Florida

University said, "hide behind the shield of academic freedom."

*Published in the London Free Press, March 11, 2003.  
Ben Singer, Professor Emeritus of Sociology, is a SAFS member. □*

## **DEFENDING THE IDEA OF THE UNIVERSITY IN TROUBLED TIMES**

*Jonathan R. Cole  
Columbia University*

December 9, 2002

Over the past several weeks, President Bollinger and others have received a substantial number of e-mails and letters demanding that the University dismiss Professor Tom Paulin who is visiting Columbia from his position at Oxford. A more limited number of e-mails and letters have arrived calling for the University to abandon its recruitment of Professor Rashid Khalidi, a distinguished professor at the University of Chicago's Middle Eastern Studies program. Professor Paulin has been accused of strong and hurtful speech about middle-eastern politics. Professor Khalidi has also been accused of holding offensive political views. President Bollinger has asked me to respond because although the cases in question involve individuals, the principles involved go to the heart of the role of the university.

We should not forget our own history and look to it for guidance. Periodically, in times of actual or perceived national crisis, Americans have been asked to consider the appropriate balance between the rights of individuals and the need for national security. The Alien and Sedition acts of 1789, President Lincoln's suspension of the writ of habeas corpus during the Civil War, the Espionage Act of 1917, the internment of Japanese-Americans after Pearl Harbor, and the Smith and McCarren acts during the McCarthy period, all stripped Americans (or some Americans) of some of their most basic civil liberties in the attempt to ensure national security [1]. In each instance, the curtailment of freedoms, which may have seemed necessary at the time, became in very short order almost universally adjudged by the courts, by legislators, by subsequent American Presidents, and by historians and legal scholars to have been excessive and overreaching, unnecessary if not futile, a subject ultimately of national shame and regret.

Universities themselves have certainly succumbed from time to time to these moods of the nation. During the cold war years of the 1950s, some universities dismissed faculty members for their political beliefs, for their past political affiliations, and for "offensive" speech and publications. And even at universities such as Columbia where professors were not fired, the possibility that universities would bend to external pressures and make political beliefs a litmus test for academic employment had a chilling effect on discussion and research. Today, we are facing similar pressures to silence or influence speech by those who are offended or frightened by its content.

At moments such as this, debate and other forms of civil conversation should increase rather than decrease. Intellectuals and scholars must engage each other and broader audiences, whether or not they happen to be experts in national affairs, foreign policy, or constitutional law. When the national toleration of dissent and discourse is at its lowest ebb, the voices at universities must be heard, especially the voices of those who have been given special protection to speak without fear of reprisal - the tenured faculty. If I have been struck by anything in the aftermath of 9/11, it is the paucity of public debate within academic communities over questions of war, of peace, of our responses to terrorism and their effects on our civil liberties.

Universities are unique institutions at which unfettered speech is not only tolerated but also encouraged. When there is civil, yet tough-minded debate over conflicting ideas, it becomes a critical part of the education of students and faculty in the university community; it becomes a model for discourse in other institutions; and it promotes a true democratic order. For some time now the Supreme Court of the United States has limited the territory of impermissible speech. In Gertz (1974), the Court held that "under the First Amendment there is no such thing as a false idea." The Court explained its position in terms consistent with John Stuart Mill's views in *On Liberty*. The Court said, "however pernicious an opinion may seem, we depend for its correction not, on the conscience' of legislators or judges or voters, 'but on the competition of other ideas'"[2]. I don't think that there is any question that current Supreme Court doctrine protects the speech and writings of Professors Paulin and Khalidi. What is at issue here is perhaps less about "rights" than about the right thing to do in responding as individuals to the

ideas of others, and in responding as an institution of higher education endowed with power, not unlike that of government, to reward and punish members of its community.

The mission of a great university in our society is to create and disseminate new knowledge through research and teaching and to lead debates that have broader implications for peoples' values, ethics and behavior. Without freedom of expression, we are doomed to accept received wisdom and current dogma. In our society, the high calling of intellectuals and scholars is to challenge received wisdom, political correctness, and intellectual complacency; to be skeptical about claims of "fact" and "truth;" to question presuppositions and biases of others as well as their own. The growth of knowledge, insight, and understanding is better served through the clash of ideas than through the blind acceptance of dominant ideologies and the silencing of criticism. In fact, without free exchange we cannot distinguish between truth and falsity. Those who believe they can define what speech is "good," or "evil" what speech is "true" or "false," and what speech is causally related to specific violent acts taken in other parts of the world are mistaken about their own enterprise. Truth rests less in product and more in process.

Some topics of debate are straight-forward; others are complex and full of emotions, ideologies, fears, that are derived from the past, but often reinforced by an unwillingness and fear of opening the subject and one's own mind to the possibilities of alternative explanations. The university is one of the only places in our society that is constructed with these kind of clashes of ideas at the center of its discourse even though they may cause hurt and hostility. And these clashes are not limited to political and social activities. They extend to scientific and humanistic debate as well. One of the functions of a university is to teach its students the value of tolerating sharply divergent points of view - a lesson that cannot be learned if differences of opinion are not permitted to coexist.

Of course, professors who enjoy the liberty of free and unfettered inquiry and speech also have responsibilities. As the Columbia University Faculty Handbook notes, "they must bear in mind the special obligations arising from their position in the academic community." These norms enjoin members of the faculty to use the classroom for open discussion and not for purposes of proselytizing or for lectures or

discussions in which the power and authority of the professoriate is used to limit discussion to a single point of view.

People who would have us fire or censure professors because of their political opinions and remarks, often fail to understand that they are the current beneficiaries of a predominant point of view. But if content and ideology become the basis for hiring and firing decisions at universities, the tables can turn quickly. The moment has never yet failed to arrive when the prosecutors become the prosecuted. People must be able to imagine that their thoughts, beliefs and speech might make them the victims of the unbridled power of the government of a university or of a nation.

In the past, even as many other national institutions gave way, Columbia withstood pressures both from without and within to sanction speech, to enact speech codes or to dismiss professors who expressed controversial political views. Columbia's defense of its faculty and students is, after all, a defense of its own mission, a mission that we will not abandon today any more than we did yesterday. Columbia's history of steadfast defense of thought and speech is a source of pride to us today. We trust that in years to come faculty, students, alumni and even those who now find fault will look back on our University's history of tolerance for difference with that same pride.

[1] The distinguished constitutional law professor, Geoffrey Stone, has recently written on the history of the tension between civil liberties and national security needs and has reviewed the specific history of the cases mentioned here.

[2] This quotes an observation made by Geoffrey R. Stone (p. 29) in "Dialogue," which is a discussion of the history of the First Amendment in Lee C. Bollinger & Geoffrey Stone, *Eternally Vigilant Free Speech in the Modern Era*. Chicago, Illinois: University of Chicago Press, 2002.

*Jonathan R. Cole is Provost and Dean of Faculties, Columbia University.*

This item is available on the Campus Watch website, at <http://www.campus-watch.org/article/id/399> □

**SAFS LETTER TO LORNA R. MARSDEN,  
PRESIDENT AND VICE-CHANCELLOR,  
YORK UNIVERSITY**

March 19, 2003

Dear President Marsden:

I am writing to you as president of the Society for Academic Freedom and Scholarship. As you may know, our Society represents a broad cross-section of professional academics, students and interested others from across Canada, and elsewhere. Our goals are to maintain freedom in teaching, research and scholarship, and to support the merit principle in Canadian higher education. You can learn more about us at our website: [www.safs.ca](http://www.safs.ca).

According to stories in the *Globe and Mail* and the *National Post*, several incidents have occurred at York University recently that are troubling. The first of these concerns the visit of Dr. Daniel Pipes to York. Dr. Pipes was invited and then uninvited by the Centre for International and Security Studies, and described by both the York University Faculty Association and the York Federation of Students as having a racist agenda. Once at York, extraordinary security was required to allow him to speak, with protesters intimidating those wishing to hear him. In the end, fortunately, he was allowed to speak but only because of the intervention of your office. We applaud your commitment to academic freedom in making the alternate arrangements to enable Dr. Pipes to speak.

In the more recent episode of concern, students and others protesting a possible war in Iraq apparently broke prior agreements with the university to keep open the entrances to the campus and intimidated several students, including those at a booth set up by the campus Canadian Alliance Party. In addition, several of these protesters were arrested, although they were released without being charged.

In a letter to the *Globe and Mail* (March 12), Mr. Richard Fisher, Chief Communications Officer, defended the university against some of the assertions made against it. We appreciate many of his points including the fact that York did arrange campus security for the anti-war protests, called in the city police to help, and is not responsible for intemperate remarks made by faculty and student organizations.

We also agree that those who were wronged should come forward and make formal complaints to allow the university to deal with them in an appropriate manner.

The purpose of this letter is to ask whether more could be done to eliminate intimidation on campus and increase the appreciation for academic freedom and the value of reasoned discussion. Without wishing to be presumptuous, we would like to suggest that it might be useful for you, as president of the university, to issue a public statement upholding the university's commitment to an open campus, free from intimidation, where teaching and scholarship may continue without regard to conventional dogma or political beliefs. Indeed, one of the important purposes of a university is to provide a forum in which to debate controversial ideas.

We recognize that York University does stand for these academic values, but they cannot be repeated too often, especially on a campus which has had to go to some lengths recently to defend them. It has been said that the price of liberty is eternal vigilance, and it would be worthwhile, in our view, for York University to issue a formal statement, in your name, reminding the campus community of its obligations to defend academic freedom and tolerate opposing views.

Sincerely,

Clive Seligman, SAFS President. □

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## **DIVERSITY DEBATE AT UWO**

### **The Following Letters And Columns Appeared In The *Western News***

#### **Compliance with FCP is Everyone's Concern**

November 14, 2002

At a recent general membership meeting, members of Western's Caucus on Women's Issues were interested to hear that the University had recently undergone a Federal Contractors Program (FCP) compliance review. The FCP monitors the employment equity situation of institutions, like Western, that receive over \$200,000.00 from federal grants and contracts. Institutions deemed noncompliant could lose their eligibility for federal funding.

In September, the President's Standing Committee for Employment Equity (PSCEE) was told that, after the review officer's visit, the University was given until October 15 to show that it has a plan for addressing areas in which it appeared, to the FCP officer, to fall short. Otherwise, it risked non-compliance. Given the consequences of non-compliance, it is unacceptable and worth noting that most members of the University community, including members of search committees in the academic units, have little idea of the FCP's requirements. It is troubling that the documents outlining the specific areas of concern and the University's response are confidential. Given the potential cost of non-compliance, our compliance with FCP employment equity requirements ought to be everyone's concern. It is unclear whose interests are being served by keeping information about the FCP's requirements and the recent review from the Western community.

At the institutional level, Western has taken some steps to address employment equity. We have the Equity Services and PSCEE. Our newly revised Workplan document (an FCP requirement) outlines the University/Strategy for meeting the FCP's seven equity objectives. Last year, a joint UWOFA and administration committee outlined employment equity guidelines for appointments committees and promotion and tenure committees to follow.

These welcome efforts are insufficient to address the institutional problem of employment inequity.

Although indispensable, PSCEE and Equity Services cannot alone enact a significant institutional change.

The University is treating our difficulties in meeting employment equity goals as a problem to be addressed from the top down. The Workplan assigns responsibility for the implementation of most employment equity goals to PSCEE and Equity Services, some to Human Resources, the Provost, or the VP Administration, but none to Deans and Chairs, and none to appointments committees. Surely Deans and Chairs, who have perhaps the greatest impact on each unit's hiring practices, ought to be involved in the discussion about employment equity and the development and implementation of strategies to move the institution forward. And surely appointments committees, who write job ads, make short-lists, interview candidates, and decide to whom to offer positions share some of the responsibility for meeting the FCP's requirements. Making progress on the employment equity front is going to require a multi-level, collective effort.

The FCP does not force arbitrary goals on institutions under federal contracts. The program was implemented in 1986 in an effort to rectify an unjust system of practice that has a long tradition of favouring able-bodied white men, and disadvantaging others. The goal of addressing injustice is a moral one. If the moral obligation to take bias out of our hiring practices will not motivate search committees, then perhaps the legal obligation, and the consequences to all of us if the University is ever found to be noncompliant, will finally encourage more effort.

*Tracy Isaacs, President, Western's Caucus on Women's Issues.*

### **Claim Unsupported**

November 21, 2002

Tracy Isaacs's, In 500 Words, column (November 14, 2002) regarding the Federal Contractors Program (FCP) is interesting reading. For example, she comments, "The program was implemented in 1986 in an effort to rectify an unjust system of practice that has a long tradition of favoring able-bodied white men, and disadvantaging others."

She also decries the fact that, at Western, the Deans, Chairs and appointment committees are not assigned

formal responsibility under the Equity Workplan to reach the goals of increasing representation of currently so-called under-represented groups. And to ensure the reader is aware of the seriousness of the discrimination favoring white men at the expense of all others, Professor Isaacs remarks, "The goal of addressing injustice is a moral one."

The Annual Report of the President's Standing Committee for Employment Equity (PSCEE), included in the same Western News edition, is interesting as well. It refers to Western's employment equity record as "lamentable reality." It calls for President Davenport to "be more vocal about his acknowledgement that Western is not, at present, doing well in terms of employment equity."

Surprisingly, neither the PSCEE report nor the In 500 Words column provide a shred of evidence to support their strong conclusions. The PSCEE report does call, however, for the regular updating and analysing of relevant data, suggesting correctly that such data have been collected at Western for many years.

Apparently, the members of PSCEE are unaware of these already collected, analysed, and published data. In January 2000, UWO released a report of faculty recruitment for the academic years 1991-1992 to 1998-1999, categorized by sex. The report, entitled Full-time Faculty Distribution, Appointments, and Recruitment - by Gender (January, 2000), is available from the UWO Office of the University Secretariat.

Summarizing the UWO data for all 8 years, on average, women represented 23.2% of the applicant pool for faculty positions, 30.4% of those interviewed, and 36.2% of those hired. Thus women were both interviewed and hired in proportions greater than their representation in the applicant pool. In each of the years surveyed, women were interviewed at a higher rate than their presence in the applicant pool, and except for two years, the percentage of women hired was greater than the percentage of women interviewed.

The data in the report also show that over the 8 year period, on average: 5.4% of female applicants were appointed compared to 2.9% of male applicants; 21.7% of female applicants were interviewed compared to 15% of male applicants; and 24.9% of female applicants who were interviewed were hired whereas 19.2% of men who were interviewed were hired. Again, the results in each of the years are

remarkably consistent. Women had almost twice the chance of being hired as did men.

How do Professor Isaacs and the rest of the PSCEE reconcile these data, which, if anything, support a claim of massive discrimination against men (white or otherwise), with their ideologically-based conviction that Western is a hotbed of discrimination against women?

*Clive Seligman, Department of Psychology, University of Western Ontario.*

### Data Ignored

December 5, 2002

Dr. Seligman raises an excellent point when he emphasizes the importance of empirical evidence to making claims about the status and situation of various groups on campus. (*Western News*, Nov. 21)

But, his letter fails to address the major point of Dr. Isaacs's article, the danger of losing funding because of non-compliance with the Federal Contractors Program (FCP). Moreover, unlike the PSCEE report, he only addresses the status of women faculty without explaining why he ignores people with disabilities, visual minorities and aboriginal people, or all the non-faculty employee groups on campus. Still and all, the point is well taken. What is surprising about his letter is that he chooses to offer so little evidence himself.

In particular, it is very difficult to understand why Dr. Seligman ignores so much of the very report to which he refers. This same report shows women under-represented in all professorial positions and over-represented in poorly paid lecturer and instructor positions. Western looks particularly bad when compared to other Ontario universities. Though, in 1991-2 we had a lower percentage of female faculty on average than other Ontario universities (except at the lecturer and instructor level), in 1997-8 the percentage was yet lower. As for the jobs into which women were hired, from 1991-99, women were 41.1% of the limited term appointments, 35.2% of the initial probationary appointments and 15.2% of the appointments with tenure.

The differential hiring practices to which Seligman points mean little if the women being disproportion-

-ately interviewed and hired are disproportionately getting worse jobs than their male colleagues. It is yet more difficult to glean the meaning of such data without knowing the qualifications of those applying. Of course, none of these statistics give the whole picture, but I rather suspect that PSCEE and the folks at the FCP have probably spent a considerable amount of time pouring over such data and are fairly competent at analyzing it.

Again, I agree with Dr. Seligman. It is only when we do careful studies of the empirical evidence that we will be able to understand our role in maintaining present inequities.

Thus the moral imperative is that all employees of the university take equity seriously and contribute to helping the university attain good data about its employees.

*Letitia Meynell, Philosophy and Member of Western's Caucus on Women's Issues.*

### Need to be Competitive

December 12, 2002

I was very pleased to see Clive Seligman (letter, Nov. 21) highlight two of the central claims from my "In 500-words" Column (Nov. 14), namely that "the (FCP) program was implemented in 1986 in an effort to rectify an unjust system of practice that has a long tradition of favoring able-bodied white men, and disadvantaging others," and that "the goal of addressing injustice is a moral one." I'll charitably assume that Professor Clive Seligman agrees that the goal of addressing injustice is a moral one, and infer that his quarrel is with either the claim that practices of inequitable hiring are unjust, or the claim that hiring practices have been inequitable. He's quite right that I did not provide a shred of evidence for my claims in the column.

Are the numbers not by now familiar? In the very report that Professor Seligman refers to, Full-time Faculty Distribution, Appointments, and Recruitment - by Gender, we see that the proportion of full-time female faculty members has improved only because the number of males has fallen, not because the number of females has actually increased (Figure 1).

We see that only 6% of our Full Professors are women (Table 1). At Western, it is only in the less secure positions of Lecturer and Instructor that the representation of women outnumbers the representation of men (Figure 3). Women are, indeed, in the system. Men just seem more likely to "get somewhere." The report notes that "...women at the Associate Professor and Full Professor ranks are underrepresented at Western, in comparison to other Ontario universities." The difficulties filter down to our graduate programs as well. Note that "in general, Ontario universities have graduated slightly higher annual proportions of women PhDs than has Canada, whereas Western has not matched the Canadian average in the period since 1991" (9). We're not doing as well as our competitors.

Finally, I must take issue with Professor Seligman's charge that I, and PSCEE, have an "ideologically-based conviction that Western is a hotbed of discrimination against women." That is simply not true. I was pointing out that our compliance with the Federal Contractors Program requirements is in jeopardy, and that, like it or not, that could have grave consequences for the University's federal funding. It is in jeopardy because we appear not to be doing as well as our counterparts in addressing equity issues.

If, as Professor Seligman believes that data show, our efforts to hire women have started to pay off over the past 8 years, I suggest that we redouble them so that we can be competitive with those institutions to which we like to compare ourselves. Let's remember too that employment equity involves more than just hiring, and more than just women. Retention and the generation of strong and diverse applicant pools are other issues that need our attention.

*Tracy Isaacs, President, Western's Caucus on Women's Issues.*

### **Compelling Diversity Through Discrimination**

January 30, 2003

The theme of the recent report of the President's Standing Committee on Employment Equity goes something like this: "Yes, yes, Western discriminates against women. We admit it. We will fix the problem. We will purify the institution. We will become diverse!" When confronted with clear evidence that Western does not actually discriminate against women,

the celebrants of guilt respond with incredulity, obfuscation, confusion, and moral obtuseness, proving once again that you can't teach a spent ideologue new tricks.

Earlier (November 21), I reported data that showed that female applicants for faculty positions at Western were about twice as likely as male applicants to be hired: 5.4% vs. 2.9%, respectively. Because female applicants have a higher hiring rate than male applicants, the data explicitly refute the claim that female applicants have faced discrimination by hiring committees at Western.

Yet, Letitia Meynell (December 5) and Tracy Isaacs (December 12) refused to accept this conclusion, and continued to argue for their 'ideological belief' that women (and not men) are discriminated against at Western. Their arguments contain several logical errors:

First, they failed to make the distinction between the phenomenon to be explained (i.e., there are fewer women than men currently employed as faculty at Western) and the explanation for it. The observation that there are fewer women than men currently on the faculty (or at different ranks) can not be used logically as evidence for discrimination against women in hiring. There are many possible explanations for this gender gap other than discrimination, in particular, many fewer women than men have applied for faculty positions.

Second, they misunderstood the difference between the current hiring rate and the current faculty composition. The hiring rate is informative about possible discrimination in yearly hiring. The current faculty composition is a result of the past 35 years of hiring decisions that were limited by the low numbers of female applicants. The percentage of women currently employed says nothing about the validity of the current hiring rate, which demonstrates there is no discrimination against female applicants.

Third, they are confused about the appropriate baseline to use to judge the fairness of Western's hiring procedures. At different points in their letters, they use baselines that vary from the percentage of women in the population (about 50%), of new PhDs (about 35%), and of faculty at other Ontario universities. None of these statistics tells us anything about whether Western discriminates in hiring, because Western can only hire from the pool of women who apply for

positions here. Women consistently make up only about a quarter of the applicants at Western.

The only way to move Western to the 50% population or the 35% new-PhD baseline is to disproportionately hire women relative to their representation in the applicant pool, which is precisely what has been done in every year since at least 1987-1988, when Western began keeping records.

A recent COMPAS poll reported that 85% of Canadians reject using sex and race as criteria in hiring decisions. Yet Isaacs and Meynell, while professing a deep concern with morality and justice, insistently advocate that Western continue to discriminate against male applicants to achieve diversity. Apparently, Isaacs, Meynell and Western's Caucus on Women's Issues believe that achieving (their version of) diversity is a more important principle than treating applicants fairly based on their individual qualifications. We should not be too surprised. George Orwell pointed out long ago that some ideas are so foolish that only an intellectual would believe them.

*Clive Seligman, Department of Psychology, University of Western Ontario.* □

## HAVE RACE-BIASED ADMISSIONS IMPROVED AMERICAN HIGHER EDUCATION?

*John Staddon  
Duke University*

The University of Michigan made the mistake of implementing affirmative action in admissions in such an honest fashion that its racial bias was impossible to miss. Michigan selects students on the basis of a 150-point-maximum scale. Getting a maximum SAT score is worth 12 points, but being black gets you 20. Hence, many white or Asian students with scores and grades better than successful black applicants have been rejected. Two such white applicants sued Michigan, were supported, and were then rejected on appeal. Now they have their day before the Supremes on a final appeal.

The key legal point is whether or not the university's policy serves a "compelling interest," which, in this case, means: Does the policy produce *educational*

*benefits?* In support of the supposed benefits, the university presented a "scientific" report from Dr. Patricia Gurin, Chair of the Department of Psychology at Michigan. She happily concludes that her work "consistently confirms that racial diversity and ... activities related to diversity have a direct and strong effect on learning and the way students conduct themselves in later life." But in fact, Gurin's report illustrates everything that is wrong with Michigan's case and with race-biased admissions generally.

Gurin's study shows no *effects* at all, just *correlations* between largely self-chosen "diversity experiences" and self-reports (questionnaires). The kids choose their courses, they were not randomly assigned to them, which would be required to show a real cause-effect relation. Moreover, the correlations are weak and contradictory. Sometimes it looks as if kids who self-segregate do better than those who don't. Her methods have been severely criticized on technical grounds, but even if they were perfect, they would still be just correlations.

Correlations are sometimes useful, but they aren't always acceptable as a basis for policy. For example, *profiling* by race, age and gender can improve the detection of criminal behavior because women, older people, and whites are less likely to commit crimes than young, male and black individuals - criminality is correlated with age, sex and race. The violation of equal treatment entailed by profiling is defensible because the relatively minor cost to innocent suspects - being "stopped" - is outweighed by a substantial increase - typically by a factor of five or more per "stop" - in the number of criminals apprehended.

But *applicant profiling*, giving black applicants extra points in a point-based selection process, can be justified in neither of these ways. The cost to the disadvantaged group - no admission to a prestigious university - is substantial and the effects of race-based admissions far from being beneficial are damaging to the scholarly mission of the university.

If racial profiling is subject to legal restrictions then, by the same criteria, applicant profiling should be outlawed entirely.

Prof. Gurin sees only benefits from several decades of race-biased admissions, both on students themselves and on the curriculum. "Students learn more and think in deeper, more complex ways in a diverse educational

environment.” Not only do her ideas of complexity and depth bear little relation to what most people mean by those terms, but history doesn’t really agree. The greatest advances in human creativity have been made by groups that were not very diverse, either racially or intellectually: the group of philosophers and scientists in early 20<sup>th</sup> century Vienna (think “Einstein, Popper, Freud”), Newton’s Royal Society of London, the Bloomsbury Group of English writers, the Harlem Renaissance. A certain amount of intellectual diversity is obviously helpful, but too much is probably bad. Astronomers and astrologers, Darwinians and fundamentalists, Taliban and feminists, would make poor combinations, one feels.

Unlimited diversity is obviously bad, but some intellectual diversity is certainly good. Unfortunately, the effect of affirmative action has been to reduce the real intellectual diversity of our universities. As several surveys have shown, opinion, particularly political opinion, among academics is much more uniform now than it was a few decades ago. The students themselves came up with a name for this: *political correctness*.

How about effects on the curriculum? Is the contemporary university better than the traditional one? John Henry Newman in his landmark essay *The Idea of a University* wrote that the university is “a place of teaching universal knowledge...its object is...intellectual, not moral...”

Newman’s view is being upended by modern “diversity” policies. Increasingly, education in the humanities and “soft” social sciences is moral, not intellectual. Other sectors of society - family, church, primary through high school, are, Newman thought, responsible for moral education. Universities are supposed to have a different task. But the new university not only aspires to take over moral education, it seeks to *undermine* traditional sources of morality - particularly religion and the family. Listen to Dr. Gurin: college education should “involve confrontation with diversity and complexity, lest young people passively make commitments that follow their past, rather than being obliged to think and make decisions that fit their talents and feel authentic.”

Welcome to the *therapeutic university*.

But the therapeutic university promises to improve your mind as well as your morals. Gurin boasts of “rich curricular offerings” that foster “conscious,

effortful, deep thinking.” Numerous critical books have been written over the past two decades on these “rich offerings,” beginning with Alan Bloom’s best-seller *The closing of the American mind* in 1988. They argue that far from promoting profundity, the new courses are as superficial as they are political. Courses in women’s studies, for example, are often more like indoctrination or group-therapy sessions than rigorous examinations of literature from a variety of perspectives. Indeed, why else would one need a separate department to study writing by women? - no such separation has been found necessary in the sciences. Women’s science is judged in precisely the same way as men’s science. The main achievement of women’s studies programs has in fact been to insulate much of the work from legitimate criticism. Very few men participate in these programs, either as teachers or students. Indeed, in a few documented cases, men have actually been prevented from taking specific women’s studies courses. Far from promoting “deep thinking,” all too often the courses simply require the parroting of buzzwords and acquiescence in a particular feminist ideology.

The case for African-American studies is stronger. But even so, one would like to hear coherent arguments for why Afro-American history should not be part of the history curriculum or Afro-American art part of the art history curriculum (as it is at Duke), and so on. But such arguments are notable by their absence. The case that is usually made (by African Americans, but also increasingly by other “students of color”) is largely a political one: We are here (in a “critical mass”), so why can’t we have our own department?

Dr. Gurin and other fans of race-biased admissions thoroughly approve of these trends: “The increases in diverse student enrollments that have occurred as a result of affirmative action and other factors have resulted in pressures for institutional transformation of the academic and social life at colleges across the country.” What she fails to note is that these “pressures for institutional transformation” are unashamedly political, rather than scholarly. The aim is not to learn, but to *change* - to change the university but, above all, to change society.

There is another and in some ways more sinister problem with a race-inspired curriculum: so-called “ghetto courses.” In a recent mini-scandal at Colgate University, for example, a white professor made the

mistake of telling a black student to avoid black-studies courses because they provided an easy-grading haven for ill-prepared students without giving them a real education. Few students or faculty disputed this claim, which illustrates the fact that many of Gurin's "rich curricular offerings" are just ways to paper over the problems caused by admitting ill-qualified minorities. Race-biased admissions and hiring policies have eroded the idea of the university as a place for intellectual education. Their effects are not good, as their supporters claim, but *bad*.

What should be done? Ideally, universities, especially private universities, should be able to admit whomever they like. But giving one racial group an automatic advantage over others is both morally wrong and educationally damaging. Public universities, at least, should not be permitted to practice it. Will the weight of evidence persuade private universities to abandon it also? I don't think so. Many academics believe race-biased admissions to be morally justified; many also endorse the questionable changes in academic standards that are taking place partly because of it; a large bureaucracy has evolved to implement it. Like an older kind of racial discrimination, it will not go away by itself. Under these conditions, I believe the Supreme Court would be fully justified in ruling decisively against it. Let's hope they do.

*John Staddon, James B. Duke Professor of Psychology, is Chairman of the Duke University branch of the National Association of Scholars. □*

## **IGNORANT VERSUS ENLIGHTENED WAYS OF FIGHTING DISCRIMINATION: THE MARTIN LUTHER KING PERSPECTIVE**

*John J. Furedy  
University of Toronto*

I hate discrimination in all its forms. Whenever an individual is judged not in terms of her or his performance or character, but in terms of some group to which the person belongs, discrimination has occurred and it needs to be fought. But it needs to be fought in an enlightened way, rather than in a biased or ignorant way. The ignorant way of fighting discrimination is to propose social engineering schemes where hiring is biased to favor some group, in

order to correct what is perceived as past discrimination and injustice. So, for example, it is advocated in this sort of "affirmative action" policy, that because there are 51% women in the population and only 25% women in a particular university department, the hiring should be biased in favor of women until the 51% "goal" is reached.

That may sound reasonable, but consider another, earlier form of such "affirmative action" that was applied to my father in the twenties. He had just graduated from a Hungarian high-school and wanted to go to university. At that time, 95% of Hungarians were Christian, and 5% were Jews. But there were only 85% Christian Hungarians in the University, and 15% Jews. That is, in the current lingo, Christians were under represented, and Jews were over represented in these privileged places. Moreover, it could be argued with some justification that Jewish children were unjustly favored in terms of background. Their parents tended to stress education more, there were more books in Jewish homes, and the tradition of study was stronger in Jewish Hungarian than in Christian Hungarian homes. So, the Government applied social engineering, and brought in a *numerus clausus* law, an early version of affirmative action, according to which one needed higher high-school marks to get into University if one was a Jew. And my father's marks were high enough to get in for a Christian, but not high enough for a Jew, so he never went to University.

We may note the parallels, in principle, between these "affirmative action" policies of the present and of the past. The present policy favors women, while the *numerus clausus* policy favored Christian Hungarians. But what an enlightened approach to discrimination recognizes is that *both* forms of so-called "affirmative action" are wrong. So too are forms of discrimination that favor certain races in hiring wrong. Martin Luther King recognized this, I think, when he called for a "color-blind" society. By this he did not mean that people would no longer be able to *perceive* race differences, but only that, as he put it, a person would be judged not by the color of his skin but by his character.

Now there is a form of affirmative action that does genuinely not discriminate. In situations where there is evidence of past and present discrimination, for example, university hiring procedures which, in fact, consider only male and/or white candidates, then not

only does that discriminatory policy have to be fought, but it must be ensured that *all* qualified candidates are informed of the position, and that all qualified candidates are judged in terms of their merit in the competition for the position. That sort of "opening" of "closed" doors is an important way of fighting discrimination. And, as someone who has felt discrimination as a Jew in Nazi Hungary, a bourgeois in Communist Hungary, and as a Refugee or Bloody Repo in Democratic Australia, I am for the opening of all such closed doors. And I also recognize that sometimes some good detective work will need to be done to uncover some of these discriminatory practices, which have often been carried on without being explicitly stated.

But if you want to fight discrimination, there is one simple rule: do not discriminate. The social engineering policy that includes quotas or so-called "hiring goals" is immoral and unfair, because it is discriminatory. The policy, in other words, is *unprincipled*. It was his consistent principles that gave Martin Luther King the high moral ground in his fight to eliminate racial discrimination. Social engineering which tries to correct past injustices by present discriminatory policies is unfair and unprincipled, and therefore odious.

In addition, however, this sort of social engineering is also ultimately impracticable. Take, for instance, the claims of persons of so-called "mixed-race", or partial descent, to be included in designated or "affirmed" hiring groups. How will the line be drawn in deciding eligibility among applicants who are not "full blooded" members of a visible minority and or a Native Canadian category? Will we have to contrive South-African style formulae to classify people so as to avoid minute examination of each individual's parentage and descent? It may seem that this would be unnecessary under the employment equity procedures, but one can readily imagine that in a competitive job situation issues of this kind would arise. These decisions become arbitrary, and like all arbitrary decisions, lead to injustice.

In fact, let us reflect on the nature of the injustice and against whom it is perpetrated. The main victims are not the whole body of the proverbial power group, white able-bodied males, but the sub-group of the current generation of white able-bodied males in their twenties. The goals of employment equity will mean that individuals in this particular cohort will have to suffer significantly higher unemployment rates than

people in designated groups *or* those older people in non-designated groups who *already* have jobs. In other words, this particular cohort is being forced to make all the sacrifices necessary to achieve "employment equity". Is that equitable?

It is for these moral as well as practical reasons that I oppose the current employment equity policies and those affirmative action policies that, in fact, involve discrimination. Let us strive, instead, for a *fair* system of evaluation, where, as Martin Luther King said, we judge only individuals in terms of merit and performance, and not according to their group identity. The enlightened fight against discrimination must eliminate it so that our social structures are genuinely just.

*Published as Guest Essay in SAVE (Students Advocating Valid Education) Newsletter, winter, 1998; posted March 11, 1998 as a Requested Article in The Canadian Conservative Forum, url: [www.conservativeforum.org](http://www.conservativeforum.org).*

*John Furedy, Professor of Psychology, is a member and former president of SAFS. □*

## QUOTAS HELP NO ONE

In his 1994 book *Selling Illusions: The Cult of Multiculturalism in Canada*, Neil Bissoondath - a Canadian of Trinidadian background - offered a stinging indictment of preferential hiring programs aimed at visible minorities. "As a member of one of those targeted racial minorities, I can think of few things more demeaning to me than to be offered an advantage because of my skin colour," he wrote. "It is demeaning because, no matter what I have struggled to achieve, I am still being judged on the colour of my skin and not simply as a human being with strengths and weaknesses. I am still, even with the best of intentions, being viewed racially - and that is offensive to me."

Mr. Bissoondath was correct: Hiring quotas that lower the standards for female and minority applicants are an offence to the very people they purport to help. Well-intentioned though they may be, they falsely suggest that all women, blacks and Indians should be judged by a lower standard because they are unable to live up to the standards set by white males. In addition, of course, they are grossly prejudicial toward those

same white males in that they deny opportunities to them on the basis of race or gender - a clear - cut case of discrimination.

Though the federal government has yet to abandon its "employment equity" programs, other governments seem to have lost their enthusiasm, most notably the government of Ontario, which stopped forcing affirmative action on the province's corporations in the mid-'90s. But heavy-handed racial and sex preference programs are still very much in vogue - especially at academic institutions.

This month, the University of Victoria's School of Child and Youth Care began advertising for a new assistant professor. But there is a catch: Only native Canadians need apply. "In accordance with the University's Equity Plan and pursuant to Section 42 of the B.C. Human Rights code," the ad explains, "the selection will be limited to aboriginal peoples. Candidates from this group are encouraged to self-identify."

While this may be an extreme example in that it explicitly excludes more than 95% of the Canadian population, it is not an isolated one. For the past five years, British Columbia's government has allowed provincial universities to enact various equity plans to increase participation by visible minorities, aboriginals, women and the disabled. Not coincidentally, discriminatory hiring appears to have grown considerably more prevalent. In 2001, Doreen Kimura, a visiting professor in the psychology department of Simon Fraser University, conducted a survey on the hiring rates of men and women at two B.C. universities. She found that while women accounted for 29% of applicants, they accounted for 41% of those hired. Ms. Kimura subsequently concluded that in some cases, it appeared women had been hired over better-qualified men.

In Ontario, as well, universities continue to place far too much attention on race and gender - not just in hiring practices (as when Wilfrid Laurier's Department of Psychology attempted to "address a gender imbalance" in 1999 by considering only female applicants for a faculty position), but in the student admissions process. The majority of Ontario law schools have a special "Aboriginal" category under which applicants are subjected to less-rigorous standards, and several complement this with an additional "access" category for minority group members

who claim to have faced discrimination or other "systemic" disadvantages. In some cases, the discrepancy in standards would surely strike even affirmative action advocates as absurd; at York University's Osgoode Hall law school, aboriginal applicants are required only to achieve a Law School Admission Test score in the 26th percentile or better to be considered - i.e., a standard so low that it excludes only the worst-performing 25 out of every 100 test-takers. Non-minority students, on the other hand, are typically expected to score in the top 25%. If the Osgoode Hall playing field were level, any professional recruiter who exhibited a general bias toward the school's non-aboriginal graduates would properly be deemed a racist. But under the current scheme, such a preference would seem entirely rational.

We do not dispute that it is a noble goal for Canadian universities to be reflective of our country's demographics, both in terms of faculty and the student body. But under no circumstances should this be achieved through heavy-handed programs that reward race, ethnicity or gender over merit. While these programs may help university administrators meet their quota numbers, they also imbue women and minorities with the stigma of inferiority.

*Editorial, National Post, March 17, 2003.*

### **Dumb Quotas**

*Re: Quotas Help No One, editorial, March 17*

Ever wonder how the stereotype of the "dumb jock" got started? It is not because there is a negative correlation between intelligence and athleticism in general. If anything, there is a slight positive correlation, in fact.

The stereotype began when colleges started admitting students on athletic scholarships who would not qualify on academic merit alone. Consequently, the students with the lowest academic aptitude in any given class were most likely to be the "jocks," and everyone saw this.

Blinded by ideology, the promoters of preferential policies do not see the implications of this same selection mechanism for the female and visible-minority students they recruit, or faculty they hire.

Instead, they bleat about the "prejudice" in others, which they themselves do everything in their power to create. Contrary to what is said in the editorial, there is no "nobility" in any of this.

Grant A. Brown

*Letter to the Editor, National Post, March 18, 2003.*

*Grant A. Brown is currently a member of SAFS Board of Directors. □*

### Defending Quotas

*Re: Quotas Help No One, editorial, March 17.*

Your editorial criticizes Osgoode Hall Law School and other law schools for having a special admissions category for aboriginal students. It is now so difficult to get into law school that very few aboriginal students would get in. This is because they typically lack the traditional academic preparation that non-aboriginal students have received. And yet it is surely important that aboriginal people have access to law school, so that they can become lawyers and judges.

In fact, Canada's Charter of Rights and Freedoms expressly recognizes that programs to assist certain disadvantaged groups should be continued, as a means of addressing historic discrimination and broadening access for all.

That is the reason for our special admissions category for aboriginal students. Once admitted, however, they have to meet exactly the same standards as everyone else. At the Osgoode Hall Law School. This year, out of 870 LLB students, only 14 are aboriginal. We would prefer to increase that number rather than to reduce it.

Peter W. Hogg, Dean, Osgoode Hall Law School;  
Patrick J. Monahan, Associate Dean and Dean-designate, Osgoode Hall Law School, Toronto.

*Letter to the Editor, National Post, March 19, 2003. □*

### 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.

### Correction

The accurate title for John Furedy's article in the January 2003 SAFS *Newsletter* (p 4.) is: Degree of emphasis on merit and equity in Ontario university tenure-stream advertisements before and after the 1995 "common sense revolution."

### LETTER TO SOCIETY FOR NEUROSCIENCES

#### Regarding Women in Neurosciences Competition

The following letter was sent to the Society for Neurosciences (SfN) regarding requirements for their Women in Neurosciences travel grant competition.

I note that you require an essay on "barriers to women in science." Since SfN is supposed to be a scientific organization, not a literary one, I would have hoped that a more neutral topic could be proposed. Many of us believe that there ARE no external barriers to women in science, and that the choices women make are their own and are based on their abilities and preferences. The essay title as given makes the assumption that there are other barriers, for which I challenge SfN to provide evidence, not merely opinions.

Doreen Kimura

*Doreen Kimura, Visiting Professor of Psychology at Simon Fraser University, is a member and the founding president of SAFS. □*

### 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.

#### Mailing Address:

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