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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PROFESSOR LOSES BID TO RESCIND STUDENT'S PHD

Tamsin McMahon

The University of Manitoba is reviewing its policy on how to accommodate students with disabilities despite winning a victory in court this week over a controversial decision to grant a PhD to a student who failed his courses due to "extreme exam anxiety."

Gábor Lukács, a former child math prodigy who started university at age 12 and was a professor by age 24, sued the university over its decision to grant the student, identified only in court documents as A.Z., a PhD in math although he had twice failed his comprehensive exams and was missing a graduate course.

Thursday, Manitoba Court of Queen's Bench Justice Deborah McCawley rejected Mr. Lukács request that the court intervene and rescind the degree, saying he didn't have standing to take the case to court.

The university had defended its decision, saying it was legally required to accommodate a student's disability, in this case, exam anxiety.

Mr. Lukács had argued that the university had damaged its credibility and was at risk of turning into a "diploma mill," a claim the judge said was "unsubstantiated."

The case, which dates back to 2009, has bitterly divided the school. Administrators suspended Mr. Lukács, now 29, for three months without pay last year after alleging that he had gone public with the student's name and revealed private information about his disability.

Supporters of the professor launched an online edition, collecting nearly 200 names of students and

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academics from as far away as Israel. Another 86 mathematicians from around the world signed a letter of support. The university's faculty association sided with Mr. Lukács, while the graduate students association applauded his suspension.

Mr. Lukács grieved his suspension to the Manitoba Labour Board. A hearing began in June and is set to resume in September.

In an interview, Mr. Lukács said he was "profoundly surprised" by the court decision. "It's very bad news for Canadian academics," he said. "What it says is the university administration can do whatever it wants without following the proper procedure."

He said he is mulling over a possible appeal.

Mr. Lukács said his complaint isn't that the university decided to accommodate a student's disability, but that the student never mentioned his severe exam anxiety until after he failed two exams and that the school never offered him alternatives, such as therapy, or more time to complete his PhD.

"In general, one should err in favour of accommodation for sure," he said. "I think the higher you go in the system, the more careful you have to be with how far you go in accommodating it."

This is not the first time the university, or other Canadian schools, waived course requirements for students who have extreme exam anxiety, university president David Barnard said in an interview.

Since Mr. Lukács' complaint made headlines, the university has struck a committee with students, professors and disability experts to examine how it accommodates students with disabilities. It is expected to issue a report this year.

"It's a legitimate question and the university encourages continuous improvement in the ways that we operate," Mr. Barnard said. "We encourage debate on issues such as these and where we can improve our processes and increase transparency, we'll most certainly do so."

He said there are "legal constraints" that might prevent the committee from recommending that the university drop the exam anxiety waiver, but that it could made suggestions on "how those decisions are made and who is consulted in making decisions."

National Post, August 27, 2011.

STATEMENT BY DAVID T. BARNARD, PRESIDENT, UNIVERSITY OF MANITOBA

August 26, 2011

Last fall, a matter arose involving a University of Manitoba doctoral student which garnered a great deal of public attention. At the time, I committed to providing you with an update on this case when it was prudent to do so. A court ruling was issued on the matter yesterday which brings some closure to the case and allows me to comment further. A full version of the ruling can be found attached to my statement at www.umanitoba.ca.

The matter revolved around a doctoral student, who cannot be named to protect their privacy, who was provided with an accommodation by the University of Manitoba to complete a degree based on consideration of a documented disability. Under the Manitoba Human Rights Code and according to the university's own policies, the University of Manitoba was obligated to accommodate this proven, professionally-diagnosed disability and did so.

A University of Manitoba professor, Dr. Gábor Lukács, who did not teach or advise this student and was not involved in the decision to accommodate their

disability, disagreed with the accommodation and chose to take the matter to the Manitoba Court of Queen's Bench where it was adjudicated over the last year. A ruling in the matter was released late yesterday.

The question before the court was whether Dr. Lukács, given his lack of direct involvement with the student, had the legal standing to challenge the university's decision to accommodate the student's disability. In her ruling, Justice Deborah McCawley determined that Professor Lukács does not have such standing and does not have the legal right to challenge the university's decision.

"I fail to see any direct, legitimate personal or private interest as defined by the authorities which would grant Dr. Lukács private interest standing,'' wrote Justice McCawley in her ruling. "He did not teach the student in question, he was only laterally a member of the Committee, he himself does not hold a degree from the University of Manitoba nor does he represent in any official capacity anyone but himself. Neither has he demonstrated any damages other than unsubstantiated statements as to what he thinks will occur if he does not succeed in his mission."

Justice McCawley also made it clear that the decision of how and when to confer academic degrees lies with universities, not courts of law.

While I am pleased with the ruling, I want to reemphasize that the University of Manitoba encourages informed debate on issues related to academic policy, such as those in the case just heard. Where it is possible for us to improve our policies and improve transparency of our processes, we will do so. To this end, a committee has been established to review:

How to balance the University's legal obligation to offer reasonable accommodations to students with disabilities while protecting academic standards;

- What types of accommodations may be offered, without compromising academic standards;
- Who should decide on whether accommodations should be offered, and if so, what type;
- What types of evidence of disability should the decision-maker require;
- With whom is the decision-maker required to consult;
- How to ensure timely decisions on accommodations are made, so that a student's academic progress is not compromised; and,
- How to protect the privacy of students while assessing a case and implementing accommodations.

Discussion of these matters is ongoing and involves students, faculty, staff and experts in these fields. A final report is expected from this committee later this year. The University of Manitoba will use their recommendations to reinforce our commitment to being a responsive and responsible academic institution.

The University of Manitoba remains fiercely committed to the principles of academic integrity and excellence. Our dedication to the highest academic standards ensures that our graduates are well-regarded and highly sought-after in their chosen careers. We are confident that a degree from the University of Manitoba is widely respected and valued.

David T. Barnard
President and Vice-Chancellor
University of Manitoba.

SAFS LETTER TO PRESIDENT RUNTE

August 15, 2011

Dr. Roseann O'Reilly Runte
President and Vice-Chancellor
Carleton University
503 Tory Building
Ottawa, ON
K1S 5B6

Dear President Runte:

I am writing to you as president of the Society for Academic Freedom and Scholarship. We are a national organization of scholars whose goals are to promote academic freedom in teaching, research, and scholarship and to uphold the merit principle as the basis of academic decision-making regarding students and faculty. For further information, please visit our website at: www.safs.ca.

We are concerned about a recent Carleton University faculty job advertisement (attached) in Canadian Studies News (and distributed widely via email by Richard Nimijean, Assistant Dean in the Faculty of Arts and Social Sciences) for a two-year visiting Aboriginal-scholar position for the Indigenous Studies Program. The ad states that the position, at the assistant professorship level, "is open only to Aboriginal applicants (First Nations, Metis, Inuit)." Ironically, at the bottom of the ad is the statement that "Carleton University is committed to fostering diversity within its community…All qualified candidates are encouraged to apply."

Many people will draw the inference that Carleton believes there are some positions for which only Aboriginal applicants are qualified. And from there, they will also draw the inference that there may be some positions for which only other ethnic groups are qualified. Such suggestions run counter to the very basis of the modern university, in which qualification depends not on race but on achievement, and in which learning and teaching are open to all. Should your position require that specific qualifications (such as having had experience living on or teaching on a reserve) be satisfied, these qualifications can be included in your advertisement without the current reference to race.

To be fair, we accept that your intention to increase the number of Aboriginal faculty, students, and curriculum content is well meaning. However, a good intention does not excuse what is essentially a racially discriminatory hiring policy. And, there is no reason to restrict the applicant pool – you would lose nothing by opening up the competition for this job to all people, so long as you were also open to hiring the person who could do the job the best, regardless of the race of the applicant.

Indeed, there are strong reasons to ignore race as a job criterion: fairness to all qualified applicants, competence of future faculty, and respect for Aboriginal people who deserve to be held to the same standards as others when applying for an academic job. It is not much of a stretch to say that when you restrict the applicant pool to Aboriginals, you are suggesting that Aboriginals cannot compete with non-Aboriginals. And, equally problematic, you are suggesting that Aboriginal students cannot thrive unless tutored by Aboriginal faculty.

We urge you to open up this faculty position to all applicants.

We would be grateful for your response to our concern. We will post our letter and your response on our website.

Sincerely,
Clive Seligman, President

Encl.
cc: Dr. Richard Nimijean, Associate Dean,
Dr. Donna Patrick, Director, School of Canadian Studies.

CARLETON UNIVERSITY RESPONSE TO SAFS

August 29, 2011

Dr. Clive Seligman
President
Society for Academic Freedom and Scholarship
1673 Richmond Street, #344
London, ON N6G 4Y2

Dear Dr. Seligman,

Thank you for your e-mail message and letter to President Runte, dated Monday August 15th, in which you express concern at the wording of our position advertisement for a two-year Visiting Aboriginal Scholar. President Runte has asked me to look into your concerns and respond to your letter.

At Carleton, we are making a serious effort to engage with the Aboriginal community in Canada, and our Aboriginal Affairs Task Force recently developed a strategy document which received formal approval from our Senate in June. Increasing the Aboriginal presence on our campus is an important goal. As part of those discussions and deliberations, we came to realize some of the barriers faced by young Aboriginal scholars in obtaining their first academic position. At the same time, we know from discussions with our Aboriginal students of the importance of having role models drawn from their own communities. Education is not simply about the transfer of information from one person to another; it is also about the process of knowledge acquisition and mentorship. We support the concept of "merit" and we realize that there are many aspects to its definition.

The Visiting Scholar position is but a small step along this important road. It is intended to give the equivalent of a post-doctoral fellowship to a recently graduated Aboriginal scholar, while at the same time allowing them to develop a track-record of teaching. This is one-time-only position, established for this very specific and strategic purpose, with half of the funding being provided by an external donor.

At the time of developing the position, we conferred closely with legal counsel and with our Equity Office to ensure compliance with relevant legislation. As you may know, Section 15.2 of the *Canadian Charter of Rights and Freedoms* provides explicit protection for initiatives of this sort, aimed at assisting groups who have historically been disadvantaged or discriminated against. The Federal Contractor's Employment Equity program expects that institutions will implement special measures where under-representation of a specific designated group is found. The purpose of special measures is to take away the effects of past barriers and to support short-term goals. The Ontario Human Rights Code (section 14) contains similar provisions to meet particular needs, help reduce discrimination, and correct historical disadvantage."

We fully understand and appreciate the concerns you are raising, and we support their application for most hiring situations. However, we feel that there are specific cases where exceptional conditions are appropriate and permitted, and that this is one of those exceptions.

Yours sincerely,
Peter Ricketts, Ph.D.
Provost and Vice-President (Academic).

THE UNIVERSITY OF REGINA BUCKS THE TREND AND STANDS UP FOR FREEDOM OF EXPRESSION

Mark Mercer

Canadian universities have been doing a lousy job protecting and nurturing freedom of expression. Time and again, university administrators either themselves curtail freedom in favour of other concerns or turn away when others attempt to do so. Even worse, professors utter hardly a word of criticism when this happens.

That's why it's so surprising and gratifying to see that the University of Regina acted strongly and quickly to defend freedom of expression and the integrity of its mission in face of demands from a business group.

The Faculty of Arts at the University of Regina had entered into an agreement with the Regina Downtown Business Improvement District (RDBID) to present in a downtown park a series of talks by U of R professors. The second talk was to be given on

Tuesday 14 June by Emily Eaton, an assistant professor of geography. But when the RDBID learned of the title of Dr Eaton's talk, it demanded that she speak on a different subject. Otherwise it would cancel the talk.

Most other universities, I fear, if past performance is an accurate guide, would have caved. Especially when money is tight, it's not a good idea to stand against the business community in your town. And administrators could have easily agreed publicly with the RDBID that the subject was "potentially volatile and perhaps harmful to some members of the public," as a RDBID spokesperson explained. They could have employed the standard trope that permitting the talk would create a hostile environment for some students or reflect badly on the university.

To their credit, U of R administrators didn't cave.

Instead, they immediately withdrew from their partnership with the RDBID and declared that the University of Regina would sponsor the series itself.

Richard Kleer, the Dean of the Faculty of Arts, said, quite rightly, that Dr Eaton's topic isn't the issue, but that "it's simply a question of we need to have her be allowed to speak."

To put this action into perspective, let us recall just a few recent incidents in which university administrators have faced calls to limit expression.

At the University of Guelph, when protestors chained themselves to the stage to prevent a lecture by Christie Blatchford, the administrator on the scene cancelled the talk, saying he didn't want there to be photographs of the miscreants being pulled off the stage. (The U of G rehabilitated itself by inviting Blatchford back, though it soon again embarrassed itself by reprimanding an engineering student who posed by her work in a bikini.) The president and provost of the University of Ottawa were happy to inform Ann Coulter that they support our country's repressive hate- and discriminatory-speech policies.

Carleton University will push off to the side any demonstration that students or others complain about, or arrest the demonstrators. Saint Mary's University allowed protesters to disrupt an anti-abortion presentation; just this year, it failed to react when the students' association ordered a campus group to remove a sign from a display it had set up.

It is not just that the University of Regina withdrew from its partnership and took the series under its own wing. Also impressive is that so far, at least, neither Dr. Kleer nor anyone else has got off topic or tried to be conciliatory.

The title of Dr Eaton's presentation is "Solidarity with Palestine: The Case for Boycotts, Divestment and Sanctions against Israel." One way to get off topic is to begin your defence of Dr Eaton by saying "While I disagree with what she has to say...." Happily, no one has (yet) gone that route.

Another temptation is to suggest that the fears of the RDBID are exaggerated, that really the talk, though controversial, wouldn't be inflammatory.

This would be implicitly to concede that had the talk been likely to cause hurt and loathing, then it would be right to cancel it. Again, the University of Regina has done well not to comment at all on the content or likely effect of what Dr Eaton intended to say. (Dr Eaton herself, though, hasn't followed their lead. She said, implausibly, if even coherently, that there's a "strong Palestinian solidarity movement, so I don't think it's controversial.")

Some defenders of the RDBID deny that it's the controversial nature of the topic that upsets the RDBID. Rather, it's the format. If the event were to be a debate, they say, and not a lecture, all would be fine.

The University of Regina is to be commended for not rising to this bait. The demand to control the format of events is a favourite tactic of enemies of freedom of expression. It must be resisted, not just because giving in to it would stimulate more demands. Universities can foster freedom of expression only by enabling organizers to choose their own formats.

The RDBID, in contrast to the University of Regina, seems to lack the courage of its convictions. Spokespeople for and defenders of the RDBID say that the talk would make people uncomfortable. They don't admit that it might be bad for business, nor do they voice support for Israel. (Well, at least they haven't called Dr Eaton anti-Semitic.)

The University of Regina has in this instance given strong support both to freedom of expression and to the integrity of its mission to bring scholarship and opinion to the public. Good for the U of R! Will other universities follow its example?

Mark Mercer is a member of the SAFS board, and a faculty member at SMU in the department of Philosophy. □

STUDENTS TAKE UNIVERSITY TO COURT OVER FREE SPEECH

CALGARY: The Justice Centre for Constitutional Freedoms (JCCF) today announced that members of Campus Pro-Life at the University of Calgary have gone to court to assert their campus free speech rights.

JCCF President John Carpay has defended the University of Calgary students' free speech rights since 2007, and also defends the campus free speech rights of students at other universities.

The students and their lawyer will be available for media comment at the Courthouse in downtown Calgary at 11:30 a.m. Wednesday April 13, 2011.

Seven students are Applicants in an Originating Notice filed at the Alberta Court of Queen's Bench today. Their application for judicial review asks the court to quash a University of Calgary decision that the students are guilty of "non-academic misconduct."

In May of 2010, eight students were found guilty of "non-academic misconduct" for having set up a pro-life display on campus while refusing to comply with the university's demand that their signs be set up in a circle facing inwards, such that people walking by could not see the signs. This finding of guilt was upheld in January of 2011 by the university's Board of Governors, which rendered its decision without scheduling a hearing to listen to the students' appeal.

"The right to free expression simply cannot exist if citizens enjoy a legal right not to be disturbed or offended by speech – including images – that they do not wish to see. The University of Calgary's patronizing and paternalistic approach – trying to decide on behalf of students what they can and cannot see – has no place in a free society, especially not at a public university that is funded by Alberta taxpayers," stated John Carpay.

The group's display has been held on the University of Calgary grounds without incident eleven times since 2006, for two consecutive days each of those eleven times. In 2009, the University charged six students with trespassing, but the Crown Prosecutors' Office stayed these charges prior to trial, as the University of Calgary was not able to explain what rule, policy, regulation or by-law the students had violated.

The U of C has no objection to other graphic photos on campus. For example, posters on campus from a pro-seatbelt group show a mutilated face that has gone through a windshield; the caption states "Without a seatbelt, things can get real ugly." Gory, disturbing photos of Falun Gong members tortured by the Chinese government are also tolerated on campus.

U of C President Dr. Elizabeth Cannon has continued her predecessor's policy of suppressing free speech on campus. The U of C claims that nobody should be "forced" to look at disturbing visual images, but this standard is not applied to photos of windshield-scarred faces, or torture victims.

The U of C boasts an annual budget of $1.09 billion, of which 60% comes from taxpayers.

For further information, contact: John Carpay, President, Justice Centre for Constitutional Freedoms, (403) 619-8014.

The Justice Centre for Constitutional Freedoms (www.jccf.ca) is a non-profit, non-partisan organization dedicated to protecting constitutional freedoms through education and litigation. The JCCF relies on voluntary donations from Canadians to provide citizens with *pro bono* legal representation in defence of free speech, and other constitutional freedoms.

Justice Centre for Constitutional Freedoms
#253, 7620 Elbow Drive SW
Calgary, Alberta, T2V 1K2
Phone: (403) 619-8014
www.jccf.ca

Wednesday, April 13, 2011. □

EDUCATION OR INDOCTRINATION?

Kenneth H.W. Hilborn

The new Dean of Education at the University of Western Ontario believes that "teacher education programs have the potential to nurture and develop a commitment to social justice in their students and ensure these students acquire the knowledge and skills they need to promote equality." So we were informed by Western News, the university administration's official newspaper, in its issue of March 3, 2011.

Western News quotes the Dean as saying: "Educational scholarship and research strongly situated within an ethic of social justice can exert important societal influences and point us in the direction of those strategies and actions that will result in equality for all children. Universities, and in particular teacher education programs, are critical to the success of this transformation."

Conspicuously absent from this politically correct rhetoric is any indication of respect either for intellectual diversity or for the academic freedom of instructors and students in an education faculty. Also troubling is the fact that nobody can be sure precisely what the rhetoric means. Is "social justice" a code term for some sort of socialism, or at least for an expansion of the existing welfare state? Is it a code term for racial preferences -- perhaps even quotas, or "targets" that can be met only through something amounting to quotas?

As for "equality for all children," does that mean promotion from grade to grade regardless of academic performance? How can "equality" be reconciled with maintenance of academic standards, except on the unrealistic assumption that all individuals are equally intelligent and equally motivated? Should all members of a class receive the same mark, determined by the average of individuals' marks? That would be absurd, but if "equality" for all is the goal, the advantages naturally enjoyed by the most intelligent and most highly motivated must somehow be taken from them and redistributed to others -- a project impossible to attempt without subordinating individuals to the group.

One point does seem obvious -- the fact the new Dean is not interested primarily in making sure that future teachers have the "knowledge and skills they need" to teach mathematics, science, French or whatever, or even to explain clearly the principles of English grammar and sentence structure. She appears more interested in disseminating among teachers the dogma of egalitarianism, and in preparing them to indoctrinate their pupils with the values of "equality" and "social justice" (though evidently not individual liberty). Such a priority potentially opens the door to ideological screening of those who apply for admission to an education school, and possibly even to pressure for ideological conformity as a condition of graduation.

Schemes to impose a political "litmus test" on future teachers have already been attempted in the United States, but fortunately they have encountered effective resistance. In its publication "FIRE Media Impact, 2009," the Foundation for Individual Rights in Education (www.thefire.org) reproduced four articles about a proposal at the University of Minnesota that read like a bizarre attempt by campus leftists to satirize themselves. It would have required all faculty members who were training teachers to "comprehend and commit to the centrality of race, class, culture, and gender issues in teaching and learning, and consequently frame their teaching and course foci accordingly." (So much for academic freedom, as well as what many might regard as the irrelevance of race, class, culture and gender to mathematics, physics, chemistry, etc.) As for those being trained to teach, they were to be screened before admission to weed out applicants with unacceptable beliefs, though remedial indoctrination was to be permitted in borderline cases. It was expected that successful candidates for the teaching profession would be "able to discuss their own histories and current thinking drawing on notions of white privilege, hegemonic masculinity, heteronormativity, and internalized oppression." Teachers were also to work for "social justice," display an understanding of American history that embraced the "myth of meritocracy," and recognize classrooms as "critical sites for social and cultural transformation."

FIRE intervened to warn the university -- a public institution -- that requiring students to pass any ideological test would be unconstitutional, meaning that students who got into trouble for clinging to "incorrect" views could find protection in federal court. FIRE also publicized the situation. Eventually the university's general counsel promised FIRE that the institution would never "mandate any particular

beliefs, or screen out people with 'wrong beliefs' . . ."

All public universities in the United States have to reckon with the risk of being sued if they violate a student's right to free expression under the Constitution's First Amendment -- an amendment that originally restricted only the federal power, but which later constitutional change led the Supreme Court to apply to states and their agencies (including universities) as well. Though many public universities still have repressive "speech codes," they can be enforced only against students ignorant of their rights or unwilling to take legal action. To impose ideological screening and indoctrination on any would-be teacher would be to invite a lawsuit. Whether or not for that reason -- to quote the Chronicle of Higher Education (December 2, 2009) -- "the governing board of the National Council for Accreditation of Teacher Education voted in 2007 to stop suggesting that teacher-preparation programs take their students' views on 'social justice' into account."

Lacking the high level of legal protection enjoyed by Americans under judicial interpretations of the First Amendment, Canadians have to rely more on the other major technique that FIRE has found useful in U.S. cases -- publicity aimed at shaming or embarrassing university administrators into some degree of at least outward respect for individuals' rights to political and intellectual liberty. We must hope that if would-be teachers -- at Western or elsewhere -- find themselves subjected to ideological discrimination or coercive indoctrination, they will have the strength of character to resist by all the lawful means at their disposal, and that they will receive effective support from SAFS, civil-liberties organizations, the media and public opinion.

(Kenneth H.W. Hilborn, a professor emeritus of history at the University of Western Ontario, is a former member of the University Senate and of the SAFS Board of Directors.)

DEBATE: ANTI-SEMITISM REMAINS A PROBLEM ON CANADIAN CAMPUSES

What follows is an excerpt from the final report of the Canadian Parliamentary Coalition to Combat Anti-Semitism, released July 7.

Though there are no reliable statistics in terms of the absolute number of anti-Semitic incidents on campuses across Canada, there are reliable indications that such incidents are on the rise. The League for Human Rights of B'nai Brith Canada's 2009 Audit of Antisemitic Incidents reported that cases of anti-Semitism on Canadian university campuses had risen by 80.2% from 2008 to 2009. The report notes that this statistic is "even more alarming given that the number of incidents has increased almost four-fold since 2006."

The report also noted the relationship on campuses, as in Canadian society more generally, of the level of anti-Semitic incidents to events in the Middle East. Specifically, the level of incidents intensified significantly during the war in Gaza in January 2009.

The following represents a sample of some of the incidents that have occurred in connection with Canadian academic life in recent years:

In March 2010, a York University student was charged by police with running a virulently anti-Semitic website (filthyjewishterrorists.com). He blames his troubles with the law on "Jewish Kikes."

In September 2009, in Guelph, Ontario, anti-Semitic graffiti was scrawled on the door of a university campus residence where Jewish students lived.

In February 2009, it was reported that at York University, Jewish students who were involved with a petition to impeach student government were "barricaded" in the Jewish student lounge by a group of protesters. Police were called and the students had to be escorted out of the lounge to safety. On the way out, York University Student Daniel Ferman, who was involved in the incident, testified that he was called a "f–king Jew" and was told to "Die, Jew."

In January 2009, the Ontario branch of the Canadian Union of Public Employees brought forward a proposal to ban Israeli academics from teaching at

Ontario Universities. In response to an appeal from the Palestinian Federation of Unions of University Professors and Employees, Sid Ryan, president of CUPE Ontario [initially] stated "we are ready to say Israeli academics should not be on our campuses unless they explicitly condemn the university bombing and the assault on Gaza in general.

In January 2009, university and college professors and employees in Quebec called for a boycott of Israeli academic institutions.

In January 2009, Jewish students in Vancouver, B.C., were chased and assaulted on campus.

At Queen's University, Hillel was forced to remove its "response wall," which was meant to be a space for people to share their feelings after walking through a Holocaust education display, due to the overwhelming number of anti-Semitic remarks, including remarks denying the Holocaust.

On Holocaust Remembrance Day in 2009, the York University Free Press published cartoons featuring Israelis dressed as Nazis shooting Palestinians into a mass grave labelled "Gaza." Another cartoon shows a dead Palestinian in a concentration camp wearing a prisoner's uniform and a keffiyeh.

In November 2008, a Jewish student's vehicle was defaced with several swastikas and the phrase "dirty Jew" written across the windows.

In April 2008, Natan Sharansky, a refusenik with the civil rights movement in Russia and Cabinet minister in Israel came to speak at York University and was shouted down and prevented from speaking.

On March 10, 2008, immediately following a terrorist attack on an Israeli yeshiva on March 10, 2008, the Excalibur at York University published an article that stated, "It's no wonder why Yeshivat Merkaz Harav school was attacked," and went on to justify the attack based on the fact that the school had a curriculum that combined Talmudic studies with military service.

In February 2008, "Death to Jews" was reportedly shouted repeatedly at an anti-Israel rally held on the McMaster University campus.

In 2007, Jewish students reported to Queen's University Hillel that their sociology professor had accused Canadian Jewish Organizations (such as the Canadian Jewish Congress) of a conspiracy to manipulate Canadian foreign policy. The professor later apologized.

In March 2004, the Queen's University Palestinian Human Rights association distributed literature portraying Jews with big noses and carrying large sacks of money. Controversy over the issue made it into the Queen's Journal, where the president of the club denied the anti-Semitic nature of the cartoon on the basis that "Palestinians are Semites too."

The visiting Israeli consul-general was prevented by protesters from speaking at Simon Fraser University in British Columbia in 2004.

This is by no means a comprehensive list of recent incidents, and does not even include all incidents that were discussed during the inquiry. Nevertheless, in addition to demonstrating the variety and severity of incidents on Canadian campuses, these incidents highlight a number of troubling issues.

To read the full CPCCA report, please visit cpcca.ca.

National Post, July 21, 2011 □

SPLIT ON ISRAEL AND ACADEMIC FREEDOM

Scott Jaschik

In recent years many campuses have debated whether speakers, works of scholarship or student activities that are harshly critical of Israel constitute anti-Semitism or bias that is illegal under federal law. While it's easy to say (and most of those in the debate agree) that one can criticize Israel's government without being anti-Semitic, one person's cogent critique is another's bigoted attack.

In an effort to promote better discussion of these tensions, leaders of the American Association of University Professors and the American Jewish Committee in April issued a letter that urged greater scrutiny for claims that anti-Israel statements and activities on campuses amount to illegal intimidation of Jewish students. In particular, the letter said that

Title VI of the Civil Rights Act of 1964 -- which bars discrimination by organizations receiving federal funds -- is not generally a tool for resolving such disputes. And the letter urged colleges and universities to place an emphasis on promoting rigorous debate on all topics -- even those like the Middle East on which people strongly disagree.

The letter was seen by its signatories as a way to promote a better campus environment, but was attacked almost immediately by some pro-Israel groups. As of now, the joint statement may be down to one party. The head of the American Jewish Committee has repudiated the letter and said that it shouldn't have been signed.

David Harris, executive director of the American Jewish Committee, sent a letter to a critic of the letter this month in which he said: "AJC's internal system of checks and balances did not function well in this case. We believe that the letter was ill-advised and regret the decision to have released it."

The Harris letter was first reported Tuesday by *The Jewish Daily Forward*, after which the AJC released the brief letter from Harris, but declined to comment further. The repudiation is notable because the AJC signatory on the letter with the AAUP was not some low-level official but Kenneth Stern, director of the American Jewish Committee's program on anti-Semitism and extremism, and someone who is generally considered to be a leading expert on anti-Semitism. A spokesman for the American Jewish Committee said that Stern was on sabbatical and was not commenting on the situation.

Much of the criticism of the joint letter concerned its discussion of Title VI. The U.S. Education Department's Office for Civil Rights found in 2010 that some kinds of anti-Jewish activity (it gave as examples the use of swastikas or bullying directed at Jewish students) could constitute the type of ethnic or racial harassment banned by Title VI. The AAUP-AJC letter does not disagree.

But it issued a strong caution against the use of Title VI in some of the disputes that have broken out on various campuses. "Title VI is a remedy when university leadership neglects its job to stop bigoted harassment of students; it is not a tool to define 'politically correct' campus speech," the letter said. "Anti-Semitism should be treated with the same seriousness as other forms of bigotry. But one should not, for instance, suggest that a professor cannot make an argument about immigration simply because some might see any such argument as biased against Latino students. Nor was Title VI crafted with the notion that only speakers who are 'safe' should be allowed on campus. By trying to censor anti-Israel remarks, it becomes more, not less, difficult to tackle both anti-Semitism and anti-Israel dogma. The campus debate is changed from one of exposing bigotry to one of protecting free speech, and the last thing pro-Israel advocates need is a reputation for censoring, rather than refuting, their opponents."

Via e-mail, Cary Nelson, president of the AAUP and the co-signatory of the April letter, said that he stood behind it. And he was also critical of attempts to focus on Title VI as a means to promote a better campus environment.

"The attempt to assemble a set of unconnected phenomena -- from visiting speakers to student group activities to classroom speech -- to qualify under Title VI of the Civil Rights Act is unlikely to survive a full court test," he said. "Thus whatever maneuvering the AJC or other groups do now has more to do with internal politics and community relations than with any principled or carefully thought out legal position. In any case, neither Ken Stern nor I acted without consulting colleagues in our respective organizations."

Inside Higher Ed, August 17, 2011

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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WHAT YALE'S PRESIDENT SHOULD HAVE SAID ABOUT THE FRAT BOYS

Harvey Silverglate and Kyle Smeallie

The Department of Education is currently investigating Yale University for allegedly maintaining a sexually hostile environment. No one can deny that the New Haven Ivy is in a difficult position. To wit, Yale enacted changes last month to lower the standard of proof in sexual assault cases, and last week, College Dean Mary Miller announced that a fraternity would be banned for five years, a result of an October 2010 incident in which pledges shouted sexually-graphic chants. Yale, by all appearances, is capitulating to federal pressure. It didn't have to. Here's how Yale President Richard Levin could have stood tall, on behalf of educators and liberal arts institutions everywhere, in the face of Washington's unwelcome—and ultimately destructive— intrusion.

Dear Assistant Secretary for Civil Rights Russlynn Ali:

Allow me to introduce myself. I am Richard Levin, President of Yale University. I've been at the helm of this great institution since 1993, making me currently the longest-tenured president in the Ivy League. As a long-time observer of higher education, and one who has praised its historical autonomy from the public sector, I feel an obligation to express my concern about recent developments from your office.

I'm writing today in response to a Title IX civil rights complaint for gender discrimination that your office has filed against my university, as well as a "Dear Colleague" letter sent by you last month to nearly every college and university, both of which concern the adjudication of sexual harassment allegations in higher education.

I'd like to begin by making clear that Yale University takes very seriously any and all allegations of sexual assault. Not only do we encourage students to report such instances directly to the Yale Police Department, but we have had on campus, since 2006, the Sexual Harassment and Assault Resources & Education (SHARE) center, which provides counseling, information, and advocacy to victims of sexual violence. The list of our efforts could go on, but that is not my purpose in writing today.

I want instead to convey the very difficult position in which Yale University currently finds itself. The Title IX complaint and the "Dear Colleague" letter have forced us to choose between compliance with your directions, and commitment to the promises we've made to our students (and, in a larger sense, to the civil society of which we are a part). In either event, we believe that we will be vulnerable to legal action and are inviting tremendous harm to our reputation.

Our predicament is illustrated by the actions last fall of a campus fraternity, Delta Kappa Epsilon. As documented in the Title IX complaint, a group of DKE pledges were instructed to shout, near a women's residence hall, sophomoric chants such as "No means yes, yes means anal." I found their actions to be appalling, and, exercising my "bully pulpit" prerogative as a member of the Yale community and as its titular head, I expressed as much in a letter to the *Yale Daily News* shortly thereafter. A "Forum on Yale's Sexual Climate" was held within a week of the incident. The DKE President, for his part, admitted that the chants were "a serious lapse in judgment by the fraternity and in very poor taste."

It was a trying episode for all involved, but it was also, as your boss President Obama would say, a "teachable moment." Good speech responded to bad speech; the marketplace of ideas was at work.

Still, some called for punishment of DKE, saying that we should not allow such hateful rhetoric on our campus. More recently, others have pointed to punishment as a means to appease your office, as it would serve to publicly display our commitment to stopping sexual violence as well as gender discrimination. Though I want nothing more than to shed the notion that Yale is harboring a "hostile" environment in terms of gender, I cannot in good conscience sacrifice our time-tested principles in the name of appeasement.

As I shall endeavor to explain below, I do not believe that sanctioning students for their speech—even at its most disturbingly misogynistic—is an option open to Yale's administration.

First, we must remember that we're dealing here with pure speech. Many, probably most, find the speech to be deplorable, if not downright unmentionable in polite company. But Yale long ago made a pledge to its

students—it's embodied in our University Regulations—to vigorously uphold free speech. "Every official of the university," Yale policy reads, "has a special obligation to foster free expression and to ensure that it is not obstructed."

The reasons for upholding even puerile expression are far from trivial; they cut to the core of why we, universities in a free society, exist in the first place. Amid tremendous campus upheaval in the 1970s, Yale appointed a committee to examine the state of expression on campus. What was produced became known as the Woodward Report, named after the report's principle author, the late and great Professor C. Vann Woodward. It is a document in which we have tremendous pride, and which formed the basis of our current policy on expression. It posits: "The history of intellectual growth and discovery clearly demonstrates the need for unfettered freedom, the right to think the unthinkable, discuss the unmentionable, and challenge the unchallengeable." That is no less true today than it was in 1975. At Yale, we take this profound obligation seriously. It is a guiding light.

Were we to contravene these principles and punish the DKE students, we would not only be violating our core values, we would also be in danger of being sued. As a private institution, we are of course not bound by the First Amendment and its free speech protections. Courts have, however, interpreted the provisions of a student handbook as legally-enforceable terms of an implied contract. As detailed above, we have unequivocally promised free expression to our students, and they should reasonably expect us to uphold our end of the bargain.

Which brings me to my second point: It is my fervent belief that all students at Yale University are intelligent, capable, and strong. As such, they need no authority figure to intervene when certain forms of expression may be upsetting to them. We trust that they are mature enough to either ignore the expression, or respond with what they see as better (or perhaps I should say tougher) speech. We saw the latter quite vividly in the aftermath of the DKE incident.

Combatting speech with more speech, Yale students turned lemons into lemonade. Indeed, one value of a liberal arts education is precisely this—to enable our students to cope with the challenges of a free society.

What would it convey to our students were we, in this instance, to make an exception to our principles of free expression? For one, I believe it would convey a completely undeserved notion that our female student population is incapable of defending itself against offensive and sexist expression, and that they need protection from an authority figure. If a group of Yale women gathered to verbally disparage male undergraduates, I do not believe that I would hear similar calls for punishment. Why is this? Women are no less capable than men of fending for themselves, of shrugging off the chants of Neanderthals, or better yet, putting them in their place. If we are to realize true equality, we must treat students equally.

For these reasons, I am choosing not to punish the students involved in the DKE incident. In the event your office chooses to penalize Yale for taking this course, my institution stands ready to defend itself in every appropriate tribunal, from the judiciary to the court of public opinion. Legal counsel informs me that Yale is well within its legal and constitutional rights in resisting these attempted encroachments on its core values.

My concern today, however, reaches beyond this single occurrence; it extends to how students accused of wrongdoing will be treated, not just at Yale, but at colleges and universities across the country. The basis of my larger concern is the "Dear Colleague" letter issued last month by your Office of Civil Rights, which dictates certain mandatory procedures for campus disciplinary bodies adjudicating claims of sexual harassment and assault. The changes outlined in your letter apply to all colleges and universities that accept federal funds, including private universities like Yale.

There are a number of changes from current procedure that are required by your letter. Not all of these changes are problematic. For example, I do think that colleges and universities should *never* dissuade a victim of sexual assault from filing a police report. Your letter rightly puts schools on notice that this practice is not acceptable.

One reason that I believe this particular obligation is a step in the right direction is that the criminal justice system, as opposed to the campus tribunal, is far better equipped to handle serious allegations like criminal sexual assault. From investigation to trial, prosecutors, defense attorneys, and judges are responsible for providing fair treatment to both the accuser and the

accused. The same cannot be said for campus disciplinary bodies, often comprised of faculty members and administrators who have little to no training in how to handle serious cases. Reaffirming the obligation to report grave allegations to outside authorities is a step in the right direction.

Some portions of your letter are, however, very troublesome. For example, your letter mandates that colleges and universities use a "preponderance of the evidence" standard—more likely than not that the accused is guilty—in cases involving sexual harassment or violence. The more demanding "clear and convincing" evidentiary burden, previously used at many institutions such as Stanford University, now risk "OCR review" that could result in a withdrawal of federal funding—a disastrous financial blow to almost any college or university. Educational institutions are thus forced to choose between adhering to civilized and fair fact-finding standards and procedures, and the loss of federal funds.

It's not surprising that some institutions have quickly changed their policies to comply with your new guidelines. The University of Virginia ramped-up a sexual misconduct policy update already underway; the Student Union Senate at Washington University hastily enacted changes, to the chagrin of even some administrators there; and Brandeis University immediately lowered the evidentiary burden in sexual assault cases. In fact, the immediate policy change announced by Stanford President John L. Hennessy—a week after your letter was issued—likely violated the Stanford constitution, which requires consultation with various campus constituencies, as an observant alum pointed out in the *Stanford Daily*.

As I endeavor to explain below, Yale will not be joining these institutions in changing the way we adjudicate cases of sexual assault. I truly believe that we must respect the rights of the accused, and that doing so does not diminish from the gravity with which we approach the issue of sexual assault.

Some have argued that, because the campus disciplinary system does not dole out the same degree of punishment as a criminal court, the evidence required for a finding of guilt should be less stringent. I cannot speak for these other institutions, but I feel a certain uneasiness, as the leader of a liberal arts university, in demanding less accuracy in our disciplinary procedures. Our mission is the pursuit of truth, and nowhere should that be more demanding than when we are declaring a person guilty of one of our society's most heinous acts.

Alas, to err is human, and we would be remiss for not recognizing the potential for error in campus disciplinary bodies. Indeed, even before the lowering of the evidentiary burden, a number of students around the country were found guilty in campus tribunals on sexual assault charges, only to be later vindicated. At George Washington University, a student found guilty of sexual assault—despite the eyewitness testimony of his three roommates that the encounter was consensual—is now suing the school for $6 million in damages. The University of North Dakota found a student guilty of sexual assault, but refused to reopen the case even *after* state authorities charged his accuser with filing a false police report. And at Brown University, a student withdrew in 2006 after being accused of rape and now is suing the university, his accuser, and her father, a wealthy donor who allegedly influenced Brown officials throughout the process.

This is simply a cursory review of some recent cases that saw the light of day. It is uncontestably true that, with a lower standard of evidence, the number of false findings of guilt will only increase. I fear that, with the lower standard of proof mandated by your office, Yale could end up on the wrong side of a costly lawsuit, accused of damaging a student's life by wrongly labeling him or her as a rapist.

Consider, for purposes of comparison, the work of the national Innocence Project, which has to date helped free some 271 inmates, some of whom were on death row. Even in the criminal justice system, where the accused are afforded significantly enhanced protections and charges must be proven "beyond a reasonable doubt" (an even higher standard than "clear and convincing evidence"), wrongful convictions occur with disturbing frequency.

Still other aspects of your "Dear Colleague" letter foretell problems if and when implemented. For example, on some campuses, when certain allegations charge a crime as well as a violation of campus rules—rape is the most obvious example—a campus may, or even must, postpone its own tribunal while the criminal justice system proceeds. This accommodation by the college to the criminal justice system makes

sense, because anything the student might say in the campus tribunal could be used to prejudice his criminal defense.

Yet your letter insists that while the college might "delay temporarily the fact-finding portion" of its investigation "while the police are gathering evidence," the "school must promptly resume and complete its fact-finding" even before charges are resolved in the criminal justice system. As a practical matter, this makes it virtually impossible for any student, accused by a fellow student in the campus tribunal and simultaneously investigated by the police, to defend him or herself on campus. It means, in effect, that a mere accusation ends the accused student's college career.

I hope I've conveyed my sincere concern about the issue of sexual assault on campus. There is no doubt that it must be addressed, but certain precautions are necessary in a free society devoted to substantive and procedural values. First, we must not conflate disconcerting speech with sexual assault—it serves not only to put universities in a lose-lose situation, forced to choose between their principles and their pocketbook, but it also waters down the real cases of assault when sophomoric chants are equated with violence.

And when we are dealing with sexual assault, I firmly believe that lowering the standard of evidence for such a serious crime will only inject more uncertainty into the process, while increasing the likelihood that students will be wrongfully convicted.

In conclusion, I must voice my concern that these changes required by your "Dear Colleague" letter will do little but increase universities' legal exposure and diminish student freedom as well as long-standing liberal educational values. As President of Yale, I have a moral as well as legal obligation to seek to protect the heart and soul of this institution from such unwarranted encroachment. I sincerely hope – and urge – that the "Dear Colleague" letter be withdrawn and rethought by your office. But, in any event, as a matter of solemn obligation, Yale finds itself unable to sacrifice its core principles.

Sincerely,
Richard C. Levin,
President, Yale University

Harvey Silverglate (has@harveysilverglate.com) is the co-author, with Professor Alan Charles Kors, of The Shadow University: The Betrayal of Liberty on America's Campuses (Free Press 1998, now in paperback from HarperPerennial). He is co-founder and currently Chairman of the Board of Directors of The Foundation for Individual Rights in Education, www.thefire.org. Kyle Smeallie ksmeallie@gmail.com is a FIRE program associate. □

YES MEANS YES—EXCEPT ON CAMPUS

The feds tip the scales against due process in sexual misconduct cases.

Harvey A. Silverglate

For a glimpse into the treacherous territory of sexual relationships on college campuses, consider the case of Caleb Warner.

On Jan. 27, 2010, Mr. Warner learned he was accused of sexual assault by another student at the University of North Dakota. Mr. Warner insisted that the episode, which occurred the month prior, was entirely consensual. No matter to the university: He was charged with violating the student code and suspended for three years. Three months later, state police lodged criminal charges against his accuser for filing a false police report. A warrant for her arrest remains outstanding.

Among several reasons the police gave for crediting Mr. Warner's claim of innocence was evidence of a text message sent to him by the woman indicating that she wanted to have intercourse with him. This invitation, combined with other evidence that police believe indicates her untruthfulness, has obvious implications for her charge of rape.

Nevertheless, university officials have refused to allow Mr. Warner a re-hearing—much less a reversal of their guilty verdict. When the Foundation for Individual Rights in Education (FIRE), a civil liberties group of which I am board chairman, wrote to University President Robert O. Kelley to protest, the school's counsel, Julie Ann Evans, responded. She wrote that the university didn't believe that the fact that Mr. Warner's accuser was charged with lying to police, and

has not answered her arrest warrant, represented "substantial new information." In any event, she argued, the campus proceeding "was not a legal process but an educational one."

Six weeks before FIRE received this letter, Russlynn Ali, assistant secretary for the Office for Civil Rights in the Department of Education, sent her own letter to every college and university in the country that accepts federal money (virtually all of them). In it, she essentially ordered them to scrap fundamental fairness in campus disciplinary procedures for adjudicating claims of sexual assault or harassment.

Ms. Ali's April 4 letter states that "in order for a school's grievance procedures to be consistent with the standards in Title IX [which prohibit discrimination on the basis of sex in any educational institution receiving federal funds], the school must use a preponderance of the evidence standard (i.e., it is more likely than not that sexual harassment or violence occurred)." This institutionalizes a low standard previously eschewed by most of the nation's top schools. It also sends the message that results—not facts—matter most. Such a standard would never hold up in a criminal trial.

Following this outrageous diktat, Cornell University lowered its evidentiary burden in sexual assault cases. Now, determining whether an incident constitutes sexual violence is based on the "preponderance of the evidence" standard, instead of the school's prior "clear and convincing evidence" test. Stanford followed suit—in the middle of one student's sexual misconduct hearing. He was promptly found guilty and suspended for two years.

When Yale administrators received the government's letter, the university was under federal investigation for permitting gender discrimination on campus. The next month, on May 17, Yale announced that it would institute a five-year suspension of a fraternity that had engaged in a puerile but harmless initiation. Parading around campus, blindfolded pledges were told to shout tasteless slogans like "No means yes, yes means anal."

The university deemed this a sufficiently serious species of gender-based discrimination to justify official censorship. This, despite its "paramount obligation"—Yale's words—to uphold freedom of expression. And Yale, too, lowered its previous, higher evidentiary standard in sexual assault cases to the bottom rung.

Codes banning "offensive" speech in the name of protecting the sensibilities of what are commonly designated historically disadvantaged groups—and the campus kangaroo courts that enforce them—have long threatened free expression and academic freedom. While real-world courts have invalidated many of these codes, the federal government has now put its thumb decisively on the scale against fairness on issues of sexual harassment and assault.

Caleb Warner now goes without a diploma and carries with him the stigma of a sexual predator. Unfortunately, the government's policy ensures that his will not be a unique case.

Mr. Silverglate, a lawyer, is the author of "Three Felonies a Day: How the Feds Target the Innocent" (Encounter Books, 2009). He is also the chairman of the board of directors of the Foundation for Individual Rights in Education.

Wall Street Journal, July 15, 2011.

PATRIOTISM ON THE QUAD

Lawrence Summers

Sept. 11, 2001, was the day before classes were to start at Harvard College during my first year as Harvard president. I first heard of the planes crashing into the World Trade Center as I left a routine breakfast at the Faculty Club. Neither I nor anyone around me had full confidence about how to respond to such an event, one without precedent in our life experience. But, by midday, we had decided to hold a kind of service late that afternoon to commemorate what had happened, to try to provide reassurance to a scared community of young people.

It naturally fell to me, as president of the university, to deliver remarks. Those I drafted expressed shock at the magnitude of the tragedy and sympathy for the victims and their families. I promised the support of our community for the victims and those assisting them, but my draft also stressed that the tragedy we'd witnessed was quite unlike an earthquake or tornado: The attacks of Sept. 11 were acts of malignant agency

that rightly called forth outrage against the perpetrators. I wrote, too, of the imperative that we be intolerant of intolerance, and I suggested that we would best prevail by simply carrying on the university's everyday, yet vitally important, work.

My draft remarks seemed to me appropriate and, even, anodyne. I was therefore quite surprised when some whose advice I sought, and some who heard my remarks as delivered, took strong exception to my suggestion that outrage against the 9/11 perpetrators was appropriate. Others objected to my use of the word "prevail."

It was not just Harvard where such sentiments were strong. A year after Sept. 11, I attended a meeting of the Association of American Universities along with other presidents of the nation's leading research schools. On that occasion, a hapless young Bush administration staffer had come to address the new national security threats raised by 9/11. The reverential way this young staffer invoked "the president" grated on our ears, but he also raised some concerns that seemed reasonable to me: whether, for instance, it was appropriate to offer the full nuclear engineering curriculum to students from terrorist states; or whether, in certain circumstances, it might be necessary for universities to cooperate with search warrants served on those suspected of representing terrorist threats. I confess I was nonplussed by the reactions of some of my fellow presidents – some of whom delivered glib lectures on academic freedom without so much as acknowledging the new security threats the nation faced. Did not universities, I wondered, have obligations as institutional citizens, responsibilities as well as privileges?

These responses to 9/11, at Harvard and elsewhere, spoke to the ambivalence about national security that developed at U.S. universities over the last 35 years of the 20th century. It had begun with Vietnam, reviled not just as a costly and imprudent application of American power, but also as a profoundly immoral enterprise. In the Vietnam years, some American government officials could not visit universities without making security precautions. Students participating in officer training at the time were wary of wearing their uniforms, lest they be assaulted verbally or even physically.

Even after the Vietnam war ended, ambivalence on campuses about American power and the use of force to defend it persisted. University communities were for the most part appalled when Ronald Reagan spoke of the Soviet Union as an "evil empire." They were excited by proposals that the West freeze its nuclear weapons and dubious about the first Iraq war. Much of the opposition to the United States and its military was rhetorical, but there were concrete ways, too, in which America's universities withdrew from engagement with national security concerns. In the decade before 2001, the nation's law schools had banded together to mandate severe restrictions for military recruiters on their campuses. The argument was that the "don't ask, don't tell" policy approved by multiple presidents and Congresses was as discriminatory as that upheld by all-white or all-male law firms and so warranted the same sanction against on-campus recruiting.

Sept. 11 made such arguments seem less and less reasonable. Terrorists who killed American innocents in our most iconic city without provocation reintroduced the plausibility, the necessity, of greater moral clarity. In 2001, I argued that policy in every area must be debated vigorously, but respect for those who risk their lives for our freedom must be a basic value. Now, in 2011, we take such ideas for granted. Applications to programs in public service have risen sharply. Interest in issues of international relations in general, and the Middle East in particular, has soared. And the number of students answering the military's call has risen in kind.

U.S. universities must remember an important lesson: that, just as we are strong because we are free, we are also free because we are strong.

Lawrence Summers is Charles W. Eliot university professor and president emeritus at Harvard University.

New Republic, September 15, 2011.

Bequest to SAFS

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

Thank you.

Clive Seligman, President

SUPPRESSING SPEECH AT UC SANTA BARBARA

Nichole Hungerford

When David Horowitz speaks about campus anti-Semitism and appeasement of radical Islam at the University of California, Santa Barbara on May 26, it will be against a backdrop of soft censorship and suppression of free speech that has come to characterize the UCSB public square.

The school's Associated Students (AS) financial board, heavily influenced by the UCSB Muslim Students Association acting in concert with left-wing groups, illegally refused a funding request last week by the College Republicans to fund the event. After a protest by students anxious to hear Horowitz, the AS granted a part of the sum initially requested by College Republicans, but only after encouraging a campaign portraying Horowitz as a racist, Islamophobe, and practitioner of hate speech.

The May 26 speech will touch on themes similar those in a previous Horowitz lecture at Santa Barbara three years ago in which he challenged — without success — students heckling from the audience to denounce the terror group Hamas and its intention to wipe Israel, and all Jews, off the face of the map.

The memory of that confrontation was one factor that led the College Republicans' request for $2000, for audiovisual and security expenses (and not including an honorarium) to be turned down by the Associated Students board on May 2. Citing court decisions requiring viewpoint neutrality when student fees are allocated for speakers, College Republicans protested. At a raucous public forum on May 5, the AS approved $1100 for the event. This amount was then reduced to $800 as a result of a campaign by Islamic and left groups, which also made it clear that they intended to disrupt the event. And then the AS further denigrated the College Republicans' request by allocating comparable funding for a campus wide "Anti-Hate Workshop" to take place at the same time as Horowitz's May 26 lecture.

Forcing some student groups to shoulder the burden of security costs when others threaten an event with violence is appropriately called the "heckler's veto," and in this case it has produced the same speech-suppression that the AS financial board initially tried to achieve by denying funding of the Horowitz event altogether. The discriminatory actions of the student board caused the Foundation for Individual Rights in Education (FIRE), a non-profit dedicated to protecting free speech on campus, to send a letter warning UCSB chancellor Henry Yang that it was "prepared to use all of our resources to see this…through to a just and moral conclusion."

The AS funding decisions were heavily influenced by Ahmed Naguib, a Muslim Students Association member who sits on the organization's financial board. At the height of the controversy, he told the student paper, The Daily Nexus, "I'm familiar with the comments that Horowitz has made. He incites hate and makes students feel very uncomfortable." Naguib went on to say that Horowitz had in effect forfeited his free speech rights because he "made several racist remarks about Arabs and accused people of terrorism last time he visited." Naguib was supported by another student, Sophie Armen, who presented a doctored video of Horowitz to the board meeting. Others speaking against the appearance were representatives of the UCSB MSA and Students for Justice in Palestine.

As to Naguib's assertion that Horowitz was guilty of racism and Islamophobia, the 2008 speech shows no such remarks. In fact, the speech focused on an exploration of Islamic extremism and of the Muslim Students Association's links, affirmed by the FBI, to the Muslim Brotherhood and its support for terror groups such as Hamas and Hezbollah. The video shows Horowitz repeatedly asking the numerous self-identified MSA members who confronted him during the Q&A if they would condemn Hezbollah and Hamas. After one evasive response after another, Horowitz was finally able to pose the question in a way that the students could not escape.

"I've been waiting for one Muslim in this room to condemn an organization which is sworn to kill Americans and kill Jews," he said. "That's not too hard. One. Is there one here?"

After several seconds of silence, one voice shouted, "No!" And some members of the audience, including faculty members, screamed obscenities at Horowitz.

"The campaign against free speech is really the frontline attack of the jihadists. What the Muslim

Brotherhood wants is for its critics to be silenced," Horowitz says. "Nobody can say anything about Islamic terror or Islamic imperialism without being ruled an indecent person, not worthy of the public square because they're an Islamophobe or a racist…In the name of tolerance, we have to be intolerant toward all the critics of Islam. That's the Orwellian formula."

On May 26, when round two of the battle between David Horowitz and campus apologists for Islamic extremism takes place at Santa Barbara, the same issues as in his last appearance will be front and center—student support for terror groups, hatred of Israel and of Jews, and a contempt for free speech and the open exchange of ideas.

Front Page Magazine, Wednesday, May 18. □

RACIAL PREFERENCES IN WISCONSIN

Linda Chavez

The campus at the University of Wisconsin-Madison erupted this week after the release of two studies documenting the heavy use of race in deciding which students to admit to the undergraduate and law schools. The evidence of discrimination is undeniable, and the reaction by critics was undeniably dishonest and thuggish.

The Center for Equal Opportunity (CEO), which I founded in 1995 to expose and challenge misguided race-based public policies, conducted the studies based on an analysis of the university's own admissions data. But the university was none too keen on releasing the data, which CEO obtained through filing Freedom of Information Act requests only after a successful legal challenge went all the way to the state supreme court.

It's no wonder the university wanted to keep the information secret. The studies show that a black or Hispanic undergraduate applicant was more than 500 times likelier to be admitted to Wisconsin-Madison than a similarly qualified white or Asian applicant. The odds ratio favoring black law school applicants over similarly qualified white applicants was 61 to 1.

The median SAT scores of black undergraduates who were admitted were 150 points lower than whites or Asians, while the median Hispanic scores were roughly 100 points lower. And median high school rankings for both blacks and Hispanics were also lower than for either whites or Asians.

CEO has published studies of racial double standards in admissions at scores of public colleges and universities across the country with similar findings, but none has caused such a violent reaction.

Instead of addressing the findings of the study, the university's vice provost for diversity, Damon A. Williams, dishonestly told students that "CEO has one mission and one mission only: dismantle the gains that were achieved by the civil rights movement." In fact, CEO's only mission is to promote color-blind equal opportunity so that, in Martin Luther King's vision, no one will be judged by the color of his or her skin.

Egged on by inflammatory comments by university officials, student groups organized a flashmob via a Facebook page that was filled with propaganda and outright lies about CEO wanting to dismantle their student groups. More than a hundred angry students stormed the press conference at the Doubletree Hotel in Madison, where CEO president Roger Clegg was releasing the study.

The hotel management described what took place in a press statement afterward: "Unfortunately, when escorting meeting attendees out of the hotel through a private entrance, staff were then rushed by a mob of protestors, throwing employees to the ground. The mob became increasingly physically violent when forcing themselves into the meeting room where the press conference had already ended, filling it over fire-code capacity. Madison police arrived on the scene after the protestors had stormed the hotel."

But the outrageous behavior didn't end there -- and it wasn't just students but also faculty who engaged in disgraceful conduct. Later the same day of the press conference, Clegg debated UW law professor Larry Church on campus. The crowd booed, hissed, and shouted insults, continuously interrupting Clegg during the debate.

Having used Facebook to organize the flashmob, students and some faculty extended their use of social media and tweeted the debate live. Even with Twitter's

140-character limit, you'd think participants would be able to come up with something more substantive than the repeated use of the label "racist" to describe Clegg and his arguments against racial double standards, but hundreds of tweets exhibited little more than hysterical rants and personal attacks.

Perhaps the most offensive tweet was posted by Sara Goldrick-Rab, an associate professor of educational policy studies and sociology. After announcing that she was "Getting set to live blog this debate between a racist and a scholar," she tweeted that Clegg sounded "like the whitest white boy I've ever heard." The only racism in evidence came from the defenders of the university's race-based admissions policies, such as Professor Goldrick-Rab.

You'd think that a responsible university would denounce the intimidation and lack of civility by its students and faculty. Instead, Vice Provost Williams told the student newspaper, "I'm most excited about how well the students represented themselves, the passion with which they engaged, the respectful tone in how they did it and the thoughtfulness of their questions and interactions."

It appears that not only are the university's admissions policies deeply discriminatory, but also that university officials applaud name-calling, distortion and outright physical assault.

Townhall, September 16, 2011.

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