

# 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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## EDUCATION OR RE-EDUCATION

*Mark Mercer*

“Queen’s Bands” is the name of the marching band and associated cheerleaders and cavorters at Queen’s University, in Kingston, Ontario.

The Bands performs at campus activities and local and national events. Queen’s Bands has been noted throughout its long history more for spirit and merriment than music—which isn’t to imply that its members aren’t serious musicians in other venues.

The Bands was suspended last November after some of its in-house materials found their way to the office of a university administrator.

As a result of the suspension, Queen’s University cancelled scheduled appearances by the Bands at an alumni dinner and the Kingston Santa Claus parade. The university also required members of the Bands to take Human Rights and Equity training.

The suspension, made jointly by the students’ association at Queen’s, which oversees Queen’s Bands and other student societies, and the university administration, is punishment and warning for the vulgar and sexist songs and writings some members of the Bands had been distributing among themselves. Vice-Provost and Dean of Student Affairs Ann Tierney said that the “materials, and the behaviours they promote, are unacceptable. They point to a sub-culture within the Bands where explicit, disrespectful and degrading language marginalizes community members who may remain silent for fear of exclusion.”

The language Dean Tierney has in mind includes “Mouth raping your little sister since 1905” and “I will rape you with a lamp.”

# SAFS

## 2012

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The suspension is also to affirm that Queen's University values inclusion and to assure students that the campus is welcoming and safe.

Now if I were a Queen's University student, I'd transfer out and ask for my money back. This latest episode makes it pretty clear that its administration isn't much concerned that Queen's be a place of education.

First of all, to punish people for what they say is to violate their freedom of expression. Freedom of expression should especially be valued on a university campus because it is central to what we are as intellectuals: we are concerned to think and say what we want only for what we judge to be our own good reasons, and not out of fear of official sanction.

In sum, by punishing the members of Bands for what some of them said or sang or wrote, Queen's University is acting against its mission to foster a free and responsible intellectual community.

Of course, the administration and the students' association don't see it that way. They maintain that the behaviour of members of the Bands tends to marginalize and silence people in the Queen's community.

If they are right, though, the behaviour cries out for public discussion, not punishment. That members of the Bands have been singing obnoxious songs among themselves provides Queen's with an opportunity to discuss and debate publicly issues of sexism and the hurtfulness of exclusion.

By opting instead to punish the Bands, Queen's

university is failing in its task to educate its students to take their place in a free society. Those students offended or hurt by the fact that Bands had this material have now learned that when one is offended, one should appeal to an authority to deal with the offenders. This lesson is contrary to a university's mission to help students to become critical thinkers and autonomous agents.

The requirement that members of Bands undergo Human Rights training is likewise inconsistent with Queen's status as a university. Rather than simply provide students with opportunities to engage in discussion and argument, which might well result in changed attitudes among members of Bands, Queen's is seeking to re-educate some of its students into the preferred attitudes. They will not learn anything about sexism or exclusion from this training ("learn" in the sense of freely accept on the grounds of reasons), except that saying the wrong thing will get them punished.

Queen's University is engaging in bullying for the sake of anti-bullying and exclusion for the sake of inclusion.

Something similar to the Bands' case happened at Harvard a couple decades ago. It's instructive to contrast the reaction of administrators and student politicians at Queen's to the reaction of administrators there.

In 1992, Dean of Students Archie C. Epps III became troubled by what he perceived as increasing racial tensions among Harvard College students. Among other incidents, someone had hung a Confederate flag in a dorm. (I know of this case from Harry R. Lewis's book *Excellence Without a Soul*, about the continuing decline of commitment by universities to liberal education.)

Epps responded by assigning all incoming students Ralph Waldo Emerson's essay "Self-Reliance." Epps had students meet with professors in small discussion groups. His goal was to encourage students to understand themselves as individuals rather than to see themselves as particles of an identity group. With luck, he reasoned, students would come to be able to offer and receive ideas and criticism without either hectoring

others or taking offence. The key to community cohesion, Epps proposed, was individual self-reliance.

Dean Tierney at Queen's is no Dean Epps.

*Mark Mercer is a member of SAFS Board of Directors.*

*Canadian Centre for Ethics in Public Affairs, March 14, 2012. □*

## **ONTARIO UNIVERSITIES FACE CENSURE OVER TIES TO THINK-TANK RUN BY RIM CO-FOUNDER JIM BALSILLIE**

*Theresa Tedesco*

In a rare move, the Canadian Association of University Teachers has served notice it intends to censure three Ontario universities in relation to their joint collaborations with a private think-tank established and chaired by Jim Balsillie, co-founder of BlackBerry maker Research In Motion Ltd.

The union's academic freedom and tenure committee has informed the faculty associations at York University, the University of Waterloo and Wilfrid Laurier University of its unanimous decision to put forward a censure motion for CAUT's executive committee to consider at its general meeting on April 26. "Our overriding concern is that any collaborative agreements signed between universities and third-party donors maintain, protect and ensure the academic integrity of the university and that it not compromise its academic integrity in order to get the money," Jim Turk, CAUT's executive director told the National Post.

The CAUT, which represents 66,000 professors, librarians, researchers and other academic professionals at 122 Canadian universities and colleges, is alarmed by a series of deals between Mr. Balsillie's Waterloo-based Centre for International Governance Innovation (CIGI) and the universities to establish a school in international relations and research chairs in international law. The faculty union argues that the agreements appear to afford Mr. Balsillie's private think-tank veto power over the hiring of faculty and the ability to influence curriculum and research — areas that have traditionally been the exclusive domain of academia.

"CIGI has no business at the table deciding what areas the chairs will focus on, and who should be hired, much less have a veto," Mr. Turk said.

An outspoken defender of academic freedom, CAUT hopes its professional rebuke will motivate the universities to renegotiate or amend portions of their agreements with CIGI before the union's next general meeting in six months.

Such a rebuke is an extreme step and intended to ostracize the offending institutions. The censures are widely publicized in academic circles in Canada and abroad. Academic staff are discouraged from taking jobs, conducting research, accepting awards and even attending conferences at schools that have been formally criticized.

"Censure is a move of last resort," says Len Findlay, chair of CAUT's academic freedom and tenure committee. "Nobody takes any pleasure in it. It's a belated move that is meant to get their attention and express the gravity of the concern."

Only 12 Canadian universities have been censured by CAUT since 1968, with the most recent in 2008.

Two of the universities in CAUT's crosshairs told the Post they are prepared to discuss their deals but see no reason to modify them.

"We don't believe that they have a proper factual basis to proceed with censure," says Patrick J. Monahan, York's vice-president academic and provost. "We have negotiated a series of agreements with CIGI that we think clearly address the issues of academic freedom."

Geoff McBoyle, vice-president and academic provost at Waterloo, adds: "More and more donors these days wish to be involved in where their money is going, and once they give their money they can give suggestions.

"And within the general agreement that is what we follow, but we are very concerned at the same time with maintaining the academic freedom and integrity of the institution."

CAUT is concerned about a \$60-million deal signed by CIGI and York University last year to create a school of international law. Through CIGI, Mr. Balsillie has committed to donate \$30-million to create 10 research

chairs and 20 graduate scholarships over the next 10 years.

The collaboration, which also includes \$30-million from the Ontario government, has raised eyebrows in the academic community, especially after the University of Ottawa passed on the opportunity and opposition from Osgoode Law School faculty at York forced the university to relocate the program to other faculties.

According to the agreement, a five-member steering committee comprised of two members from Mr. Balsillie's think-tank, two from York and the executive director of the program will establish the 10 research chairs. Among the committee's responsibilities, "establishing the specific financial terms and expectations for each of the chairs, including their research plans and research support."

And all decisions made by the committee require unanimous approval.

York amended its previous protocol agreement on March 9, which among other things, eliminates CIGI's ability to veto the hiring of faculty from a short list of candidates.

"We think this [partnership with CIGI] is a model approach because it brings significant resources to the university and yet preserves university autonomy — and that is what our senate committee on academic policy thought about," said Mr. Monahan.

However, CAUT said the amendments don't go far enough.

CAUT also has issues with a similar arrangement between CIGI, Waterloo and Laurier that created the Balsillie School of International Affairs in Waterloo in 2007.

Officials at Laurier did not respond to calls.

*National Post*, with files from Joe O'Connor, March 13, 2012. □

## GENDER EQUITY ON SCIENCE FACULTIES MIGHT HAVE TO WAIT A CENTURY, STUDY FINDS

*Robin Wilson*

It could take nearly 100 years before half of all professors in science and engineering are female, according to an article out on Friday in the journal *Science*.

The assertion is shocking because people in academe have been working for decades to increase the number of women in those fields. The article says it will take so long for universities to attain equal numbers of women and men even though the proportion of women being hired in science, technology, engineering, and mathematics—the so-called STEM fields—is on the rise and even though, once women are hired, their rate of advancement is the same as for men.

One reason for the lag is that the proportion of women among those being hired is still low. "In the last four years we're seeing 27 percent of new hires in science and engineering are women," said Cheryl Geisler, dean of the faculty of communication, art, and technology at Simon Fraser University, in Canada, and a co-author of the article. "It was 25 percent earlier in the decade, so it's just been creeping up."

At that rate, it may be 2050 before 50 percent of new hires in science and engineering are female, said Deborah A. Kaminski, a professor of mechanical engineering at Rensselaer Polytechnic Institute and Ms. Geisler's co-author. And even after one-half of all faculty members hired are women, "it will likely take at least another 40 years before the actual population of science, engineering, and mathematics professors is 50 percent women," says a news release on the article, titled "Survival Analysis of Faculty Retention in Science and Engineering by Gender."

A separate article in *American Scientist*, meanwhile, says the proportion of female professors entering math-intensive fields like chemistry, computer science, engineering, and physics is low not because of gender bias in hiring or because women are less proficient at math than men are, but because many women who want to become mothers are simply uninterested in pursuing academic careers in those fields.

## Huge Leakage Rate

The *Science* article is based on a study in which Ms. Kaminski and Ms. Geisler tracked the progress of 2,966 assistant professors hired since 1990 in science and engineering at 14 major research universities. They found that male and female faculty members are retained at the same rate. But over all, their study found, professors stay at a university for a median of just 11 years.

"This means that if you hire 100 assistant professors tomorrow, in 11 years only 50 of them will still be at your school," said Ms. Kaminski. "This leakage rate is huge and should be a big red flag to everyone in higher education." The departure of professors comes at a large cost to higher education, the article says, because universities spend so much money on start-up packages for professors in science and engineering. It can cost as much as \$1.5-million to replace one.

The study does not focus on why professors leave after a median of 11 years, but Ms. Geisler said they may either fail to earn tenure or move to other universities for a variety of reasons, including higher salaries. The study did find that, of those professors in the study who were hired from 1990 to 2002, two-thirds earned tenure at the same institution.

The other article, in the March-April issue of *American Scientist*, is called "When Scientists Choose Motherhood," and was written by Wendy M. Williams, a professor of human development at Cornell University, and Stephen J. Ceci, a professor of developmental psychology there. The two have created the Cornell Institute for Women in Science.

Their article was based on their own research and on findings from other studies. "The effect of children on women's academic careers is so remarkable that it eclipses other factors in contributing to women's underrepresentation in academic science," says the article. It acknowledges that universities have already taken some steps to make it easier for academic women to have children and to hang on to their university jobs. But it says institutions should explore other options, including instituting part-time tenure-track positions, providing postdoc assistance to cover lab work when female professors are on family leave, and "adjusting the length of time allocated for work on grants to accommodate child rearing."

*The Chronicle of Higher Education*, Feb. 16, 2012. □

## WHAT DO AP SUBJECT EXAMS TELL US ABOUT DIFFERENCES IN ACADEMIC INTEREST BY GENDER?

Mark Perry

AP Subject Exam, 2011	% Female	% Male
Studio Art: Drawing	74	26
Studio Art: Design	72	28
French Language	69	31
Art History	66	34
English Literature	63	37
Psychology	63	37
Spanish Language	63	37
Spanish Literature	63	37
English Language	62	38
Biology	59	41
Chinese Language	58	42
French Literature	58	42
Environmental Science	56	44
Japanese	56	44
World History	55	45
Human Geography	54	46
U.S. History	54	46
European History	53	47
U.S. Government	53	47
Statistics	52	48
Latin	50	50
Calculus AB	49	51
Italian	49	51
Comparative Government	48	52
Chemistry	47	53
German	47	53
Macroeconomics	46	54
Microeconomics	44	56
Music Theory	42	58
Calculus BC	41	59
Physics B	35	65
Physics C2	26	74
Physics C1	23	77
Computer Science A	20	80
Computer Science AB	14	86

The table above shows the gender breakdown for 35 Advanced Placement subject exams taken by high school students in 2011, based on data just released in the subject supplement as part of the 8th Annual "AP Report to the Nation." Here are some observations:

1. Of the 35 AP subjects, female high students were over-represented in 20 subjects, male students were over-represented in 14 subjects and one subject (Latin) was perfectly balanced by gender.
2. In the science area, female students showed a greater interest in biology (59%) and environmental science (56%) than males, and males showed a greater interest in chemistry (47%) and physics (65%).
3. For mathematics subjects, female high school students were slightly over-represented in statistics (52%) and males were slightly over-represented in calculus (51%). For advanced calculus, male students were over-represented at 59%.
4. For all languages except German, more female students took language AP exams than males, and for French, female students outnumbered male students by more than 2-to-1.
5. Male high school students were significantly over-represented in all three physics exams, and both computer science exams.

**Bottom Line:** Assuming that high school students take AP classes and exams based on their interests and aptitudes in certain subjects, there do appear to be many gender-based differences in academic interests. Even within STEM fields there appear to be gender differences, with female high school students showing a greater interest than males in biology and environmental science and males showing a greater interest in chemistry and physics. Female students show an interest in statistics and calculus, but less of an interest in advanced math (calculus) and very little interest in computer science compared to their male classmates.

Here's a prediction: If these AP test results generate any controversy or concerns, it will only be a very selective concern about *female under-representation* in physics and computer science, but no concern about *male under-representation* in art, language, history, biology, environmental science and psychology.

Further, assuming that the AP test data reflect some natural gender differences in academic interest, that could then explain this recent prediction from Science, as reported by the Chronicle of Higher Education:

"It could take nearly 100 years before half of all professors in science and engineering are female, according to an article out on Friday in the journal *Science*. The assertion is shocking because people in academe have been working for decades to increase the number of women in those fields."

**MP:** Maybe it's not so shocking if the AP subject test data are reflecting natural differences in "revealed gender preferences" of academic interest. When there are almost 350 high school boys taking the advanced physics AP exam for every 100 high school girls, and more than 600 boys taking the advanced computer science AP exam for every 100 girls, it's understandable that it might take 100 years for perfect gender parity for STEM professors. And based on the "revealed academic preferences" of female high school students who are voluntarily choosing different subjects than boys for AP classes and AP exams, maybe that's demonstrating that women can live perfectly successful and rewarding lives without ever achieving perfect gender parity in STEM fields.

*mjperry.blogspot.ca*, Feb. 20, 2012. □

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## AFFIRMATIVE ACTION ON THE DOCKET

*Scott Jaschik*

WASHINGTON – The U.S. Supreme Court today agreed to consider whether the University of Texas at Austin has the right to consider race and ethnicity in admissions decisions. Those bringing the case hope the Supreme Court will restrict or even eliminate the right of colleges to consider race in admissions – a prerogative last affirmed by the Supreme Court in 2003 in a case involving the University of Michigan’s law school.

In a sign that is likely to worry supporters of affirmative action (and to cheer critics of the practice), Justice Elena Kagan announced that she took no part in consideration of the appeal seeking a Supreme Court review -- a likely sign that she will not take any part in the actual review. Kagan did not announce why, but conservative legal bloggers have been calling on her to recuse herself because of her work as U.S. solicitor general filing a brief in support of the University of Texas. If she continues to recuse herself, a justice thought to be supportive of affirmative action will not be voting.

The case before the Supreme Court now is over whether the University of Texas is exceeding the right granted by the 2003 decision. The plaintiffs argue that because Texas uses a statewide "10 percent" plan – in which students in the top 10 percent of their high school classes are automatically admitted to the public college of their choice – the state’s flagship university can achieve a diverse student body without race-based policies. (Many Texas high schools have enrollments that are overwhelmingly made up of members of particular racial or ethnic groups, so the plan provides a steady stream of black and Latino students to UT Austin.)

The university and other defenders of affirmative action argue that just because a university can achieve some diversity without the consideration of race and admissions does not mean that it may not also consider race and ethnicity to achieve a higher level of diversity.

The 2003 ruling affirming the right of colleges to consider race in admissions, like most decisions upholding affirmative action plans, suggests that the consideration of race should take place only when other approaches would not work.

In theory, the Supreme Court could rule only on the question of whether universities with admissions plans like that of Texas (a relatively small number) are permitted to also consider race in admissions. But a reopening of the question of the use of race in admissions decisions could involve broader questions about whether any consideration of race and ethnicity in admissions is appropriate. Any such broader consideration makes many college officials very nervous. The Michigan decision was narrowly decided -- 5 to 4. The author of the 2003 decision – Justice Sandra Day O’Connor – has since left the court. And the court’s decisions since 2003 have shown skepticism about the consideration of race in education and public policy.

The lawsuit over the Texas policies was rejected by a federal district court and the U.S. Court of Appeals for the Fifth Circuit.

But the consideration of the case by the appeals panel demonstrates how divided courts are on these issues. The decision by the court was 3 to 0, but one judge filed a concurring opinion stating that the appeals panel had to rule as it did, given the 2003 Supreme Court case on Michigan, but that the Supreme Court ruling had been incorrect. Then in June, the full appeals court considered whether to take up the case, and rejected that idea by a vote of 9 to 7.

Several groups that have been critical of the consideration of race in admissions decisions have filed briefs urging the U.S. Supreme Court to take up the Texas case. The major higher education associations have not yet weighed in on the case at the Supreme Court. But a coalition of groups, led by the American Council on Education, filed a brief with the Fifth Circuit backing the University of Texas position.

*Inside Higher Ed*, Feb. 21, 2012. □

**Please give notification of attendance by MAY 4<sup>th</sup> , so that we can arrange appropriate catering**

Contact Information given below.

Thank you!

## SAFS ANNUAL GENERAL MEETING

**Saturday, May 12<sup>th</sup>, 2012, 9:00 am – 3:15 pm**

**University of Western Ontario, 3M Centre, Room 3250**

9:00 am – 9:45 am	Registration and refreshments, meet other members
9:45 am – 10:00 am	Welcome remarks
10:00 am – 12:00 pm	<b>Discussion of Academic Freedom</b>
	<i>Chair:</i> Paul Paré, University of Western Ontario (Sociology)
	<i>Speakers:</i> Paul Gooch, President, Victoria College, University of Toronto Mark Mercer, Saint Mary's University (Philosophy)
12:00 pm – 1:00 pm	Buffet lunch [in Somerville House -Michael's Dining Room, Room 3340]
1:00 pm – 2:15 pm	<b>Keynote Presentation</b>
	<i>Chair:</i> Stephen Lupker, University of Western Ontario (Psychology)
	<b>Keynote Speaker: GABOR LUKACS</b>
	<b>IS ACADEMIC INTEGRITY ADEQUATELY PROMOTED BY ACADEMIC GOVERNANCE, COLLECTIVE BARGAINING AND JUDICIAL REVIEW?</b>
2:30 pm – 3:15 pm	Annual Business Meeting ( <i>members only</i> ) (3M Centre, Room 3250)

**Registration Fee:** \$30.00 per person, may pay at the door. Members must have paid their dues. (Registration includes coffee and lunch, but not parking).

**To confirm attendance (please reply by MAY 4<sup>th</sup>) and for further information:** E-mail: safs@safs.ca, or write to SAFS, 1673 Richmond Street, #344, London, ON, N6G 2N3. For further info contact: Daniella Chirila, e-mail: dchirila@uwo.ca, or by phone: 519-661-2111, ext. 84690.

**Getting there:** From the 401, take Wellington Road North to its end, then jog one block west to Richmond Street, go North to University gates (on your left), just North of Huron Street. On campus, follow this road over the bridge, turn left at the light and continue to traffic circle. **Visitor parking** is on your right next to Alumni Hall once you are almost around the circle. Rate: \$5.00 flat rate. From Highway 7, take Highway 4 South (it becomes Richmond Street) At the fork after Fanshawe Road you can either stay left on Richmond to University gates (now on Richmond Street) as above, or stay right and go down Western Road, turn left at 3<sup>rd</sup> light (Lambton Drive). *Visitor parking is on your right as you enter traffic circle.* **3M Centre** is across the traffic circle, 2<sup>nd</sup> building on Oxford Drive. On Saturday there is usually no one at the Information booths.

**Accommodation:** On-campus rooms at Elgin Hall are \$56.00 per night including breakfast. A modern, air-conditioned residence, situated at University Drive, off Richmond St. North. (1-519-661-3476). The Station Park on Pall Mall (1-800-561-4574), and Windermere Manor (1-519-858-1414), have UWO rates at ~ \$120.00 per night. □

## NAS COMMENDS SUPREME COURT FOR TAKING *FISHER* CASE ON RACIAL PREFERENCES

### PRESS RELEASE

PRINCETON, NJ (February 21, 2012) -- Today the Supreme Court made a long-awaited decision to take the case *Fisher v. Texas*, which revisits the "diversity" rationale for racial preferences in college admissions. The National Association of Scholars, which signed a friend-of-the-court brief for the case, commended the Court for agreeing to hear it.

"We are delighted that the Supreme Court will have a new look at the way our nation's institutions of higher education treat race," said NAS Chairman Stephen Balch. "The only way to usher in true racial equality in America is to end race-based discrimination. There are many race-neutral ways of promoting equal opportunity on our college campuses, and we urge the Court to choose these instead."

The *New York Times* October 2011 coverage of the lead-up to the case quoted NAS president Peter Wood:

But Peter Wood, an anthropologist, the author of "Diversity: The Invention of a Concept" and a critic of the Grutter decision, argues that the educational value of racial diversity is problematic. "The part of diversity that matters to me and a lot of academics is the intellectual diversity of the classroom," he said. "The pursuit of a genuine variety of opinions that are well thought through and well grounded is essential. But that has an off-and-on, hit-or-miss connection with ethnic and racial diversity." □

### SUBMISSIONS TO THE SAFS NEWSLETTER

The editor welcomes articles, case studies, news items, comments, readings, local chapter news, etc. Please send your submission by e-mail attachment.

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## A DUKE STUDY DOCUMENTS THE HARM RACIAL PREFERENCES IN COLLEGE ADMISSIONS CAN DO TO THE INTENDED BENEFICIARIES

*Heather MacDonald*

A growing body of empirical evidence is undermining the claim that racial preferences in college benefit their recipients. Students who are admitted to schools for which they are inadequately prepared in fact learn less than they would in a student body that matches their own academic level. As an ongoing controversy at Duke University demonstrates, however, such pesky details may have no effect on the longevity of the preference regime.

Duke admits black students with SAT scores on average over one standard deviation below those of whites and Asians (blacks' combined math and verbal SATs are 1275; whites' are 1416, and Asians', 1457). Not surprisingly, blacks' grades in their first semester are significantly lower than those of other ethnic groups, but by senior year, the difference between black and white students' grades has shrunk almost 50 percent. This convergence in GPA might seem to validate preferential admissions by suggesting that Duke identifies minority students with untapped academic potential who will narrow the gap with their white and Asian peers over their college careers.

Now three Duke researchers have demonstrated that such catching-up is illusory. Blacks improve their GPAs because they switch disproportionately out of more demanding science and economics majors into the humanities and soft social sciences, which grade much more liberally and require less work. If black students stayed in the sciences at the same rate as whites, there would be no convergence in GPAs. And even after their exodus from the sciences, blacks don't improve their class standing in their four years of college.

This study, by economics professor Peter Arcidiacono, sociology professor Ken Spenner, and economics graduate student Esteban Aucejo, has major implications for the nationwide effort to increase the number of minority scientists. The federal government alone has spent billions of dollars of taxpayers' money trying to boost minority participation in science; racial preferences play a key role in almost all college

science initiatives. The Arcidiacono paper suggests that admitting aspiring minority scientists to schools where they are less prepared than their peers is counterproductive.

The most surprising finding of the study is that, of incoming students who reported a major, more than 76 percent of black male freshmen at Duke intended to major in the hard sciences or economics, higher even than the percentage of white male freshmen who anticipated such majors. But more than half of those would-be black science majors switched track in the course of their studies, while less than 8 percent of white males did, so that by senior year, only 35 percent of black males graduated with a science or economics degree, while more than 63 percent of white males did. Had those minority students who gave up their science aspirations taken Introductory Chemistry among students with similar levels of academic preparation, they would more likely have continued with their original course of study, as the unmatched record of historically black colleges in graduating science majors suggests. Instead, finding themselves in classrooms pitched at a more advanced level of math or science than they have yet mastered, preference recipients may conclude that they are not cut out for quantitative fields—or, equally likely, that the classroom “climate” is racist—whereas the problem may just be that they have not yet laid the foundations for more advanced work.

Attrition from a hard science major was wholly accounted for in the paper’s statistical models by a freshman’s level of academic qualifications; race was irrelevant. While science majors had SATs that were 50 points higher than students in the humanities in general, students who had started out in science and then switched had SATs that were 70 points lower than those of science majors. Any student in a class that assumes knowledge of advanced calculus is likely to drop out if he has not yet mastered basic calculus.

The Duke paper, whose methodology is watertight, deserves widespread attention among educators and policymakers. An amicus brief seeking Supreme Court review of racial preferences at the University of Texas (in a case called *Fisher v. Texas*) has brought the paper to the Court’s attention. Predictably, however, a number of black students, alumni, and professors have portrayed the research as a personal assault.

Members of Duke’s Black Student Alliance held a silent vigil outside the school’s Martin Luther King Day celebration in protest of the paper and handed out fliers titled “Duke: A Hostile Environment for Its Black Students?” In an email to the state NAACP, the BSA called the paper “hurtful and alienating” and accused its authors of lacking “a genuine concern for proactively furthering the well-being of the black community.”

Naturally, the BSA has leveraged its protest into demands on the Duke administration for more black faculty and administrators and for more funding of black-themed programs. A Duke professor of English, women’s studies, and law, Karla Holloway, tweeted that the study “lacks academic rigor”—this women’s studies professor neglected to specify which of its algorithms she found flawed—and that it “re-opens old racial wounds.” A senior research scholar, Tim Tyson, wrote in an op-ed that the paper was a “political tract disguised as scholarly inquiry,” representing a “crusade to reduce the numbers of black students at elite institutions.” (Both Tyson and Holloway were active in the witch hunt against the three Duke lacrosse players who were falsely accused in 2006 of raping a black stripper.) A group of recent black Duke graduates called on the study’s authors to “stop their attack on students of color.”

To the extent that these critics tried to address the paper’s arguments, they missed its gist entirely. The Duke alumni alleged that black students “shy away” from “so-called ‘difficult’ majors” because they’ve been told all their lives that they are “inferior”—overlooking the fact that Duke’s black students “shied away” from the sciences only *after* starting out in those fields. Tyson claimed that black students choose the humanities over the sciences because they “come from cultural and intellectual traditions different than—not less than—most white students at Duke”—again, ignoring the fact that black students overwhelmingly intend to major in the sciences when they arrive at Duke. An essay by a professor of critical culture, gender, and race studies at Washington State University faulted the researchers for not exploring the “countless” ways in which “racism” denies black high school students equal access to SAT prep and Advanced Placement courses. But the focus of the major-switching paper was on what happened to minority students *after* they arrived at Duke, not before.

Moreover, the paper did note that the racial difference in academic preparation is “not surprising, given disparities in resources between black and white families.”

The study’s critics also asserted that the intellectual demands of humanities and science majors are indistinguishable. Applying Ferdinand de Saussure (a 19th-century Swiss linguist invoked today only in literature classes) to *The Matrix*, it was claimed, is as challenging as mastering the Heisenberg Uncertainty Principle. Here, too, the protesters ignored the paper’s empirical evidence: Seniors in the hard sciences have lower grades than *freshmen* in humanities and social sciences, even though the SATs of science majors are on average higher than those of humanities majors. For blacks, the disparity in grading is even greater. Black freshmen get higher grades in the humanities and social sciences than freshmen of all races get in the hard sciences, though black students’ test scores and overall grades are significantly lower than other students’. As for the coursework demands in the various fields, it is students themselves who report spending 50 percent more time studying for the hard sciences, and who rate those courses as more difficult than the humanities and the social sciences.

In a different world, the Duke administration might have tried to dispel some of the distortions of the Arcidiacono paper, given the authors’ patent lack of invidious intent and the rigor of their work. Instead, Duke’s top bureaucrats left the authors twisting in the wind. In an open letter to the campus, provost Peter Lange and a passel of deanlings declared: “We understand how the conclusions of the research paper can be interpreted in ways that reinforce negative stereotypes.” It is hard to imagine a more hypocritical utterance. To the extent that the paper reinforces “negative stereotypes,” it does so by describing the effects of Duke’s policy of admitting black students with lower academic qualifications than whites and Asians. It is Duke’s predilection for treating black students as a group whose race trumps their individual academic records that constitutes “stereotyping,” not the authors’ analysis of the consequences of that group thinking. (Campus spokesman Michael Schoenfeld ignored a request to specify the “negative stereotypes” that the paper might reinforce.)

But perhaps a concession to black anger had to be made to clear some space for a defense of the

Arcidiacono paper? Not a chance. The deanlets and provosts followed their invocation of “negative stereotypes” with an anodyne generalization about academic freedom: “At the same time, our goal of academic success for all should not inhibit research and discussion to clarify important issues of academic choice and achievement.” In other words, don’t blame us for what these wacky professors might say.

The bureaucrats went on to explain the origins of the student database which the professors had used for their study, as if the very gathering of information had been called into question by the paper. (The Duke data repository was a response to William Bowen and Derek Bok’s 1999 study of college affirmative action, *The Shape of the River*, which had exposed the low grades of preference beneficiaries nationwide; the Duke data project was intended to identify and help resolve similar problems of underachievement locally. In other words, the Arcidiacono paper was squarely within the mandate of the Duke student database.) Duke has worked to create an “empowering, safe, and stigma-free environment” for students to get help in science, the administrators added, implicitly acknowledging that the administration has known for years about minority students’ struggles with science. (As for the nauseating women’s studies’ rhetoric about the need for “safe spaces” on campus, the idea that Duke is anything other than the cushiest, most supportive, most compassionate environment ever experienced by late adolescents is preposterous. The often-observed self-segregation of minority students at elite campuses into “safe,” race-themed “spaces” results, in large part, from preferential admissions and the resulting disparities in academic skills.)

Finally, as is de rigueur in all such flaps over “diversity,” the administration pledged to try even harder to be sensitive to Duke’s black students. “We welcome the call to action. Many people have been working for a long time to create a positive climate for African-American students. We look forward to ongoing conversations with BSA and others about ways that we can improve,” Schoenfeld penitently announced. Of course, as Schoenfeld meekly hints, Duke has been engaged in color-coded programming and funding for decades, pouring money into, to name just a few endeavors, a black student center, a black student recruiting weekend, and such bureaucratic sinecures as a vice provost for faculty diversity and faculty development and an associate vice provost for

academic diversity, who, along with the faculty diversity task force and faculty diversity standing committee, ride herd over departmental hiring and monitor the progress of the 2003 10-point Faculty Diversity Initiative, which followed upon the previous 10-year Black Faculty Strategic Initiative. But no college administration in recent history has ever said to whining students of *any* race or gender: “Are you joking? We’ve kowtowed to your demands long enough, now go study!” And why should the burgeoning student services bureaucracy indulge in such honesty, for it depends on just such melodramatic displays of grievance for its very existence.

The BSA may have misunderstood the paper’s argument, but it was right about one thing: The Duke administration had completely ducked the substance of the study. Referring to the bureaucrats’ open letter, the BSA’s executive vice president told the campus newspaper: “They didn’t mention the words ‘race,’ ‘black’ or the phrase ‘affirmative action’ in their response, and we feel that this was a deliberate attempt to avoid directly addressing the issues at hand.” No kidding. The Duke hierarchy uttered not a word on the question whether the school’s black students were dropping out of the sciences because of their relative lack of preparation. It was as if Arcidiacono, Spenner, and Aucejo had committed a social transgression so embarrassing that the only polite thing to do was to ignore it.

The uproar over the major-switching paper has had its intended effect: Lead author Arcidiacono may be browbeaten out of affirmative action research. “Honestly, I’m not sure how much further I want to go with this line of inquiry,” he says. “I may have been naïve to think I could do this work.” Arcidiacono’s other scholarly focus, applied econometrics, has the distinct advantage that “no one gets upset” with you, he says. Moreover, economists understand the concept of distribution—to talk about average black academic preparation, for example, does not mean that there are no black students superbly qualified to study engineering and chemistry.

A handful of scholars have been documenting the negative consequences of so-called “academic mismatch,” but the scourging of Arcidiacono and his fellow authors cannot encourage many others to enter the fray. Nevertheless, the evidence is already strong

that preferences are contributing to the undereducation of minorities. In 2005, UCLA law professor Richard Sander demonstrated that blacks admitted to law schools because of their race end up overwhelmingly in the lowest quarter of their class and have much greater difficulties passing the bar than students admitted on their merits. A working paper by Sander and UCLA statistician Roger Bolus extends the Arcidiacono analysis of students at Duke to a comparative setting: Science students with credentials more than one standard deviation below their peers’ are half as likely to graduate with science degrees as students with similar qualifications attending schools where their academic preparation matches their peers’.

As such findings mount, the conclusion will become inescapable: College leaders who continue to embrace affirmative action do so simply to flatter their own egos, so that they can gaze upon their “diverse” realm and bask in their noblesse oblige. Faced with the Arcidiacono analysis and other research like it, the responsible thing for Duke administrators to do would be to admit all students on the same basis, so that all would stand an equal chance of success in the most challenging majors. Getting rid of racial preferences would reduce Duke’s black population, now 10 percent of the student body, by half, but the half that remained would be fully competitive with their peers. Admittedly, such a drop in the black student census would trigger charges that Duke was hostile to minorities. And unless other schools reformed their own admissions policies, the students whom Duke would have admitted through racial preference would simply go to other elite institutions, where they would be just as handicapped by deficiencies in their academic preparation. All the more imperative, then, to air the mismatch research as widely as possible. But until it becomes possible to discuss the effects of preferences without being accused of racial animus, it may be impossible to dislodge academic affirmative action, no matter how discredited its purported justifications.

*Heather Mac Donald is a contributing editor to the Manhattan Institute’s City Journal.*

*City Journal*, Feb. 20, 2012. □

## LEADING JOURNAL DEMANDS HARPER SET CANADA'S SCIENTISTS FREE

*Helen Branswell*

One of the world's leading scientific journals has criticized the federal government for policies that limit its scientists from speaking publicly about their research.

The journal, *Nature*, says in an editorial in this week's issue that it is time for the Canadian government to set its scientists free.

It notes that Canada and the United States have undergone role reversals in the past six years, with the U.S. adopting more open practices since the end of George W. Bush's presidency while Canada has been going in the opposite direction.

The editorial says that since taking power in 2006, Prime Minister Stephen Harper's government has tightened the media protocols applied to federal government scientists and employees.

*Nature* says policy directives on government communications that have been released through access to information requests have revealed the Harper government has little understanding of the importance of the free flow of scientific knowledge.

The journal says its own news reporters have experienced firsthand the obstacles the Canadian government puts in the way of people trying to gain access to science generated by government scientists on the public payroll.

"The Harper government's poor record on openness has been raised by this publication before ... and *Nature's* news reporters, who have an obvious interest in access to scientific information and expert opinion, have experienced directly the cumbersome approval process that stalls or prevents meaningful contact with Canada's publicly funded scientists," the editorial says.

The editorial was referring to a column outlining the problems federal scientists face that it published in September, 2010. The column was written by Kathryn O'Hara, a professor of science broadcast journalism at Carleton University in Ottawa and a former president

of the Canadian Science Writers' Association.

"Little has changed in the past two years." the editorial continued. "Rather than address the matter, the Canadian government seems inclined to stick with its restrictive course and ride out all objections."

Two weeks ago the Canadian Science Writers' Association, the World Federation of Science Journalists and several other groups sent an open letter to Mr. Harper, calling on him to unmuzzle federal scientists.

The letter cited a couple of high-profile examples of the federal policy in action. Last fall Environment Canada barred David Tarasick from speaking to journalists about his ozone layer research when it was published in *Nature*. And the Privy Council Office stopped Kristina Miller, a researcher at Fisheries and Oceans Canada, from doing interviews about a study she published in *Science* on the causes of sockeye salmon decline in British Columbia.

*Nature* said the Canadian policy surprised international attendees of the recent conference in Vancouver of the American Association for the Advancement of Science. The problem was the subject of a session at the meeting.

"Scientists and other visitors from around the globe discovered, to their surprise, that Canada's generally positive foreign reputation as a progressive, scientific nation masks some startlingly poor behaviour," *Nature* says.

"The way forward is clear: it is time for the Canadian government to set its scientists free."

*Globe and Mail*, March 1, 2012. □

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## FREE SPEECH UNDER FIRE

Western nations appear to have fallen out of love with free speech and are criminalizing more and more kinds of speech through the passage of laws banning hate speech, blasphemy and discriminatory language.

*Jonathan Turley*

The recent exchange between an atheist and a judge in a small courtroom in rural Pennsylvania could have come out of a Dickens novel. Magisterial District Judge Mark Martin was hearing a case in which an irate Muslim stood accused of attacking an atheist, Ernest Perce, because he was wearing a "Zombie Mohammed" costume on Halloween. Although the judge had "no doubt that the incident occurred," he dismissed the charge of criminal harassment against the Muslim and proceeded to browbeat Perce. Martin explained that such a costume would have led to Perce's execution in many countries under *sharia*, or Islamic law, and added that Perce's conduct fell "way outside your bounds of 1st Amendment rights."

The case has caused a national outcry, with many claiming that Martin was applying *sharia* law over the Constitution — a baseless and unfair claim. But while the ruling certainly doesn't suggest that an American caliphate has gained a foothold in American courts, it was nevertheless part of a disturbing trend. The conflict in Cumberland County between free speech and religious rights is being played out in courts around the world, and free speech is losing.

Perce was marching in a parade with a fellow atheist dressed as a "Zombie Pope" when he encountered Talaag Elbayomy, who was outraged by the insult to the prophet. The confrontation was captured on Perce's cellphone. Nevertheless, Martin dismissed the charge against Elbayomy. Then he turned to Perce, accusing him of acting like a "doofus." Martin said: "It's unfortunate that some people use the 1<sup>st</sup> Amendment to deliberately provoke others. I don't think that's what our forefathers intended."

For many, the case confirmed long-standing fears that *sharia* law is coming to this country. The alarmists note that in January, a federal court struck down an Oklahoma law that would have barred citing *sharia* law in state courts. But there is no threat of that, and

certainly not in Oklahoma, which has fewer than 6,000 Muslims in the entire state. Rather, the campaign against *sharia* law has distracted the public from the very real threat to free speech growing throughout the West.

To put it simply, Western nations appear to have fallen out of love with free speech and are criminalizing more and more kinds of speech through the passage of laws banning hate speech, blasphemy and discriminatory language. Ironically, these laws are defended as fighting for tolerance and pluralism.

After the lethal riots over Dutch cartoons in 2005 satirizing Muhammad, various Western countries have joined Middle Eastern countries in charging people with insulting religion. And prosecutions are now moving beyond anti-religious speech to anti-homosexual or even anti-historical statements. In Canada last year, comedian Guy Earle was found to have violated the human rights of a lesbian couple by making insulting comments at a nightclub. In Britain, Dale McAlpine was charged in 2010 with causing "harassment, alarm or distress" after a gay community police officer overheard him stating that he viewed homosexuality as a sin. The charges were later dropped.

Western countries are on a slippery slope where more and more speech is cited by citizens as insulting and thus criminal. Last year, on the Isle of Wight, musician Simon Ledger was arrested on suspicion of racially aggravated harassment after a passing person of Chinese descent was offended by Ledger's singing "Kung Fu Fighting." Although the charges were eventually dropped, the arrest sends a chilling message that such songs are voiced at one's own risk.

Some historical debates have now become hate speech. After World War II, Germany criminalized not just Nazi symbols but questioning the Holocaust. Although many have objected that the laws only force such ignorance and intolerance underground, the police have continued the quixotic fight to prevent barred utterances, such as the arrest in 2010 of a man in Hamburg caught using a Hitler speech as a ring tone.

In January, the French parliament passed a law making it a crime to question the Armenian genocide. The law was struck down by the Constitutional Council, but

supporters have vowed to introduce a new law to punish deniers. When accused of pandering to Armenian voters, the bill's author responded, "That's democracy."

Perhaps, but it is not liberty. Most democratic constitutions strive not to allow the majority to simply dictate conditions and speech for everyone — the very definition of what the framers of the U.S. Constitution called tyranny of the majority. It was this tendency that led John Adams to warn: "Democracy ... soon wastes, exhausts and murders itself. There was never a democracy yet that did not commit suicide."

Legislators in the United States have shown the same taste for speech prosecutions. In June, Tennessee legislators passed a law making it a crime to "transmit or display an image" online that is likely to "frighten, intimidate or cause emotional distress" to someone who sees it. The law leaves free speech dependent not only on the changing attitudes of what constitutes a disturbing image but whether others believe it was sent for a "legitimate purpose." This applies even to postings on Facebook or social media.

Judge Martin's comments are disturbing because they reflect the same emerging view of the purpose and, more important, the perils of free speech. Martin told Perce that "our forefathers" did not intend the 1st Amendment "to piss off other people and cultures." Putting aside the fact that you could throw a stick on any colonial corner and hit three people "pissed off" at Thomas Paine or John Adams, the 1st Amendment was designed to protect unpopular speech. We do not need a 1st Amendment to protect popular speech.

The exchange between the judge and the atheist in Mechanicsburg captures the struggle that has existed between free speech and religion for ages. What is different is that it is now a struggle being waged on different terms. Where governments once punished to achieve obedience, they now punish to achieve tolerance. As free speech recedes in the West, it is not *sharia* but silence that is following in its wake.

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*Los Angeles Times: Op-Ed, March 9, 2012. □*

## GROWING CRITICISM OF COPYRIGHT DEAL SIGNED BY 2 CANADIAN UNIVERSITIES

The Canadian Association of University Teachers has condemned a licensing agreement for copyrighted materials signed by both the University of Toronto and Western University. The association says the deal costs too much money (a fee of \$27.50 for each full-time-equivalent student) and allows Access Copyright, the licensing agency, to monitor the correspondence of academics for possible infringement of the terms. In addition, it says that with the country's Supreme Court expected to clarify the educational use of copyrighted works, the universities should have waited. The University of Toronto and Western University announced the agreement Monday, saying it allows faculty members and students access to millions of copyrighted publications and provides legal protection from copyright infringement.

Professors at both universities have begun to publicly criticize the move. Ariel Katz, a University of Toronto law professor and director of the Centre for Innovation Law and Policy, wrote Wednesday on his blog that it is a step backward for the institution, saying American educators have been willing to fight for principles that their Canadian counterparts appear willing to give up.

*The Chronicle of Higher Education, Feb. 2, 2012. □*

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*Clive Seligman, President*

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