

SAFS Newsletter

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Maintaining standards of excellence in academic decisions about students and faculty

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REPORT ON THE PETER MARCH AFFAIR AT SAINT MARY'S UNIVERSITY

Mark Mercer

On Tuesday 7 February of this year, Peter March, a philosophy professor at Saint Mary's University, in Halifax, posted on his office door the set of twelve cartoons originally published in September 2005 in the Danish newspaper *Jyllands-Posten*, cartoons that had provoked riots and killings in some predominantly Muslim countries. Many Muslims are deeply offended by these cartoons, believing one or another of them to insult Muhammad or to slight Islam as a religion or Muslims as individuals.

Just a few hours after Dr. March had posted the cartoons, Terrence Murphy, the Vice President Academic and Research of Saint Mary's, asked Dr. March to remove them. Dr. March refused this request. Dr. Murphy then ordered Dr. March to remove them. Dr. March complied.

Why did Dr. Murphy order the cartoons down? According to a memo he issued on Thursday 9 February to the Saint Mary's University community, Dr. Murphy ordered the cartoons down on grounds of public safety. Dr. Murphy wrote that his fear that someone might react to the presence of the cartoons with violence was well grounded given the violent reaction to the cartoons overseas. Dr. Murphy's memo is the only official account of the order to remove the cartoons.

Chuck Bridges, the Vice President External, Steven Smith, the president of the University Faculty Union, and Zach Churchill, the president of the Students' Association, along with many others among both students and faculty, applauded Dr. Murphy's action.

The university's official reason was not, though, the only reason these officers and others gave as justification for having the cartoons removed. In statements and interviews, each mentioned one or another of the following as a sufficient justification: the presence of the cartoons harms emotionally some members of the Saint Mary's University community; the presence of the cartoons harasses Muslim members of the university community; the presence of the cartoons creates a hostile workplace; the presence of the cartoons violates someone's human rights (by, it would seem, expressing or fomenting hatred toward members of a group).

Indeed, in his memo giving the official reason, Dr. Murphy himself made a vague remark about human rights. For his part, Colin Dodds, the President of Saint Mary's, wrote in an email message that "we

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would take the same position whether it be porn, anti Jew, anti Christian etc.”, a remark that would make little sense if President Dodds thought the cartoons were ordered down solely on grounds of public safety. So far as I know, the university has not stated that none of the other justifications in the air was among its actual reasons for ordering the cartoons down.

Dr. Murphy, Mr. Bridges, Dr. Smith, and Mr. Churchill were each at pains in their statements to affirm their support for academic freedom. Each took one or more of three separate lines: 1) academic freedom was not at stake at all here, as academic freedom concerns research and teaching and office doors are not venues of research or teaching; 2) Dr. March's academic freedom was not violated, as Dr. March either acted irresponsibly in posting the cartoons or the posting lacked academic significance; 3) freedom is one value among others and must sometimes be curtailed in favour of another value. Each of these officers said that though Dr. March is not free to post the cartoons on his door, he is free to display them in his classroom, though Mr. Churchill added that Dr. March must discuss them with his students responsibly.

Some Saint Mary's professors who agreed with Dr. Murphy's decision took a fourth line: academic freedom is best served by including among the family of scholars all who would like to belong to it, and Dr. March's insensitive or insulting gesture might well serve to exclude people from the family. One of these professors told me that Dr. March should not be allowed to display the cartoons in class. (He may, though, he or she added, post them on an internet site only his class could view or give his students the address of a site on which they appear.)

There is much that is distressing or dispiriting in the affair.

1) Though Terry Murphy's fear was hysterical and, most likely, based on a partial view of the evidence, it might well have been sincere. Nonetheless, Dr. Murphy's first and only thought was to remove the cartoons. It did not occur to him to meet whatever threat he thought they posed by increasing security or moving the display to a safer location.

2) Terry Murphy did not say in his memo, nor has he said subsequently, that he regrets that he had to order the cartoons down. He has not characterized ordering them down as the lesser of two evils. He has not said that it is a sad day when we must fear the wrath of our fellow citizens when we post cartoons. He has not shaken his head in dismay that neither the university's security service nor the police can protect us from the would-be violent criminals in our midst.

3) The idea that what is unacceptable in the hallways of the university is acceptable in the classrooms is preposterous and dangerous. Academic freedom cannot be protected by distinguishing between hallways and classrooms. On the contrary: if posting cartoons on a door violates someone's human rights or puts safety at risk, then displaying them in a classroom can easily do so as well.

4) Many students at Saint Mary's and a depressingly large number of faculty members are inclined to think that because Dr. March was, as they think, wrong to post the cartoons, it was right and good that they were ordered down. Many people take it as axiomatic that authorities are to act repressively to correct any wrong.

5) Many members of the Saint Mary's community have a very poor understanding of the nature and value of academic freedom and of freedom of expression generally. This is true especially of those who find in the case no infringement of academic freedom at all, but not only of them. Dr. March's gesture hurt some feelings, but, even if it was insensitive or insulting, it put nothing much else that we care about at risk (other than, let us suppose, safety). So those who support the university's infringement of Dr. March's academic freedom on human rights grounds, or whatever, clearly have only the shallowest commitment to academic freedom. In a minor contest with any other value, it would seem, they are happy to show freedom the door.

6) Some of my colleagues told me that had it been anyone other than Dr. March who had been treated that way by the administration, he or she would have come

to his or her aid. Dr. March, an aggressive controversialist, simply got what was coming to him—finally. It will all blow over, I was assured, and none but the deserving will be any the worse for it. Another colleague told me that he or she didn't want to get involved for fear of his or her career. (I think that his or her fear is entirely ungrounded.) Concern for principle aside, looking at it just pragmatically, these are dangerously imprudent attitudes for academics to live by.

7) The union declined to intervene. It determined, before any grievance was filed, that the administration did not violate Dr. March's academic freedom. (It has not explained its determination, except to say that it consulted experts.) The union has made more insinuations about harassment and human rights violations than the administration has. When Dr. March sought the union's assistance, it declined to pursue the grievance he had prepared.

8) Many professors at Saint Mary's think that questions concerning the pedagogical soundness of Dr. March's gesture are relevant to whether the university was right to have ordered the cartoons down. Because the gesture served no good teaching function (they say, always without argument), the university was right to put an end to it, given that it caused people hurt.

9) The quality of discussion of the order to remove the cartoons has been dismal. No one who has issued a public statement expressing support of the order has supplied anything like a full or considered argument in favour of it.

Terry Murphy has not explained how events in countries very much unlike Canada made his fears reasonable. He has not explained why ordering the cartoons down was the best option available to him. He has not explained how ordering them down did not violate Dr. March's academic freedom. He has not explained how we can suppose ourselves free in the classrooms but not in the hallways. He has not clarified his suggestion that Dr. March acted irresponsibly in posting them nor has he explained how Dr. March's supposed irresponsibility is relevant to his decision. He has not clarified the reference he made in his memo to human rights.

Chuck Bridges, Steven Smith, and Zach Churchill, in their public statements and their messages to me, have not even tried to explain how the offence that many Muslims and others take to Dr. March's gesture

amounts to a violation of human rights, harassment, hostile workplace, or emotional harm. They simply assert that Dr. March's gesture amounts to one or another of these—or, worse, they insinuate that it does. Further, the latter two say both that Dr. Murphy violated Dr. March's academic freedom justifiably in a good cause and that Dr. Murphy didn't violate it at all. Both say, without argument, that the administration is right to stop us when we act irresponsibly. Neither has argued that Dr. March acted irresponsibly in posting the cartoons.

10) Officers at Saint Mary's University don't care that the quality of their discussion of the Peter March affair has been dismal. In postings on a public bulletin board and in email messages I have asked those responsible for ordering the cartoons down and those who support their being ordered down to clarify, explain, and justify their positions. I have laid out why I think the university was wrong to order them down. For the most part, people to whom I have sent messages have acknowledged them. But none has addressed my criticisms or arguments. They merely reiterated their confused and unargued positions.

This, to me, is terribly discouraging, perhaps the most upsetting element of the whole affair. Administrators and professors at my university are indifferent to argument.

I would add an eleventh distressing and dispiriting thing, something I think important, though it isn't directly about academic freedom. I would add that the quality of discussion of Dr. March's gesture itself has also been dismal or, rather, almost nonexistent. Few here at Saint Mary's have shown any interest in debating the merits of Dr. March's gesture as pedagogy or politics or a move in a discussion, except to assert that that gesture was empty. But what was Dr. March up to in posting the cartoons? What were his goals? Were these goals admirable? Was posting the cartoons an effective way of reaching them? What, if anything, was ethically unsound in posting the cartoons? If posting them was ethically unsound, because, say, it offended or disturbed people, and yet was effective in reaching an admirable goal, should Dr. March have posted them? — A public discussion of these matters on our campus would have been interesting and useful.

At Saint Mary's, only in the student newspaper was the gesture itself discussed. The students' philosophy society toyed with the idea of having Dr. March explain himself publicly and face questions and

criticisms, but eventually set out instead to organize a panel discussion. (Society members were unable to agree on a topic, no Muslims the society contacted would participate, and the project collapsed. To its credit, the philosophy society did later organize a successful discussion of free speech and the law.) It was Dalhousie University, the big university down the street, that raised publicly the issue of the merits and flaws of Dr. March's gesture as a piece of teaching or a political act or a move in a discussion. In March, people at Dalhousie invited Dr. March to explain himself and to respond to criticism. They assumed a task our VP Academic and Research had shirked.

The affair itself might not yet be over. In late March, students filed a complaint against Dr. March. A formal Harassment and Discrimination Hearing Committee was struck. Lawyers were summoned. Money was spent. The Committee was to determine whether Dr. March harassed the complainants, either in posting the cartoons or in comments or actions in the days that followed. Were the Committee to determine that he did, Dr. March might be reprimanded by the university. In late June the process stalled. Those who brought the complaint might choose to restart it. If they do, another chapter in the Peter March affair will begin in mid-September.

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FREEDOM OF SPEECH, OFFENSIVE CARTOONS AND THE VIOLENCE VETO

Stefan Braun

President MacLauchlan ascribes primary moral responsibility for the Danish cartoon violence to those (like the SAFS) who would peaceably speak as they think rather than to those who would think to bully, burn, or kill in response as they speak. By doing so, he legitimizes and, thereby, promotes the very messengers of intolerance and violence that he both fears and excuses in his defense of censorship. At the University of Prince Edward Island, freedom of peaceable political speech ends where freedom of religious offense, intimidation, and threat of violence, in response, begins. In short, censorship starts where freedom of speech really counts.

Perverse logic, to be sure. But today, this is conventional wisdom among (too many) "progressive" thinkers proclaiming Canadian values of tolerance, diversity, and democracy. That any responsible Canadian official could honestly hold such confused views on the parameters of legitimate public debate in a democracy would be embarrassing enough. That the President of a Canadian university does so is alarming. If we can't freely, fully, and fearlessly debate one of the most important news stories of the year at institutions ostensibly committed to untrammelled inquiry and independent thinking, where can we?

But PEI officialdom are not alone in this kind of Orwellian "double-think." Excepting free speech mavericks, like the Western Standard, it is shared by an increasingly cowed North American media. Fear of intimidation is, self-servingly, being confused with respect for religion, and official intolerance of independent thinking conflated with community sensitivity and multicultural harmony. Fundamental principles of democratic governance themselves are fallen victim to such befuddled logic's patronizing yolk. Hate censorship laws in Canada are legitimizing the notion that, where freedom to speak counts most, official truth, official meanings, and even official histories, count more. Today, official, (that is, authoritatively delimited or directed) discourse can substitute for publicly constructed ones for fear of what an uncensored public might themselves construct -- or an offended community threaten. Increasingly, freedom of public debate on public matters is being defined not by reference to the social importance or

political gravity of the issues in public contention but by the hurt feelings of offended “thought-thugs” or threatening bullies.

President MacLauchlan tries to fix the officially “right” campus politics by force of silencing, for fear of the “wrong” campus politics left free to independent thinking. Not unlike the belligerent offended, he substitutes threat, intimidation and might for free exchange of ideas, to “demonstrate” public right. To be sure, he, unlike those self-serving thought-thugs he officially protects from effective public criticism, is motivated by more noble considerations than himself. He acts neither to shelter from challenge his own personal beliefs, nor, he would contend, to advance the political agenda of any one distinct community at the expense of another, but rather for the benefit of the greater campus good. A quiet campus is better for learning than an unruly one; a socially harmonious educational environment preferable to a religiously divided one; an intellectually regulated diversity better for exchange of ideas than a rancorously intellectually one. Across many progressive Canadian campuses, censorial coercion, threat and intimidation are substituting for free thinking and independent debate, in the name of Canadian values of peace, order, tolerance, understanding, diversity, democracy and even freedom of inquiry. But can freedom to speak depend on the offended, and be free? Can the right to peaceably speak be subject to a violence veto, and be tolerant? Can official thinking substitute for public thinking and be self-enlightening? Can officially directed inquiry be intellectual diversity?

Social peace, and its calming political order, as the prerequisite, greater, public good has been the rationale for silencing public disagreement of every oppressive autocrat who has every sought to shield the official agenda and its dogma from effective outside scrutiny and challenge. That responsible officials, like Wade MacLauchlan, invariably fall victim to their own self-deluding myth of public service by public silencing, should come as no surprise. Censors’ unself-critical assumptions of social infallibility, and the patronizing arrogance, and intolerance for unregulated thinking, it breeds are mutually reinforcing. What we are witnessing flows naturally from mock exercises of freedom of speech in insular institutional environments artificially sheltered from the demons of independent debate by official guardians of the public mind. The power to decide who shall speak as they think and who shall not can cloud the clear vision of even the best intentioned.

To be sure, enforced silence can be socially soothing and politically seductive. But, precisely for those reasons, it is dangerously deceptive. Campus peace rooted in fear of force rather than the force of free thought is not genuine harmony. MacLauchlan confuses public quiet with public enlightenment; enforced silence with social harmony; directed discourse with honest debate. Over time, fear of independent public debate, frustration of political opposition, and intolerance of community offense comes with a price – to the detriment of the very social harmony, enlightened debate, and public order that Wade MacLauchlan, and other blinkered officials like him, aspire to with their censorship. Silencing public disagreement is democratically self-contradictory, and, ultimately, socially self-defeating, for many reasons.

Muzzling political opposition does not promote a stronger and more secure social order, but a more fragile one – as most every historical dictator has come to learn. Silence cannot expose ignorance, prepare vulnerable minds for the challenges of demagogues, or bridge community divides. Myopic and insular officials like MacLauchlan think they can ensure “right thinking” and thwart community division and public discord, with censorship. But they only postpone, and worsen, the day of public reckoning, instead. They do not confront feared social conflicts with open dialogue and honest discourse. They sweep them underground with hate silencing. They do not address deep-seated cultural divisions, nor expose festering political grievances, with independent inquiry and unfettered debate. They conceal or mask them with directed discourse, and chilled “discussion”, instead. Imposed harmony, however, endures only until the next political or economic crises tears it apart. Its synthetic community and facade of tolerance lasts only as long as the glue of repression holding its petrified parts together. Social censors, like Wade MacLauchlan, falsely promise greater tolerance and a more genuine community, with “positive” silencing. But they coerce an artificial social peace and procure Pyrrhic public victories of the moment, at the cost of later greater public defeats in the future, instead. “Right thinking” cannot be commanded; nor can right-thinkers be forever freed from challenge. The “right politics” cannot be officially frozen in time, by repressive campus speech and equity codes. Communist dictators tried, and even they, in the end, and at great cost, failed.

In the long run, official censorship for the “public good” serves no one -- not Canadian democracy or

multiculturalism -- but the social dogmatists and the political demagogues of intolerance well.

Dr. Braun is the author of numerous scholarly articles on hate censorship, and the landmark book: *Democracy off Balance: Freedom of Expression and Hate Propaganda Law in Canada* (Toronto: University of Toronto Press, 2004). Forthcoming: "Second Class Citizens: Jews, Freedom of Speech, And Intolerance on Canadian University Campuses," Washington and Lee Journal of Civil Rights and Social Justice (May/June 2006). □

HOW RYERSON FAILED MARGARET SOMERVILLE

If there were a medal for the year's limpest defence of free speech, Ryerson University would take it in a walk.

The Toronto institution is under fire for giving an honorary degree to Montreal ethicist Margaret Somerville. Opponents say Prof. Somerville is unworthy because she opposes same-sex marriage, a position held by roughly half the population of Canada. Student politicians and gay activists have called her homophobic and accused her of spreading hate. A university that truly respected free expression would have issued a ringing retort, defending Prof. Somerville and its decision to honour her. Instead, a Ryerson committee came forth with a press release saying, in effect, that it was stuck with giving the professor her degree.

On the one hand, Ryerson defends free expression. "If we withdraw the award, then we demonstrate that as a university we show tolerance for some contestable views but not others," said the awards and ceremonial committee of the university's academic council. "Consequently, to rescind the award would raise basic issues of freedom of speech in an academic environment." Not exactly Edmund Burke, but so far so good.

On the other hand, the committee goes on to say that "many of us disagree strongly with some of her opinions" and that they had been "unaware" of her views when they decided to give her the degree. If they had known those views, it would have given them "serious pause before approving the award."

Imagine the position this puts Prof. Somerville in. If she appears at the university's convocation ceremony on Monday, she will be accepting an honour from an institution that has said publicly it is not really sure it should be giving it to her in the first place. "Why would you let a university confer an honour on you that thinks you're a bad person?" Prof. Somerville said earlier this week, agonizing about whether even to attend the ceremony after Ryerson's mewling statement.

Prof. Somerville is not a bad person. Far from it. A professor of medicine and law at McGill, and founding director of that university's Centre for Medicine, Ethics and Law, she is a leading thinker on ethical issues who has published thoughtful articles, essays, books and newspaper commentaries on issues ranging from euthanasia to reproductive technologies to whether it's wrong to kill baby seals. This year she is to deliver the prestigious Massey Lectures at the University of Toronto.

Her views on the sanctity of life are strict. She opposes assisted suicide, embryonic stem-cell research and late-term abortion. But there is no trace of hate or bigotry in her carefully argued writings. She opposes same-sex marriage (but not same-sex civil unions) because she thinks it erodes the role marriage plays in child-rearing. "I believe children have the right to a mother and father, and preferably their biological parents," she says. That may strike liberal-minded people as off-base -- many same-sex couples make excellent parents -- but it hardly makes her a raging homophobe.

The reality is that many Canadians have qualms about same-sex marriage. This newspaper happens to strongly support it, but it is an earth-shaking change, and people should be allowed to question its implications without being dismissed as bigots. That is what Prof. Somerville's critics are trying to do to her by protesting against her honorary degree: to silence her by making her out as a hater. Their campaign is the essence of political correctness, the campus movement that makes targets out of those who dare to express "incorrect" views.

Receiving a previous honorary degree from the University of Waterloo in 2004, Prof. Somerville warned graduates that the plague of political correctness on university campuses "can make people fearful to speak out as they should for what they believe." Now she herself has become the victim of

that plague. Shame on Ryerson for failing to defend her.

Editorial, *Globe and Mail*, Insider Edition, Saturday, June 17, 2006, page A20. □

TYING DOWN ACADEMIC FREEDOM

Pieter W. van der Horst

Earlier this month, after 37 years of teaching, I retired from the chair of Early Christian and Early Jewish Studies at Utrecht University. In my valedictory speech, "The Myth of Jewish Cannibalism," I intended to trace the accusation that Jews eat human flesh from its Greco-Roman origins through the Christian Middle Ages and the Nazi period to the present-day Muslim world. Much of the Islamic vilification of Jews has its roots in German fascism. Hitler's "Mein Kampf" has been on the best-seller lists in many Middle Eastern countries. The sympathy for Nazism goes back to the Führer's days. Palestinian leader Haj Amin al-Husseini, the Grand Mufti of Jerusalem, even closely cooperated with Hitler. He spent the war years in Berlin and visited Auschwitz, a trip that inspired his plans to build a concentration camp in Palestine.

In the Middle East of today, the demonization of Jews has reached unprecedented levels. Jews are accused of every evil under the sun, from cannibalism to the attacks on the Twin Towers, to causing the tsunami, the bird flu, AIDS and so on. At the end of my lecture I wanted to point out that it is our shared duty to combat this kind of anti-Jewish propaganda in the Muslim world. Nothing too controversial for a speech at a European university -- or so I thought.

Much to my surprise, though, the dean of the faculty asked me to delete the passage on Islamic Jew hatred. When I refused, she referred the matter to the highest university administrator, the *rector magnificus*, who summoned me to his office to appear before a committee of four professors (including the rector himself). The committee presented three reasons for removing the Muslim passages.

They claimed it was too dangerous to give the complete lecture because it might trigger violent reactions from "well-organized Muslim student groups" for which the rector could not take any responsibility. The committee also said it feared my

speech would thwart efforts at bridge-building between Muslims and non-Muslims at the university. Finally, they claimed my lecture was far below the university's scholarly standards, especially because of some sarcastic remarks about Dutch public figures (whom I criticize for their anti-Jewish position). "We feel we have to protect you from yourself," I was told. The rector said I had 24 hours to drop the controversial section. If not, he would have to assume his "rectorial responsibility." I wasn't sure what this meant, but it sounded very threatening.

I went home in a state of total confusion. I sensed the committee had exaggerated the dangers to make me toe the line of political correctness. At the same time, I could not independently assess the risks. And so I decided to submit an expurgated text because I did not want to expose myself and others to potential danger.

But since the committee also challenged my academic reputation, I decided to ask several scholars for their opinion, including three professors of Islamic studies, history and philosophy. They all praised it as an excellent piece of work, well documented and eminently relevant. They agreed that my polemical remarks about the tenacity of this anti-Jewish myth are wholly appropriate and did not in any way diminish the academic value of my work. Most importantly, they concluded that the text would definitely not infuriate Muslims because I do not say anything offensive about Islam as such, the prophet or the Quran. When I informed the rector of the conclusions of my peers, his sole reaction was: "Yet my solution is the best."

Only a day after my farewell lecture in its castrated form, the news about this case of academic censorship was on the front pages of many Dutch newspapers and broadcast on radio and TV. Without my knowledge, the colleagues who had reviewed my lecture had contacted the media.

The university soon launched a counterattack. The rector first suggested that my account of censorship was untrue, that no one had exerted any pressure and that I voluntarily adopted the university's advice. When I insisted that the meeting I remembered was much more of a nightmarish nature than the friendly chitchat the university portrayed, a second, nastier line of attack ensued. I was suddenly pictured as someone who could have disgraced the university with a lecture that was supposedly beyond the pale. In the meantime, though, several newspapers had published the uncensored text

so that everyone could form their own opinion. The expressions of support and gratitude I received were overwhelming and came from many academics at Dutch universities and prominent members of the Jewish community in the Netherlands. I did not receive a single negative, let alone threatening, Muslim reaction, although some of them said I could have spoken in less general terms, which is fair enough.

Fortunately, there are signs that the debate is gradually moving away from my incident toward the important issues at stake: academic freedom and Islamic Jew-hatred. If for fear of violence, real or imagined, academic freedom is curtailed, it bodes ill for our universities. If something as serious as Islamic Jew hatred cannot be subject of public debate, it bodes ill for society at large.

Dr. van der Horst is Professor Emeritus for Early Christian and Early Jewish Studies at Utrecht University.

Wall Street Journal Online, June 30, 2006. □

CIVIL DISCOURSE IS FREE DISCOURSE

Paul Gooch

Safiyah Ally's thoughtful Forum piece draws the contrast between the legally permissible and what is disrespectful or hurtful and suggests that free speech might be limited by respect, even if it is permissible (Beyond Posturing, March 6). She provides some examples of limits on free expression and says that "civil discourse exists on a higher plane than does free speech, setting limits that are often not enacted by law but are rather agreed upon by individuals within society." One has sympathy for those deeply offended by a particular form of free expression, not least because almost all of us can imagine like offence being given by some other form: one person's biting wit may mean another person's hurtful wound.

The question for a university, however, is not about social norms but about the very meaning of civil discourse. Civil discourse is not always comfortable.

Sometimes it is passionate and engaged, far from cool and polite. Its very civility lies not in manners, or in the social conventions of a group, but in its attempts to

create, challenge and enlarge understanding.

Discourse that is truly civil is the expression of a culture that embraces communities of difference who may passionately disagree but, nevertheless, continue to talk and to listen. Properly civil discourse will not remain silent about the appropriate limits on free expression; it will debate laws and customs; it will call prejudice to account even if it must shock to do so. Bland speech may not offend but it may also mask injustice. Civil discourse must sometimes be provocative discourse. No one should take delight in the offence of others. But a free society is willing to give voice to the arts and to the press, for instance, even when they are scandalous or disrespectful, because power and prejudice love respectful silence. Within a free society, the university has a special obligation to protect the space for free and civil discourse.

Different societies have different limits on free expression. Where may these limits be discussed, criticized, defended or debated, if not in a university? Where may the passionate learn to think and speak effectively about their passions, by opening them up to discussion and debate with others, if not in a university?

Universities must be places where freedom flourishes, for there is no better place to explore and determine what civil discourse actually is. That is why the fundamental question about the limits of freedom in a university must be the simple one of whether the conditions of free and informed discussion are violated. Offence should call forth more discourse, not shut it down.

Paul Gooch is Professor of Philosophy, Victoria College, University of Toronto.

University of Toronto Bulletin, March 27, 2006. □

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STATEMENT TO THE UNIVERSITY OF TORONTO GOVERNING COUNCIL

David Naylor

A History of Diversity

For decades, this University has placed a special emphasis on creating the most diverse academic community possible. We have done so because outstanding scholarship and outstanding teaching can only thrive in an environment that embraces the broadest range of people and encourages the free expression of their diverse perspectives.

Year by year, we have succeeded in building a safe place for the widest breadth of communities, of experiences and thus inevitably, of ideas. By some measures, the University of Toronto is now more diverse even than Toronto itself. Continuing to advance that achievement remains our daily work.

A Current Strain

Thus, it is also important for us to take note when part of our community feels under particular strain.

I am concerned that a number of incidents in the past few weeks have made the current environment difficult for members of our Muslim community. Misinformation about these incidents has only compounded that anxiety. I am disappointed that some members of our community have offered commentary on these distressing events that has not been particularly accurate or helpful.

In order to ensure the accuracy of this discussion, let me describe the facts as we know them about four incidents in particular and what the University's response has been:

On March 7, a hijab-wearing female UTM student was followed into a bathroom at Hart House by another woman who confronted her verbally and shoved a poster onto her chest. The poster advertised a rally in support of the Danish cartoons that had portrayed the prophet Mohammed in a manner offensive to Muslims. The victim left the bathroom, threw the poster in the garbage and rejoined her friend in the Arbor Room. The assailant followed her out of the bathroom, found her in the Arbor Room, and began to yell anti-Islamic epithets at the student and her friend .

The victim reported this incident to the campus police. Campus police sent an officer to Hart House, but didn't find anyone matching the description of the assailant. The police continue to investigate this incident.

On March 8, International Women's Day, student leaders from SAC were distributing Women's Day leaflets on the southeast corner of St. George and Bloor. Three eggs were dropped onto the group from the Woodsworth College residence under which they were standing. One egg narrowly missed two Muslim women wearing hijab, who were there as part of the SAC group.

Campus police responded immediately, and questioned people at the site. However, because no one claimed that they had been hit or specifically targeted, the police determined that they had no grounds to continue their investigation. Woodsworth is investigating to ascertain the identity of those involved and appropriate action will be taken by the College.

Two Weeks Ago: Fliers including one of the Danish cartoons and statements that have caused offense to Muslims started to appear on a variety of locations around U of T and, apparently, around York University. U of T's Anti Racism Office contacted police and asked them to take the fliers down treating them the way that we treat all offensive graffiti. Campus police forwarded the fliers to Toronto Police. On March 14, Toronto Police advised U of T that these fliers did not constitute hate literature, but also advised that the fliers were a "point of interest" for them.

On March 20, Sunday, an African-Canadian man attending an Islamic theological conference that had rented space on campus was the victim of a hit-and-run at Huron and Russell Streets, after a verbal confrontation during which the assailant had yelled racial epithets at the victim. The victim was taken to hospital for examination and observation and then released. The alleged assailant later turned himself into Toronto Police, who have laid charges for dangerous driving and assault. The assailant has been released on bail – with the condition that he stay away from the U of T campus.

The victim was not a member of the U of T community. It is our understanding that the assailant is not a member of the U of T community. This did not take place in connection with any U of T programming

or on U of T property, and we have seen no evidence to suggest that the incident had any connection to the Islamic conference happening nearby.

Nonetheless, the University Administration feels a profound responsibility to ensure a safe environment on our campuses and we responded fully and quickly. Immediately upon learning of the incident, U of T Police sent five special constables to the conference with offers to escort attendees after the conference, if they so desired. U of T's acting provost went to the conference immediately to assist attendees and police, and, the anti-racism officer went to the conference to speak with attendees and police.

Clearly, these incidents take place in a setting of growing ethnic and religious tensions in Western society. That a university such as ours, which pursues diversity as a central tenet, should find itself a venue for the ugliest displays of that tension is perhaps inevitable.

It is most certainly regrettable, and it is without question intolerable.

Other Canadian universities have faced similar tensions in recent years. We, like they, can only respond to racism by confronting it directly, prosecuting it whenever warranted, protecting the safety of our members, and promoting diversity with unwavering commitment. This University has long been and remains opposed to Islamophobia, anti-semitism, and every conceivable form of discrimination based on race, religion or faith, or ethnocultural identity. Combating these myriad forms of racism and discrimination is the daily work for many members of your administration, and it is a daily commitment made by countless members of the wider U of T community.

On that point, I have to register concern at the way some individuals have publicized the hit-and-run crime this weekend as linked to the Islamophobic incidents that clearly involved members of our University community. The struggle against racism is not advanced by commentary that fuels anxieties or that unfairly impugns the reputation for inclusivity of our remarkably diverse University community. In that respect, the Administration decided last week to proceed with a statement today, and we have been firm in not allowing this weekend's unrelated incident to alter our timetable. My considered view is that no

amount of public rhetoric is a substitute for the private professionalism and commitment demonstrated so abundantly by members of the Student Affairs team and our Campus Police in their interactions with victims of discrimination and their outreach to members of the affected communities.

Last Friday, I had the honour to attend Muslim Jumma prayers at Hart House – where they have been held for over forty years. In speaking with members of our community there, I underscored the fact that the University of Toronto is *their* home; that Muslim students, faculty and staff are integral to this learning community; that diversity and respect for difference is our advantage, and that the strength that they have shown in continuing to educate others about their community in the face of these difficulties has benefited us all.

The University has worked with student groups to develop the plans for a multi-faith centre that will provide an appropriate permanent location for Muslim students, as well as the many other faith communities on our campus. I am pleased that construction on this facility will commence this summer.

I am proud of the way that Muslim students on campus have joined forces with other groups, most notably Hillel, to challenge ethno-cultural stereotyping and actions that promote intolerance. In many ways, these two communities have provided a model of bridge building for all of us to pursue further.

I also want to thank a great many people in the Administration, in our faculties and within our student bodies who devote themselves, daily, to fighting racism and building equity.

The University's Values

Some have asked how the University applies the principle of free expression in the current climate.

Let me say very specifically that the University will not tolerate actions that appear to rise to the level of a hate crime, or for that matter, any criminal act. We have worked and will continue to work to protect the victims, to investigate these events quickly and thoroughly, and to forward any evidence to the Toronto Police for their prosecution where evidence exists to support a conviction.

I would add that incidents targeting individuals on the basis of their identity -- even if they do *not* rise to the level of an actual crime -- also cause us grave concern, because they undermine the basic purpose of this learning community.

Of course, the principle of free expression is a cornerstone of free academies in democratic societies. No university embracing that principle can ban legal expressions of opinion. Indeed, as we have noted before, every member of the University community should be prepared to confront opinions they find morally offensive.

Nonetheless, any action undertaken for the sole purpose of causing distress to other members of the University of Toronto undermines the basic purpose of this learning community. Our purpose is to advance knowledge through teaching and research in an environment of inclusiveness and respect. Intolerance is a destructive distraction from that goal. It thus has no moral place at this University, even when expressed through means that are protected by the principle of free expression.

To repeat: There will be offensive expressions that we cannot suppress or censor because of our respect for the core value of free speech on our campus and in our society. But I want to serve notice that this Administration will not hesitate to communicate its concerns to those who seek not to promote a dialogue, but to posture as demagogues.

Beyond all of these considerations, any action that threatens the physical safety and well-being of University members or of visitors to our campuses is absolutely intolerable. Every member of the U of T community is responsible for ensuring an environment in which their peers and guests feel safe and welcome. And, I assure you that this administration will continue to focus on ensuring the safety of all our campuses.

The Path Ahead

Let me summarize: The University of Toronto will continue to uphold the principle of free expression -- even, at times, to a degree that may be uncomfortable in broader society -- because it is the cornerstone of our daily work.

In so doing, we expect all members of this community to be mindful of the fine line between discourse that is provocatively reasonable and that which is

unreasonably provocative because it targets individuals on the basis of their identity. Racism and discrimination on the basis of religion or ethno-cultural identity are unacceptable on our three campuses.

To that end, we will also continue to devote major resources to strengthening the culture of inclusiveness and respect for differences that already characterizes so much of our University. In that effort, I remain grateful for the contributions of countless members of our learning community who, in their everyday interactions with each other, uphold the principle that equity and diversity are essential prerequisites for the long-term success of this great University.

David Naylor is President of the University of Toronto.

March 23, 2006. □

DOES PRESIDENT NAYLOR'S MARCH STATEMENT TO THE GOVERNING COUNCIL THREATEN ACADEMIC FREEDOM?

John Furedy

During the last two decades, there have been two conflicting visions of a university. One position is that the university's essential purpose is the search for truth through the conflict of ideas. This position entails that academic freedom (of both student and faculty members of the academic community) is the paramount value. The other position is that comfort (of individuals or of various collectivities) should be the criterion of what can be thought and said (especially in public). A common defense of this culture-of-comfort position is that it averts violent and even dangerous behavior, and so contributes to making the campus "safe".

Most Canadian universities have conceded ground to the culture-of-comfort position by instituting what are essentially speech codes, although that term is seldom used. My university followed this trend in the early nineties inasmuch as its code forbade not only offensive behavior but also offensive speech, and hence weakened, at least in principle, the academic freedom of its community. In practice, however, the administration, for the last two decades, has not employed the speech code and has, in fact, protected academic freedom against the complaints of those who were offended by certain opinions.

The most recent instance where the academic freedom and culture-of-comfort principles have collided is the case of the Danish cartoons. I was encouraged that the Paul Gooch, the President of Victoria University spoke clearly for academic freedom on two separate occasions. The first of these defenses was his statement on the primacy of academic freedom (Bulletin, February 20). The second defense was his reply to a forum piece (Beyond Posturing, Bulletin, March 6) that argued for limits on academic freedom on culture-of-comfort grounds. In his reply, President Gooch rejected comfort as the criterion of permissible speech (Civil Discourse is Free Discourse", Bulletin, March 27).

A cursory reading of President Naylor's March Statement to the Governing Council (reported on in the March 27 Bulletin which also provides a reference to the full text of this statement) may suggest that this too is a defense of academic freedom, or, in terms of the statement, of the administration's determination that "The University of Toronto will continue to uphold the principle of free expression". However, there are aspects of this statement that at least have the potential to ultimately harm academic freedom in our University. These aspects need consideration because the statement is not just an opinion of an administrator, but rather a formal statement to the Governing Council. As such it has precedent-setting status for the way in which future incidents are handled in a way that ignores the logical distinction between acts or behavior that are clearly inappropriate, and opinion or speech that is appropriate (for the distinction between acts and opinion, see:

<http://www.psych.utoronto.ca/~furedy/Papers/af/Academic%20Freedom.doc>.

The aspects in the statement that I think are potentially threatening to academic freedom all arise from the treatment of one of the four "incidents" that are said to have led to the "current strain". That incident is the "distribution of flyers including one of the Danish cartoons and statements that have caused offense to Muslims", to which the Anti-racism Office is said to have "responded fully and quickly" by "treating the flyers like offensive graffiti", and calling the police. The justification given for this "full and quick" administrative action in the statement was that the administration wished to distinguish between (permissible) "provocatively reasonable" and (punishable) "unreasonably provocative" flyers and (presumably) other expressions of opinion. The

administration learned from the police that they did not consider the distribution to contravene Canada's hate laws, but the President's statement to the reports that, nevertheless, the flyers (and hence, presumably, the distributors) remain "points of interest" to the police.

I suggest that in its treatment of this "flyers" incident, the President's statement to the Governing Council undermines academic freedom not only with respect to its treatment of those who distributed the flyers, but also those others who, in the future, wish to express opinions that are offensive. In particular, there are the following six aspects that particularly concern me:

1. Treating the flyer incident as if it were in the same class as the other three incidents (which all involved a varying degree of violence and criminality perpetrated on individuals, i.e., inappropriate acts) is to confuse offensive behavior with offensive speech.
2. The statement's criterion for distinguishing between permissible and forbidden ("unacceptable on our campuses" is the way the statement puts it) speech is completely subjective. Individuals in the administration can decide what is "reasonable" and what is "unreasonable". It is these sorts of subjective distinctions that allow authorities in a totalitarian regime to act in what is essentially a lawless manner, and to confuse acts or behavior with the expression of opinions.
3. Even the statement's own subjective distinction is not applicable to the flyers incident. In elaborating what is meant by "unreasonably provocative" the statement refers to "targeting individuals (my emphasis) on the basis of their identity". Individuals were certainly so targeted in the other three incidents, but in this one it was Muslims as a collectivity rather than an individual that was targeted. So the rationale for "responding fully and quickly" to the flyers was, in my view, conceptually primitive, and unworthy of any university, let alone a great one.
4. There is also an aspect of arbitrariness involved in the administration's treating the flyers "like graffiti". What if some "representatives" of people who are strongly opposed to homosexuality (e.g., those Muslims who consider homosexuality, on religious grounds, to be a mortal sin) treated the positive space" signs like "offensive graffiti" and

removed them?

5. In addition to calling in the police, the administration also relied on them to determine whether the flyers “constituted hate literature”. This is disturbing for at least two reasons. In the first place, the concept of “hate literature” is based on assumptions which, at least in Sharansky’s free/fear distinction are part of a fear society, because “hate literature” involves no actual criminal acts. Surely a university should err on the free rather than the fear end of this continuum. Secondly, if the university really wished to get advice on what is a complex and fine legal distinction, it should rely on expert (Canadian) legal opinion rather than that of the police.
6. Finally, even after getting a police ruling that no “hate literature” was involved, the President goes on to report that his administration was informed that the flyers will remain “points of interest” to the police. Why is this police opinion part of the statement? Just what does it mean to declare those members of the academic community who posted those flyers (or even those who did not post them, but approved of the posting) to be “points of interest” to the police? Is this like not being arrested for a thought crime in a totalitarian regime, but nevertheless remaining a “point of interest” to the rulers of that regime? Will my university, in the future, treat those members of the academic community who express offensive opinions but who cannot be prosecuted in terms of Canada’s hate laws by referring them to the police, and publicizing the fact that, to the police, they remain “points of interest”? Is this our Orwellian “golden future time”?

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SUBMISSIONS TO THE SAFS NEWSLETTER

The acting 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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BOOK REVIEW THE PROFESSORS: THE 101 MOST DANGEROUS ACADEMICS IN AMERICA BY DAVID HOROWITZ

(Washington, DC: *Regnery Publishing Company*, 2006)

Peter Suedfeld

During the Kennedy Administration, there was a Republican Congressman from Massachusetts who said that he would rather have the country run by people picked randomly from the Boston phone book than by the faculty of Harvard (whom JFK was busily inviting to Washington). As a young and naïve academic, I wrote him an indignant letter; but seeing what has been happening in academia during the past couple of decades, I have come to admit that he was right and I was wrong. This book confirms that view.

Horowitz begins his examination of academia by citing the high proportion of professors, especially in the humanities and social sciences, whose concept of legitimate political positions ranges from A all the way to B: that is, from liberals to left-wing radicals. This is an incontrovertible fact, supported by numerous studies and contradicted by none. He goes on to look at the concomitants of this restricted view: the indoctrination rather than education of students; the positive feedback loop when the true believers gain control over hiring, tenure, and promotion and use that power to prevent other opinions from being represented; the imposition of “speech codes” to prevent such opinions from even being expressed; the failure to punish students or faculty who violate the academic freedom of dissenters by, e.g., shouting down or attacking speakers, stealing and destroying publications, and so on; and the proliferation of noble-sounding centres, institutes, and departments that spew out streams of one-sided propaganda.

Then we get down to the meat in the sandwich: the list of 101 “most dangerous professors,” in alphabetical order, each with a 3-4 page vignette explaining why he or she merits such distinction. Some are characterized by their admiration for Communist dictators, Islamist mass murderers, and/or domestic criminals masquerading as victims of political or racial persecution; some are dedicated to pushing self-serving and ludicrous interpretations of American history and society; some disguise their obvious anti-Semitism under a cloak of Holocaust denial, endorsement of the fraudulent *Protocols of the Elders of Zion*, and policies for the destruction of Israel.

The descriptions are necessarily sparse. They lack information as to personality factors and any but the most superficial analysis of background and work. There is a bit too much portentous solemnity, and too many reminders (as if we needed it) that senior professors and administrators have power over who gets to teach in their unit, for how long, and what courses.

I started to give some examples, but soon realized that I didn't know where to stop without reproducing the whole book. To summarize, some are well known, usually for the extremism and outrageousness of their teaching and "scholarship" (the number who have made serious intellectual contributions won't exhaust the fingers of one hand), but in some cases for their prominence in old Communist or New Left radical and terrorist activities. A few are notorious because of their serious criminal records, or because they avoided having such records by the skin of their teeth and America's tendency to forgive fugitives who hide successfully for several decades. Most, though, are deservedly unknown. The institutions that employ them range from the most elite universities in America, including major state universities such as Michigan, Wisconsin, and California, as well as Stanford and the Ivy League (Columbia seems especially hospitable to them), to the most obscure institutions in what has been termed "academic Siberia."

Many of the chosen occupy endowed chairs or administrative positions, collect awards and grants, and generally bask in the sunshine of academic tenure and respect. This is the surprising thing: it requires not just the adulation of the young, who are frequently dazzled by extremist rhetoric attacking the "Establishment," but also support from academic seniors and earlier groups of administrators as well as present-day colleagues. I would ascribe much of this support to plain conformity and cowardice, a fear of going against what seems to be the politically correct, popular, and unanimous view. Academic invertebrates are averse to open and vehement confrontation, especially face-to-face rather than in writing; and academic radicals have a penchant for such attacks. The travails of Lawrence Summers illustrate both aspects of this relationship; Tom Wolfe's "Mau-Mauing the Flak Catchers" comes to mind.

Another source of the radicals' success is the fad of multi- or inter-disciplinarity. Reading the vignettes, one is struck by how many of them are teaching

courses outside any area in which they have academic credentials, how many have their appointment or affiliation in programs whose name includes catch-all words such as culture, global studies, or facile labels for doing whatever you want as long as your politics is correct (women's studies, of course; "Africana" studies; Arab, Muslim, Middle Eastern studies or some variant thereof; studies related to sexual preferences other than the norm; and above all, "Peace Studies"). In an intellectually rigorous institution, where departmental boundaries mean something, such units would not exist as administrative entities; and if they did, the charlatans who inhabit them would be in trouble – not because of their politics, but because of their lack of qualifications, lack of rigour, lack of knowledge and judgment, and lack of respect for the views of others.

Are these professors really dangerous (much less "the most dangerous")? Academics in the "soft" disciplines overestimate their own impact on society and on their students; even the famous Bennington study, purportedly showing the liberalizing influence of faculty on students, conflated that influence with the general leftward movement of American public opinion in the 1930s and '40s. Perhaps it is only their fellow professors, aspiring professors, and the integrity of the professorial enterprise, that are in most danger from them.

One more anecdote from the early atomic era sums it up. At that time, psychologists who were too enamoured of their discipline's importance were reminded that it would be considered a national catastrophe if someone like von Braun, Teller, or Oppenheimer were kidnapped by the USSR; whereas if B.F. Skinner were kidnapped....

Last regretful word: too bad the book didn't cover *North* American academics. We don't have many colleagues in Canada who deserve to be on this list, but even a few prominent loonies would have been an entertaining addition to it.

Peter Suedfeld is Professor Emeritus of Psychology at the University of British Columbia, and a SAFS Board Member. □

CONSPIRACY THEORIES 101

Stanley Fish

Kevin Barrett, a lecturer at the University of Wisconsin at Madison, has now taken his place alongside Ward Churchill of the University of Colorado as a college teacher whose views on 9/11 have led politicians and ordinary citizens to demand that he be fired.

Mr. Barrett, who has a one-semester contract to teach a course titled "Islam: Religion and Culture," acknowledged on a radio talk show that he has shared with students his strong conviction that the destruction of the World Trade Center was an inside job perpetrated by the American government. The predictable uproar ensued, and the equally predictable battle lines were drawn between those who disagree about what the doctrine of academic freedom does and does not allow.

Mr. Barrett's critics argue that academic freedom has limits and should not be invoked to justify the dissemination of lies and fantasies. Mr. Barrett's supporters (most of whom are not partisans of his conspiracy theory) insist that it is the very point of an academic institution to entertain all points of view, however unpopular. (This was the position taken by the university's provost, Patrick Farrell, when he ruled on July 10 that Mr. Barrett would be retained: "We cannot allow political pressure from critics of unpopular ideas to inhibit the free exchange of ideas.")

Both sides get it wrong. The problem is that each assumes that academic freedom is about protecting the content of a professor's speech; one side thinks that no content should be ruled out in advance; while the other would draw the line at propositions (like the denial of the Holocaust or the flatness of the world) considered by almost everyone to be crazy or dangerous.

But in fact, academic freedom has nothing to do with content. It is not a subset of the general freedom of Americans to say anything they like (so long as it is not an incitement to violence or is treasonous or libelous). Rather, academic freedom is the freedom of academics to study anything they like; the freedom, that is, to subject any body of material, however unpromising it might seem, to academic interrogation and analysis.

Academic freedom means that if I think that there may

be an intellectual payoff to be had by turning an academic lens on material others consider trivial - golf tees, gourmet coffee, lingerie ads, convenience stores, street names, whatever - I should get a chance to try. If I manage to demonstrate to my peers and students that studying this material yields insights into matters of general intellectual interest, there is a new topic under the academic sun and a new subject for classroom discussion.

In short, whether something is an appropriate object of academic study is a matter not of its content - a crackpot theory may have had a history of influence that well rewards scholarly scrutiny - but of its availability to serious analysis. This point was missed by the author of a comment posted to the blog of a University of Wisconsin law professor, Ann Althouse: "When is the University of Wisconsin hiring a professor of astrology?" The question is obviously sarcastic; its intention is to equate the 9/11-inside-job theory with believing in the predictive power of astrology, and to imply that since the university wouldn't think of hiring someone to teach the one, it should have known better than to hire someone to teach the other.

But the truth is that it would not be at all outlandish for a university to hire someone to teach astrology - not to profess astrology and recommend it as the basis of decision-making (shades of Nancy Reagan), but to teach the history of its very long career. There is, after all, a good argument for saying that Shakespeare, Chaucer and Dante, among others, cannot be fully understood unless one understands astrology.

The distinction I am making - between studying astrology and proselytizing for it - is crucial and can be generalized; it shows us where the line between the responsible and irresponsible practice of academic freedom should always be drawn. Any idea can be brought into the classroom if the point is to inquire into its structure, history, influence and so forth. But no idea belongs in the classroom if the point of introducing it is to recruit your students for the political agenda it may be thought to imply.

And this is where we come back to Mr. Barrett, who, in addition to being a college lecturer, is a member of a group calling itself Scholars for 9/11 Truth, an organization with the decidedly political agenda of persuading Americans that the Bush administration "not only permitted 9/11 to happen but may even have orchestrated these events."

Is the fact of this group's growing presence on the Internet a reason for studying it in a course on 9/11? Sure. Is the instructor who discusses the group's arguments thereby endorsing them? Not at all. It is perfectly possible to teach a viewpoint without embracing it and urging it. But the moment a professor does embrace and urge it, academic study has ceased and been replaced by partisan advocacy. And that is a moment no college administration should allow to occur.

Provost Farrell doesn't quite see it that way, because he is too hung up on questions of content and balance. He thinks that the important thing is to assure a diversity of views in the classroom, and so he is reassured when Mr. Barrett promises to surround his "unconventional" ideas and "personal opinions" with readings "representing a variety of viewpoints."

But the number of viewpoints Mr. Barrett presents to his students is not the measure of his responsibility.

There is, in fact, no academic requirement to include more than one view of an academic issue, although it is usually pedagogically useful to do so. The true requirement is that no matter how many (or few) views are presented to the students, they should be offered as objects of analysis rather than as candidates for allegiance.

There is a world of difference, for example, between surveying the pro and con arguments about the Iraq war, a perfectly appropriate academic assignment, and pressing students to come down on your side. Of course the instructor who presides over such a survey is likely to be a partisan of one position or the other - after all, who doesn't have an opinion on the Iraq war? - but it is part of a teacher's job to set personal conviction aside for the hour or two when a class is in session and allow the techniques and protocols of academic research full sway.

This restraint should not be too difficult to exercise. After all, we require and expect it of judges, referees and reporters. And while its exercise may not always be total, it is both important and possible to make the effort.

Thus the question Provost Farrell should put to Mr. Barrett is not "Do you hold these views?" (he can hold any views he likes) or "Do you proclaim them in public?" (he has that right no less than the rest of us) or

even "Do you surround them with the views of others?"

Rather, the question should be: "Do you separate yourself from your partisan identity when you are in the employ of the citizens of Wisconsin and teach subject matter - whatever it is - rather than urge political action?" If the answer is yes, allowing Mr. Barrett to remain in the classroom is warranted. If the answer is no, (or if a yes answer is followed by classroom behavior that contradicts it) he should be shown the door. Not because he would be teaching the "wrong" things, but because he would have abandoned teaching for indoctrination.

The advantage of this way of thinking about the issue is that it outflanks the sloganeering and posturing both sides indulge in: on the one hand, faculty members who shout "academic freedom" and mean by it an instructor's right to say or advocate anything at all with impunity; on the other hand, state legislators who shout "not on our dime" and mean by it that they can tell academics what ideas they can and cannot bring into the classroom.

All you have to do is remember that academic freedom is just that: the freedom to do an academic job without external interference. It is not the freedom to do other jobs, jobs you are neither trained for nor paid to perform. While there should be no restrictions on what can be taught - no list of interdicted ideas or topics - there should be an absolute restriction on appropriating the scene of teaching for partisan political ideals. Teachers who use the classroom to indoctrinate make the enterprise of higher education vulnerable to its critics and shortchange students in the guise of showing them the true way.

Stanley Fish is a law professor at Florida International University.

Op-Ed, *New York Times*, July 23, 2006. □

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

Elvive Seligman, President.

MISSION CREEPS IN REBS

John Muller

It is a common ritual among today's academics to submit one's research proposal to a group of colleagues, the Research Ethics Board (REB). At its outset some 30 years ago, this research ethics committee had the mandate to decide whether the public is at more than everyday risk from your project, and it was understood that this would be a rare event in social sciences and humanities research. However, the domain of review has expanded greatly, especially in the social sciences and humanities, and forums to meaningfully discuss concerns with this enterprise are very limited compared to the ubiquitous and increasingly obligatory "how-to-comply" workshops.

The reasonable concept of everyday risk has been distorted into euphemisms for "zero risk" (e.g., optimal risk, minimal risk), thus expanding the mandate by fiat to effectively do away with the reasonable categories of review such as proportional, expedited, and exempt (PEE). Institutions freely add legal liability to REB deliberations, as if there were any life situations where litigation cannot occur. Concepts such as "good clinical practice" are borrowed from medical research reviews, even though in the social sciences our subjects are very seldom "patients," nor do we have treatment as the primary objective of our research. The notion of a rigid "protocol" is also borrowed from medical research, notably the Consumer Reports style clinical trials. Such *a priori* specifications are an impossibility in ethnographic research, for example, where the patterns emerge as the observations are made. Likewise the notion of a protocol or recipe deludes outsiders into thinking they can accurately assess good methodology in your proposal.

Campus ideologues freely add "social worth" to the review criteria, as if this can be determined without first collecting and examining the data. The meaning of "research" has been expanded to more or less include any interpersonal interaction of an academic with another person. Trained academics are thus constrained from doing what ordinary citizens do without seeking permission. Perhaps as part of a general cultural trend to make everyone a victim (Furedi, 2002; Sommers & Satel, 2005; Wright & Cummins, 2005), "vulnerable populations" has been paternalistically expanded to take away self-determination from mainstream adults.

Once is not enough, we must have annual re-reviews, even if nothing has changed. Likewise, approval elsewhere is never sufficient, it must be re-reviewed locally -- one incident in Australia involved 60 applications (Whiteman, Webb, Purdie, & Green, 2003). The absence of repeat-reliability is actually celebrated as revealing different ethical voices. Requiring the review of classroom activities effectively puts the REB in charge of the academic mission of the university.

Many of these creeps seem designed mainly to establish authority, sometimes gently ala Furedy's (1997) velvet totalitarianism. Public safety is either a forgotten objective, or a notion defined so broadly as to be useless. The fact that most applications are approved with revision does not contradict a charge of censorship -- books need not be burned for censorship to have occurred. In fact, the worst censorship, and the most effective, is the self-censorship which the REB industry has produced. It is true that many of these creeps are due to local decisions, rather than federal regulations, but the silence of the federal regulators to the overkill seems to speak clearly.

The lack of accountability in the research ethics industry is a long-standing sore point. Some recent developments in the USA deserve note because they involve criticism from the legal community. First, the question of censorship and its legality has recently been examined by Philip Hamburger (2005), a legal scholar at Northwestern University. Although the legal specifics are somewhat different in Canada and the USA, this paper is intriguing. Another group has produced a white paper criticizing mission creep as diverting resources and thus actually diluting the protection of human participants (Gunsalus, et al., 2005, 2006; see also Haggerty, 2004).

Perhaps the first creep was the extension from funded research to unfunded research, which takes us to a third development in the USA. The federal grant agencies in the USA originally developed the research ethics regulations to cover projects they funded. Fair enough perhaps, but university administrators obligingly extended the mandate to review unfunded projects as well. Over time the voluntary nature of this expansion was forgotten, and most researchers in the social sciences and humanities, where most research is unfunded, did not realize that it was actually their employer making them do it rather than the federal agencies. A recent Freedom of Information Act inquiry to the Office of Human Research Protection (OHRP)

by the American Association of University Professors (AAUP) reveals that over 170 organizations have recently renegotiated their Federal Wide Assurance agreements so that the legal separation of federally funded and unfunded research review is reinstated. This does not mean that unfunded research goes unreviewed, but that the nature of the review and the committee that does it is a local decision, as I understand it. I am told we can expect a report on this from the AAUP, perhaps as soon as September. With such a history of mission creep by local committees, it will be interesting whether the re-invented reviews make any more sense than the present process.

The funded-unfunded distinction in Canada is not as clear in its legal basis. The TCPS (2004) interpretation tries to deny any distinction between funded and unfunded research. It is one thing for the grantor to claim dominion over that which is paid for, but it seems to me unreasonable to claim authority over what one has not paid for. It is not unusual for a bureaucracy to expand its reach in such a manner, especially when not challenged, but this interpretation seems to invite further examination, on the grounds of ethics if not technical legality.

It is with glee that REBs offer "It's the law" as a pronouncement intended to deflect any criticism or prospect of reform. However, it would be more accurate to state this as "It's just the law," given that the law is an arbitrary human construct that changes regularly. Further, to honor the REB industry's preoccupation with the Nuremberg trials, we should all recall another development in those trials, namely that "Just following orders" was not deemed a satisfactory defense. I do not know if the TCPS interpretation has ever been challenged legally, and not being a lawyer I have no idea as to what the probable fate of such a challenge might be. However, I doubt that university administrations are likely to display any initiative or integrity in this regard, given their dependence on the federal largesse.

In passing, another recent development may hold some promise with regard to if not reform at least some degree of accountability. O'Brien (2006) describes a situation whereby research ethics decisions were made subject to appeal to the campus faculty union, rather than just back to the committee that made the decision. This possibility follows from the mundane fact that research is a job requirement (a part of the holy trinity: teaching, research, service), as opposed to the pious

characterization of research ethics officials that it is somehow a privilege. As such, anything that impedes your ability to do your job is grievable. This may or may not be the most desirable solution to accountability, but it seems better than the kangaroo court that appeals are subject to now.

Finally, it is of note that a new journal devoted to research on research ethics has appeared, *The Journal of Empirical Research on Human Research Ethics* (<http://www.csueastbay.edu/JERHRE/>). In its first issue, van den Hoonaard and Connolly (2006) provide an examination of how REB constraints seem to have reduced the complexity of student theses in anthropology, and there is further work on-going with regard to theses in other disciplines. One journalism school in the USA has even dropped the research requirement from its Master's requirements following an impasse with the campus ethics committee. The creeps are very much on-going.

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John Mueller is professor of applied psychology at the University of Calgary and a member of the SAFS Board. The author welcomes communications about research ethics, and concludes by noting that No animals or ethicists were harmed during the writing of this essay, nor REBs consulted. □

SALIM MANSUR, SAFS KEYNOTE SPEAKER AT OUR 2006 CONFERENCE, HONORED BY AJC

On Sunday, September 17, 2006, at an event entitled: *Profiles in Courage: Voices of Muslim Reformers in the Modern World*, The American Jewish Congress will honor Salman Rushdie, Salim Mansur, Nonie Darwish, Tashbih Sayyed and Wafa Sultan for their commitment to securing freedom for people of all races, religions and backgrounds.

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