

A close-up photograph of a hand holding a pen, poised to sign a document. The hand is in the center, with fingers gripping the pen. The document is white and lies on a dark, textured surface. The background is blurred, showing hints of green and blue.

Academic Matters

THE JOURNAL OF THE
ACADEMIC SOCIETY OF
AMERICA

Academic Freedom Under Threat?



New challenges to ACADEMIC FREEDOM

In the state of Ohio, job applicants at some public universities are now required to fill out a questionnaire declaring they have no ties to any terrorist organization, as defined by the U. S. State Department. It is a measure that brings to mind the McCarthy-era loyalty oaths.

Prominent international scholars have been turned away from the United States based on claims of unspecified public-safety or national-security interests. Canadian academics have been also detained and refused entry to the country.

The European Union requires that Internet-service providers in member countries keep user data for up to two years, including customers' Internet addresses and the identities of those trading e-mail messages.

If academic freedom means the ability to teach, research and pursue knowledge without fear of state surveillance, harassment, and possible prosecution, then many legislators' reactions to 9/11 and subsequent developments threaten it, as three of our contributors argue in this issue of *Academic Matters*.

Kent Roach writes about concerns that anti-terrorism laws around the globe are increasingly directed at speech, a clear threat to academic freedom. Canadian legislators so far have not taken this route, he says, a path they should stick to since there are far more effective ways to combat terrorism without endangering our freedoms.

Gargi Bhattacharyya describes—a year after the 7/7 bombings in London—how Britain's latest anti-terrorism laws threaten academic freedom. Her conviction is that such legislation is part of a campaign to

have a frightened public accept ever-more authoritarian government.

Finally, Jenny Hocking describes how the Australian government has ignored the opinion of its own select committee that the country's anti-terrorism laws transgress fundamental human rights. Instead, the government is bolstering its

New definitions of sedition pose a threat to the free exchange of ideas, dissent, and debate

30 anti-terrorism laws, adding layers of government surveillance and extending the definition of sedition so far that it poses a threat to the free exchange of ideas, dissent, and debate.

Three of our authors examine threats to academic freedom that are not rooted in anti-terrorism measures but in other contemporary pressures. Jonathan Cole introduces this section with a trenchant analysis of the campaign by Republican-supported conservative activists in the United States to have the state regulate academic speech inside the classroom. He concludes with a plea that the American university needs not more regulation and conformity but more ideas, dissent, and debate.

Ken Westhues writes that the persecution of academics with unpopular ideas—or too much talent—is not limited to Republicans. He documents the phenomenon of academic “mobbing,” behaviour similar to that of non-human primates

who are prepared to devour “the other.” Jennifer Kate Bankier picks up the theme and explores the implications of university colleagues' violating each other's academic freedom. She recommends more training and discussion about the issue among faculty, and that faculty unions pursue violations vigilantly.

Finishing off our academic freedom discussion is John Fekete, who takes a close look at the current state of academic freedom in Canada, observing some disturbing current trends and raising questions about how academic freedom may be endangered in the future.

As a publication that is developing its identity with every issue, *Academic Matters* is proud to launch in this issue its first offerings of original fiction, an innovation we look forward to expanding. Ahmad Saidullah, a 2006 CBC Literary Award Winner, has generously allowed us to publish an excerpt from his short story, “Whiteness.” And back, after critical acclaim, is Steve Penfold, whose wry humour gives us in this issue a tale about research and commerce worthy of the Brothers Grimm, but much, much funnier.

We also continue to provide readers with reviews of new and engaging books about academia and a compendium of unusual discoveries by Canadian researchers.

Rounding off the issue is the regular “Political Matters” column by *Academic Matters* Editor-in-Chief Mark Rosenfeld, who explores the broad political context that has promoted or inhibited academic freedom in Canada.

There is much to ponder here as academic freedom on our campuses faces ever-present challenges from within and without. **AM**



Les nouveaux défis de la LIBERTÉ UNIVERSITAIRE

Dans l'État d'Ohio, les personnes qui font une demande d'admission à certaines universités publiques doivent maintenant remplir un questionnaire dans lequel elles déclarent n'entretenir de liens avec aucune organisation terroriste. C'est une mesure qui rappelle les serments de loyauté de l'époque McCarthiste.

De grands érudits étrangers se sont vu refuser l'entrée aux États-Unis pour des raisons non précisées de sécurité publique ou nationale. Des universitaires canadiens ont également été détenus et interdits d'accès à ce pays.

L'Union européenne oblige les fournisseurs de service Internet des pays membres à conserver des données sur les utilisateurs pendant une période pouvant atteindre deux ans, ce qui comprend les adresses Internet des clients et l'identité des personnes qui échangent des messages électroniques.

Si la liberté universitaire désigne la capacité d'enseigner, de faire des recherches et d'acquérir des connaissances sans crainte de surveillance étatique, de harcèlement et d'éventuelles poursuites, les réactions de nombreux législateurs aux attaques du 11 septembre et aux événements subséquents la menacent, comme le font valoir trois de nos collaborateurs dans ce numéro de la publication *Academic Matters*.

Kent Roach soulève des préoccupations selon lesquelles les lois contre le terrorisme adoptées dans le monde entier sont de plus en plus axées sur le discours, une menace manifeste à la liberté universitaire. Jusqu'ici, les législateurs canadiens se sont abstenus d'emprunter cette voie, dit-il, une ligne de conduite qu'ils devraient maintenant puisqu'il existe des moyens beaucoup plus efficaces de lutter contre le

terrorisme sans compromettre nos libertés.

Gargi Bhattacharyya décrit—un an après les attentats à la bombe du 7 juillet à Londres, comment les plus récentes lois britanniques contre le terrorisme menacent la liberté universitaire. Elle croit fermement que ces lois s'inscrivent dans une campagne visant à faire accepter un gouvernement de plus en plus autoritaire par un public effrayé.

Enfin, Jenny Hocking décrit comment le gouvernement australien fait fi de l'avis de son propre comité spécial selon lequel les lois du pays contre le terrorisme portent atteinte aux droits fondamentaux de la personne. Le gouvernement s'attache plutôt à renforcer ses 30 lois contre le terrorisme, en ajoutant des couches de surveillance gouvernementale et en élargissant la définition de la sédition au point de menacer le libre échange d'idées, la différence d'opinion et le débat.

Trois de nos auteurs examinent les menaces à la liberté universitaire qui ne sont pas liées aux mesures de lutte contre le terrorisme, mais à d'autres pressions contemporaines. Jonathan Cole commence par une analyse incisive de la campagne que mènent aux États-Unis des militants conservateurs appuyés par les Républicains pour que l'État réglemente le discours universitaire en classe. Il conclut en soutenant que les universités américaines n'ont pas besoin de plus de réglementation et de conformité, mais bien de plus d'idées, de différence d'opinion et de débat.

Ken Westhues écrit que la persécution des universitaires ayant des idées impopulaires—ou trop de talent—ne se limite pas aux Républicains. Il décrit le phénomène du « houspillage » universitaire, un comportement qui s'apparente à celui de primates non humains prêts à dévorer « l'autre ». Jennifer Kate Bankier poursuit sur le même thème en

examinant les incidences de la violation de la liberté universitaire par des pairs. Elle recommande d'accroître la formation et les discussions à ce sujet chez les professeurs, et que les syndicats de professeurs exercent une surveillance vigilante à l'égard des violations.

John Fekete vient clore notre discussion sur la liberté universitaire en examinant de près l'état actuel de la liberté universitaire au Canada. Il constate certaines tendances actuelles troublantes et soulève des questions sur la façon dont la liberté universitaire risque d'être compromise à l'avenir.

En tant que publication qui développe son identité à chaque parution, *Academic Matters* est fière de présenter dans ce numéro ses toutes premières rubriques de fiction, une innovation que nous comptons poursuivre. Ahmad Saidullah, lauréat d'un prix littéraire Radio-Canada en 2006, nous a généreusement autorisés à publier un extrait de sa nouvelle intitulée « Whiteness ». Enfin, après avoir été salué par les critiques, Steve Penfold est de retour. Dans ce numéro, il nous raconte avec son humour désabusé une histoire sur la recherche et le commerce qui est digne des contes des frères Grimm, mais beaucoup, beaucoup plus drôle.

Par ailleurs, nous continuons d'offrir à nos lecteurs des critiques de nouveaux livres intéressants à propos du monde universitaire et un recueil de découvertes inhabituelles par des chercheurs canadiens.

Le rédacteur en chef d'*Academic Matters*, Mark Rosenfeld, complète ce numéro par sa chronique « Political Matters », où il examine le contexte politique général qui favorise ou mine la liberté universitaire au Canada.

Nous avons ici amplement de matière à réflexion devant les menaces internes et externes omniprésentes à la liberté universitaire dans nos campus. **AM**

The long reach of the war on terrorism

Kent Roach explores anti-terrorism laws and their chilling implications for free expression

La liberté universitaire pourrait bien devenir une victime de la guerre au terrorisme, si la nouvelle tendance mondiale à la réglementation du discours associé au terrorisme prend de

l'ampleur. Le professeur de droit Kent Roach exhorte les législateurs canadiens à résister à cette tendance, en faisant valoir que le risque qu'elle pose pour la liberté l'emporte sur ses avantages

douteux. Il soulève notamment la possibilité que les lois de ce genre aient plutôt pour effet d'encourager le terrorisme en stimulant son activité clandestine ou en faisant plus de publicité aux extrémistes.

So far, academic freedom has not been one of the casualties of the war on terrorism. To be sure, there has been a hardening of borders, through tougher visa requirements and more security checks, and such measures can have adverse effects on the ability of academics to move around the globe. As well, in some countries, such as Canada and the United States, it's now easier for governments to engage in surveillance of global communications systems which especially tempting for them if one side of the communication is foreign. Such surveillance could have a disproportionate impact, not just on newcomer communities, but on academics as well.

But by far the greatest threat to academic freedom is an emerging trend by the state to enact, in a third wave of new anti-terrorism laws, laws targeting speech that incites or encourages terrorism.

The first wave of the global expansion of anti-terrorism laws, which arrived in the immediate wake of 9/11, included a particular emphasis on laws against the financing of terrorism, although the broad definitions of "terrorism" in many of these laws present a threat to dissent and, with that, to academic freedom. For example, British anti-terrorism law introduced at the time defines any politically or religiously motivated destruction of property as "terrorism" but contains no exceptions for strikes and protests. (Australian and Canadian anti-terrorism laws follow the British definition, but they provide an exemption for protests and strikes.)

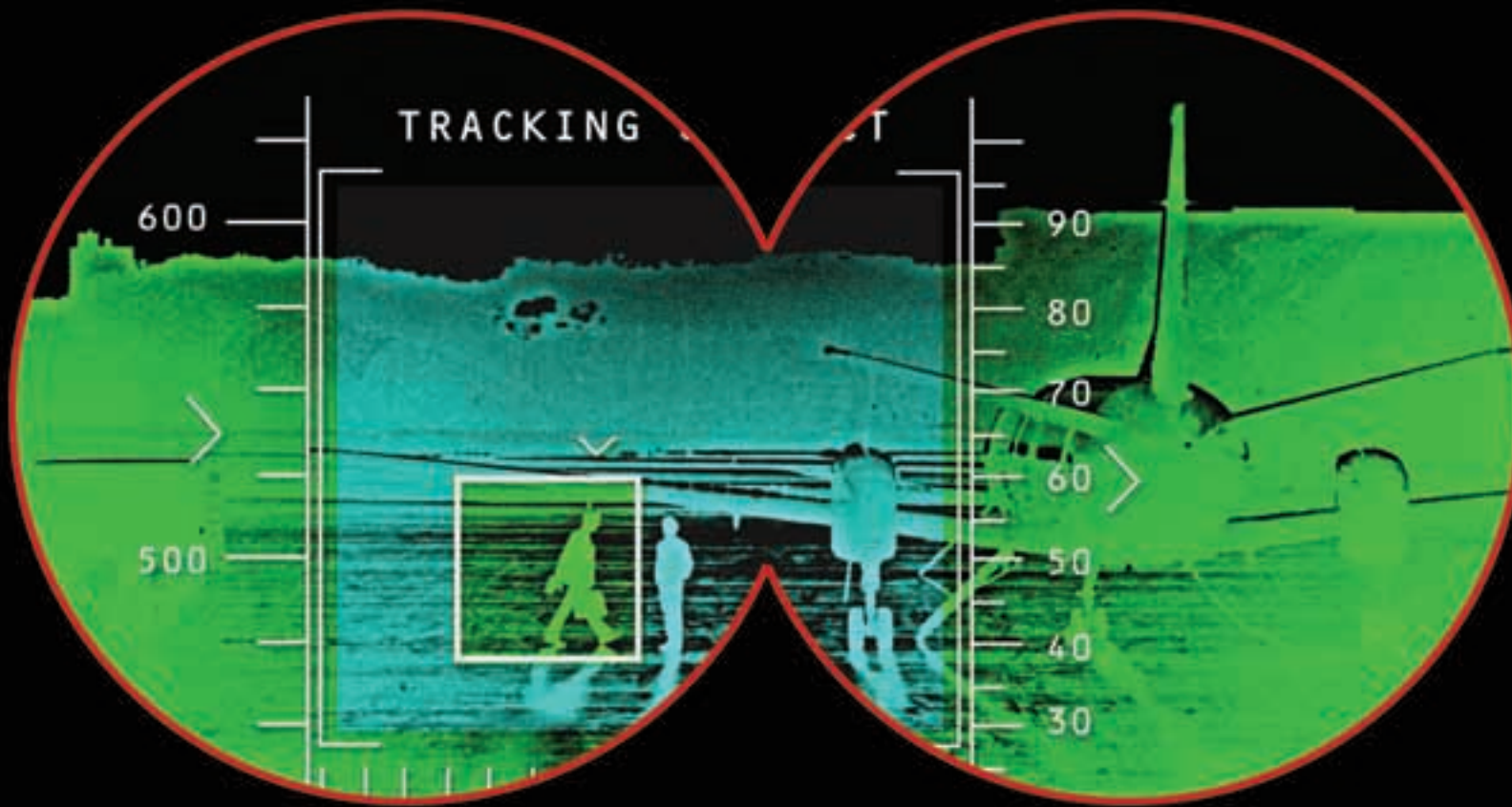
A second wave of anti-terrorism law used immigration law as anti-terrorism law. In Britain, new legislation derogating from fair trial rights was enacted to allow the indeterminate detention of those terrorist suspects who could not be deported because they would be tortured. In 2004, the House of Lords ruled the derogation disproportionate, in large part because, as the Lords

pointed out, terrorists can be British citizens as well as non-citizens, a phenomenon tragically confirmed by the London bombings of June, 2005, which were carried out by British nationals.

In Canada, meantime, security certificates have been used to detain suspected terrorists indeterminately, with the government relying on a 2002 Supreme Court case that left open the possibility of deportation in exceptional circumstances. The constitutionality of security certificates is presently under review in the Supreme Court. The case for their invalidation is strengthened by a recent United States Supreme Court decision that struck down military commissions at Guantanamo Bay, in large part because these commissions allowed evidence to be presented without the detainees and their lawyers being present, a procedure that is also used in Canadian security certificates.

The arrival of a third wave of anti-terrorism laws, aimed at speech, was marked by United Nations Security Council Resolution 1624, adopted September 14, 2005, which calls upon all states to take steps to prevent incitement to commit terrorist acts. The resolution declares that states have "obligations under international law to counter incitement of terrorist acts motivated by extremism and intolerance and to prevent the subversion of educational, cultural, and religious institutions by terrorists and their supporters."

The resolution was sponsored by the Blair Government in Britain, a country with a long history of targeting speech associated with terrorism. Broadcast bans, for example, were used in Britain against the IRA. Britain's *Terrorism Act, 2000*, makes being even a member, or professing membership, in a terrorist group a crime. Under this law, a prosecution for incitement to terrorism resulted in a seven-year prison sentence for a person who was convicted of counselling murder and racial hatred because of his extreme and hateful speech.



Britain's new 2006 *Terrorism Act* takes an even more aggressive approach. It contains the new offence of directly or even *indirectly* encouraging terrorism, an offence subject to a penalty of as much as seven years' imprisonment. The law deems indirect encouragement to include statements that glorify terrorist acts or statements from which the public could infer that the conduct being glorified should be emulated.

The new law clearly targets speech. Further, it deems irrelevant to guilt "whether any person is in fact encouraged or induced by the statement to commit, prepare, or instigate" any act of terrorism. The new law also targets speech that advocates terrorism short of violence, as well as speech that advocates terrorism against repressive regimes in foreign lands. Australia's new sedition laws have also targeted speech associated with terrorism.

Compared to Britain, the United States, or Australia, Canada has taken a more restrained approach when enacting new anti-terrorism laws since 9/11. Unlike the United States, where the Patriot Act was enacted without any meaningful opposition, Canada had a lively civil-society debate before the enactment of Bill C-36, Ottawa's anti-terrorism law, at the end of 2001. The law continues to be subject to criticism as part of an ongoing three-year review, with groups representing academics, Muslims, and various human rights organizations arguing that Bill C-36, and the practice of using of security certificates to detain suspected terrorists, should be reformed, if not abolished.

As for joining the third wave of anti-terrorism laws, which is targeting speech, the government of Canada should resist the overbroad British attempt to criminalize speech associated with terrorism. The inclusion of "counseling" terrorism and "threats" to commit terrorism in Canada's existing definition of terrorist activities already criminalizes speech most closely associated with terrorism, so a new offence of "incitement" is not necessary or wise.

There are ways to discourage people from engaging in terrorism other than criminalizing the direct or indirect encouragement of terrorism or terrorist publication, defined broadly to

include printed material and material on the internet. Indeed, by driving extremists underground or by giving them more publicity, a criminalization strategy may backfire. Speech prosecutions, moreover, may be a divisive strategy as they could confirm fears that anti-terrorism efforts are based on hostility to Islam, as opposed to a condemnation of violence. They may also distract police and prosecutors from more immediate threats.

Furthermore, there is a broad range of alternative measures, including criminalizing many forms of preparation for terrorism that would be more effective. The state's ability to condemn acts of terrorism—and even religious and political

It is far from clear that there is any rational connection between targeting speech and stopping terrorism

extremism—without recourse to the heavy hand of the criminal law should not be ignored.

It is far from clear that there is any rational connection between targeting speech and stopping terrorism. The effectiveness of targeting speech is likely to be minimal, especially when compared to the obvious harms caused to freedom of expression. The possibility that terrorist speech prosecutions could counterproductively result in greater attention and sympathy for those who glorify terrorism should also not be dismissed.

Targeting terrorist speech infringes rights essential to a democracy while failing to be an effective security strategy. **AM**

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Gargi Bhattacharyya warns Britain's curbs on intellectual freedom may be part of a larger ideological ambition: to increase our acceptance of authoritarian government

Gargi Bhattacharyya soutient que les lois britanniques contre le terrorisme s'inscrivent dans une campagne qui vise à persuader le public que l'extrémisme d'aujourd'hui justifie des mesures extrêmes, notamment des mesures qui entravent les droits et libertés de la personne.



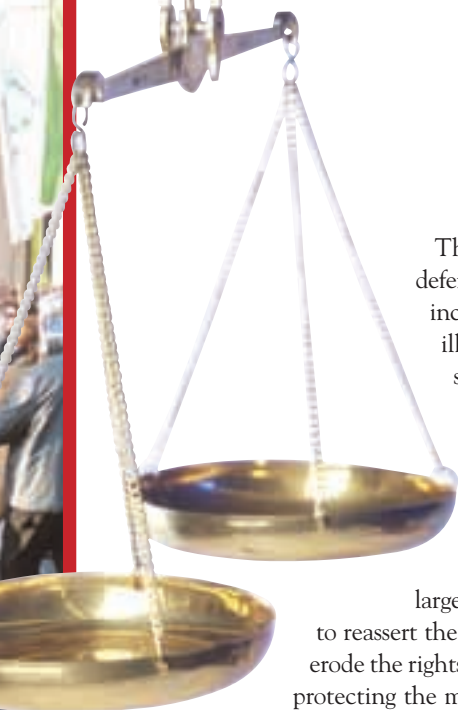
Britain's anti-terrorism laws: What is the agenda?

Last summer, Britain reflected on the year since the 7/7 bombings, those first, infamous, suicide bombings on British soil. Fortuitously, for a beleaguered government, the anniversary coincided with a review of the provisions of anti-terrorist law. So, although there was plenty of dissatisfaction to hear about—from victims and their loved ones, from “moderate” Muslims who feel used for quick-fix publicity and then discarded, from emergency services who say we are no better prepared than a year ago—there was also an opportunity for government to let us know that we are right to be scared. As part of this concerted campaign to persuade the public that all is acceptable in the name of security, the parliamentary select committee criticized government for the manner in which debate about last year's anti-terrorism laws was introduced, but not for the substance of these laws.

The most contentious component of this law has been the provision to detain those suspected of terrorist acts without charge while evidence is gathered. While the initial proposals had 90 days' detention as the necessary period, intensive political debate

and lobbying resulted in an amendment to allow 28 days' detention before charge. This was presented as a victory for reason—balancing the requirements of due process with that of security and the need to gather evidence. It is worth noting that 28 days is among the longest periods of detention without charge permitted in any democratic state. However, the parliamentary committee was reported suggesting that longer periods of detention may be necessary to meet the new challenges of home-grown terrorism.

Overall, anti-terrorism laws are presented as necessary measures for extreme times. As well as the actual provisions of such laws, there has been a campaign to persuade the public that we live in a new era, where the previous niceties of fair hearings and human rights for defendants do not and should not apply. This is what is going on when Prime Minister Tony Blair talks about shifting the balance away from the rights of offenders to the rights of victims. We are all supposed to imagine ourselves as these victims and, as a result, accept the erosion of due process. After all, what does it matter? These people are not the “victims.”



This means that attempts to defend academic freedom from the incursions of anti-terror and other illiberal laws are derided as giving succour to extremists, just another version of liberal pleading for offenders when we should be thinking of victims. I think these indirect attacks on intellectual life may be designed to contribute to a larger ideological ambition, which is to reassert the idea that the state has a duty to erode the rights of the individual in the name of protecting the majority. Dismantling the protections of free thought and enquiry, albeit in creeping

and relatively modest ways, becomes part of a wider move towards our accepting and even championing authoritarian government, because, apparently, all of this civil liberties “stuff” goes against what most people want and need.

The less-discussed aspects of the 2005 law have a direct impact on the business of universities. Broadly, these provisions fall into three strands of the law: prohibitions against the distribution of terrorist literature; training for terrorism; and the glorification of terrorism. Without wishing to state the painfully obvious, the prohibition against the distribution of literature threatens the teaching and research of those who study political movements in any disputed area. The clause concerning training brings danger for those who deal with noxious substances in the course of pursuing their discipline, while the retention of the laughably ill-defined crime of “glorification” is designed to stifle debate and discussion. We are told that juries will know glorification when they see it, so the law relies on popular prejudice to shut down unpopular speech at a time of heightened fears. Perhaps this will safeguard most academic endeavour, because most academics may pass the test of not seeming too threatening. However, it is likely to endanger those educators who do appear dangerous to popular opinion—perhaps those of certain nationalities or ethnicities, or those who are migrants to the United Kingdom, or those who may be targeted by an illiberal and racist popular press.

In the later part of 2005, a report purporting to uncover political extremism on British campuses received considerable coverage in the education press. The expectation for the report, “When Students Turn to Violence,” by Anthony Glee and Chris Pope, was that it would respond to the needs of the sector, not least the urgent need to address attempts by the far right to organize among students and, through this, to gain access to student union resources and respectability. It was a surprise to some, therefore, to find that Glee focusses the bulk of the report on so-called “Islamist” activity—and sometimes on the educational backgrounds and aspirations of particular Muslims.

His overall argument, so weak that he qualifies it on a number of occasions, is that university education may not be a causal factor in terrorist activity, but that a number of terrorist suspects have attended universities and colleges and, therefore, this factor should not be discounted. The evidence for this claim is thin, to say the least. A key component of the report’s argument consists of a list of “terrorist suspects” and their educational back-

grounds—attendance at this college and that university. Unfortunately, this list includes such individuals as Ferroz Abbasi, released without charge from Guantanamo Bay, and Babar Ahmad, who is fighting extradition from Britain under a contentious extradition agreement that allows the United States to request the extradition of British citizens without providing evidence of the case against them. There is at least a question mark over the supposed “extremism” of both these individuals.

Glee argues that potential terrorists can be characterized in two ways: They may be more educated than the rest of the population, or they may be dispossessed drop-outs on the fringes of society.

Universities are considered especially dangerous because they bring together these two groups of people in a heady mix of social exclusion and interrogative thinking. Worse, higher education deals in ideas, questions, and general subversion, allegedly because it is run by ageing leftists who are not comfortable with allowing the security services to monitor campuses. The expan-

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sion of higher education compounds these threats. Academic freedoms are dangerous luxuries, because now all sorts of unknown and poorly qualified people are getting into university. Without the safeguards of elitism and small classes, free thought might be introduced to those who really can’t handle it.

The Glee report is a bit silly in a lot of ways—and relies on snippets of information-cum-rumour from other sources. However, the manner of its reasoning is instructive and familiar. The whingeing liberals and the dangerous fanatics are in cahoots, it implies, sewn together by their extremist views, which threaten democracy and the authority of the state, in the manner of Baader-Meinhof and the Red Brigades. For those unfamiliar with the British academy, I should say that this claim is a little far-fetched, to say the least.

Lately, Bill Rammell, Minister for Higher and Further Education and Skills, and others have distanced themselves from the Glee report, but the implication it makes has been planted already. Universities endanger national security because they contain subversive ideas and explosive substances, and the silly liberals who run them do not appreciate the dangers represented by the faceless hordes of increasing, and increasingly diverse, student numbers. The barbarians are here, and we are teaching them to think, which only makes things worse.

In practice, I doubt that many academics will fall afoul of even these vaguely worded anti-terrorism laws. However, the climate of suspicion around certain areas of study—and around certain ethnicities of students and staff—may already be having the desired “chilling” effect. After all, authoritarianism thrives best when it lives inside us. Persuading us that free thought and enquiry are not in our best interests may be the most effective form of policing of all. **AM**

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Jenny Hocking warns that Australia's counter-terrorism laws include new definitions of sedition that threaten to curtail political—and academic—expression. Ominously, they also contain a reversal of the onus of proof

Les plus récentes lois australiennes contre le terrorisme, Jenny Hocking écrit, traduisent un élargissement de l'objectif étatique, qui est passé de la criminalisation

des actes envisagés à la réglementation des idées, du débat et de la différence d'opinion. Comme les nouvelles lois ne prévoient pas d'exception pour le discours

éducatif ou l'expression artistique, elles ont de graves incidences sur la liberté universitaire d'expression et de communication.

Australia's anti-terror laws target ideas, debate, and dissent

In July 2006, the Australian government's Security Legislation Review Committee released its report on Australia's counter-terrorism legislation. The committee's report was extensive, its findings remarkable, and its recommendations ignored.

Elements of Australia's extensive "terror laws," the report concluded, "transgressed the fundamental human right of freedom of association and interfered with ordinary family, religious, and legal community."¹ The committee recommended the repeal or amendment of key aspects of this far-reaching security legislation. In a response that typifies the executive dominance that has marked not only the legislative process but also its content, the

government rejected every recommendation.

More than 30 security-related laws have been passed by the Australian federal Parliament since the terrorist attacks in America on September 11, 2001, and there appears little prospect of such activity abating. In the final parliamentary sitting of 2005, a further eight security acts were passed, and the government recently announced the introduction of further surveillance bills, including extensions to telephone surveillance powers and plans for a national identity card.²

It is now possible for Australians to be detained without trial, potentially indefinitely interrogated without legal representation,

placed under house arrest, and restricted in where they might go, whom they might see, and what they can discuss. It is now possible for political association to become a criminal offence, and for journalists to be jailed even for reporting that people are being detained. It is now possible for disputing government policy on the war in Iraq to be considered seditious.

These laws have been characterized by a dramatic expansion in arbitrary and discretionary executive power, under the rubric of “countering terrorism,” by criminalizing the disclosure of key aspects of their operation, by the absence of judicial review, and by the derogation from established legal and civil rights in their application. It is precisely these aspects that have the potential to compromise academic debate and free analysis in the current climate of fear, suspicion and uncertainty. Secrecy pervades these security developments through the establishment of secret court hearings in matters of national security and the criminalization of public disclosure of a range of material. It is now a crime to publish specified information about Australia’s major domestic security service, the Australian Security Intelligence Organisation’s (ASIO), to report on the recent preventative detention regime, and to publish seditious material that may “assist the enemy.” These laws inevitably diminish the institutions for public debate and for the open scholarship and inquiry that are central to educational practice.³

It is now possible for political association to be a criminal offence and for journalists to be jailed for reporting that people are being detained

Of particular relevance are two major pieces of legislation introduced in 2002 as part of a larger package of seven counter-terrorism bills.⁴ ASIO now has the power to detain and question individuals who are not suspected of any offence but who may have information of relevance to a terrorist act, whether or not a terrorist act has taken place, without access to independent legal advice and in some cases incommunicado. Further anti-terrorism legislation introduced executive proscription of “terrorist organizations,” which, in turn, created derivative offences in relation to membership and other connections with these named “terrorist organizations.” This power to proscribe organizations is exercised directly by the minister who, in the absence of a trial, uses his own satisfaction as to reasonable grounds for the proscription. The exercise of executive power to proscribe also has major implications for academic freedom and political debate. As one observer noted, “The government and ASIO have been given an extraordinary discretion to determine whose political activity and political organization will be classed as legitimate—and therefore immune from investigation and prosecution—and who will suffer the crackdown.”⁵ The act of proscribing an organization is, “by its very nature arbitrary and subjective,” and the uncertainty of the reach of the resultant derivative offences leaves those disputing the validity of such proscriptions at risk of prosecution.⁶

Subsequent anti-terror laws have exacerbated these concerns. First, it is now a crime to “associate” (defined as “meeting or communicating”) with a member (which includes an “informal mem-

ber”) of a proscribed organization. Secondly, through the passage of *Australia’s Anti-Terrorism Act 2005*, the minister can proscribe an organization that “advocates the doing of a terrorist act (whether or not a terrorist act has occurred or will occur).”⁸ Given that a terrorist act need not have occurred, the basis for proscription as “advocating a terrorist act” rests on language rather than action. In particular, the opaque description of “advocating the doing of a terrorist act” contained in the act, leaves open a range of essentially political matters to come under scrutiny. Unpopular, unsustainable arguments about the war in Iraq, for example, or disagreements with official positions about the “war on terror,” uncomfortable academic analyses of the causes of terrorism that seek to isolate structural, political, and economic bases for terrorist violence—analyses which are particularly unpopular with Western governments today—are open to being deemed “directly praising the doing of a terrorist act,” which will constrain public debate in general and academics’ freedom, in particular, to discuss and debate a range of ideas, including unpopular political positions.

Despite the government’s protestations that such laws will not be used to narrow the terrain of the public sphere around acceptable, effectively endorsed policy debates, it has proved itself unwilling to amend the laws in order for this concern to be put beyond doubt. Although the report of the Security Legislation Review Committee recommended that the offence of associating with a terrorist organization be repealed and that the proscription of organizations advocating terrorism be substantially amended, both remain unchanged.

However, no element of Australian counter-terrorism has generated greater public concern than the revamped crime of sedition contained in the *Anti-Terrorism Act* of 2005, a legislative adventure that introduced “control orders” against “terrorist suspects”, including house arrest, electronic tagging, isolation, and restrictions on communication and association, for up to a year and potentially indefinitely, through the use of rolling orders. Those held will have been charged with no offence and cannot know the evidence against them, since they can only obtain a summary of the grounds on which the order is made and are unable to access independent legal counsel. The Act also extended the crime of sedition to include, among several new provisions, “urging a person to assist the enemy” and “urging a person to assist an organization engaged in armed hostilities against the Australian Defence Force.”⁹

Through what the government has termed its “modernizing” of the arcane crime of “sedition,” far-reaching encroachments have been made into freedom of political expression and communication, which is of particular significance to academics, researchers, and creative artists writing and performing in this field. The focus on criminal words is exacerbated by an effective reversal of the onus of proof that is also common to many of the Australian counter-terrorism measures. In response to concerns about the impact of the act on artistic, academic, and media freedom, the government inserted a “good faith” defence to cover instances where a person “publishes in good faith a report or commentary about a matter of public interest.”¹⁰

Although it might be expected that this defence would cover academics, teachers, research, and public commentary, the Australian Vice-Chancellors’ Committee told the Australian Law Reform Commission’s inquiry into the sedition laws that the defence is “inadequate,” saying that, “The scope of protection afforded is uncertain, and there is a legitimate concern that the effect will be to

impose self-censorship and damp down wide and fruitfully critical discussion of Australian institutions. The effect is an impingement upon the freedom of academic thought and inquiry.”¹⁰

The available defence of “publishing in good faith a report or commentary about a matter of public interest” does not provide a specific defence for educational speech or artistic expression. It is interesting to contrast this with the defence provisions available in Australia’s *Racial Discrimination Act*, which specifically incorporates academic and artistic defences. That any defendant against a charge of sedition would be required to prove “good faith” in their speech or writing, according to this narrow specification, only exacerbates the restrictions on speech by specifying in effect what acceptable comment is.

The government’s desire to minimize public and political scrutiny of the counter-terrorism arena in general has been matched by the extensive secrecy provisions built into the 2005 anti-terrorism act, making disclosure of much of its operations a criminal offence. Major news organizations described the constraints on publication contained in the bill when it was introduced as, “the greatest threat to publication imposed by the government” in the history of Australia.¹¹

What is significant about this most recent Australian counter-terrorism legislation is that, for the first time, security measures have shifted away from even contemplated action and moved firm-

ly into the realm of the control of ideas, debate, and dissent. These security laws, from sedition to detention to ministerial proscription of organizations, affect the full and open political debate essential to both democratic participation and academic discourse, through which “an informed and engaged public realizes the promise of liberal democracy and fulfils its ideal of citizenship.”¹² **AM**

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¹ Report of the Security Legislation Review Committee June 2006 :4

² <http://www.nationalsecurity.gov.au> “Legislation”

³ The Anti-Terrorism Act 2004, amended the *Proceeds of Crime Act 2002*, the *Crimes Act 1914* and the *Crimes (Foreign Incursions and Recruitment) Act 1978*.

⁴ See Hocking, J. *Terror Laws: ASIO, Counter-terrorism and the Threat to Democracy* UNSW Press, Sydney, 2004

⁵ Emerton, P. “Australia’s counter-terrorism legislation: A threat to democracy and the rule of law” *Dissent Summer 2005/6* :19-21; :20

⁶ Chong, A. and Kadous, W. “Freedom for security: Necessary evil or Faustian pact?” *UNSW Law Journal* Vol. 28 (3) :887-894; :889

⁷ *Anti-Terrorism Act 2005 [No 2] Schedule 1 Item 10 (b)*

⁸ *Anti-Terrorism Act 2005* Section 80.2 (7) “Urging a person to assist the enemy” and (8) “urging a person to assist those engaged in armed hostilities with the Australian Defence Force.”

⁹ *The Anti-Terrorism Act [No 2] 2005* s. 80.3(1)(f)

¹⁰ *AVCC Submission to Australian Law Commission’s Review of Sedition Laws* April 2006 :7

¹¹ in Griffith, G. *Sedition, Incitement and Vilification: Issues in the Current Debate* Briefing Paper No 1/06 NSW Parliamentary Library Research Service 2006 :7

¹² Ian Marsh in Walter, J. & Saunders, P. (eds) *Ideas and Influence: Social Science and Public Policy in Australia* University of New South Wales Press, Sydney. :219-238



Intellectual diversity in the U.S.: To what end?

Jonathan R. Cole warns that the conservative movement in the United States trusts neither professors nor students. The real problem in American universities is not radical ideas, he writes, but an absence of ideas, dissent, and vigorous debate

Jonathan R. Cole, ancien doyen de l'Université Columbia, décrit l'attaque menée contre la liberté universitaire par le militant conservateur David Horowitz et d'autres personnes aux États-Unis qui prônent l'adoption d'une déclaration universitaire des droits qui obligera les professeurs à enseigner tous les « points de vue » sur un sujet donné. Est-ce à dire, par exemple, que les professeurs devront inclure la « création intelligente » dans leurs plans de cours, s'interroge Cole. Cole fait valoir que des militants comme Horowitz veulent que l'État surveille l'enseignement en classe parce qu'ils ne font confiance ni aux professeurs « radicaux » ni aux étudiants naïfs. En fait, affirme Cole, le danger qui guette les universités américaines d'aujourd'hui n'est pas le nombre excessif d'idées radicales, mais l'absence de débat vigoureux.

Diversity of all kinds seems to be the new universal good. So, it must be a good thing when conservative activist David Horowitz calls for “intellectual diversity” on American campuses to replace radical or liberal orthodoxy that is warping the minds of the nation’s educated youth. Like much of

what Horowitz has brought us lately—such as his Academic Bill of Rights he would have every state legislature adopt as law, or his recent book, which identifies the “101 most dangerous professors” on American campuses—there is in his work and proposals much factual error, double speak and conceptual muddle that

poses as thoughtful, reasonable, and empirically validated statements of fact. But adoption of a Horowitz-like agenda for presenting the world to our students would be disastrous for American universities.

Here are just a few reasons why. Critics have a right to criticize, but they also have some responsibility to produce conceptual clarity. Horowitz and other like-minded critics, such as The American Council of Trustees and Alumni, fail to offer any clear idea, much less a definition, of what they mean by intellectual diversity and what would represent “balance” in an individual scholar’s lectures or seminars, in a department’s offerings, or in a university’s curriculum and research agenda.¹ We are not offered any convincing evidence, beyond a few illustrative anecdotes and highly edited videos, that campus intellectuals are espousing orthodoxy. What is the size of the orthodoxy problem anyway? What remedy, if any, is necessary for this disease that Horowitz would have us cure?

Despite protestations to the contrary, political accountability to outside authorities is what Horowitz and his supporters really want. That is why they need state legislatures to pass the Academic Bill of Rights. They fear a system that resolves sharply divergent truth claims through a process of peer review rather than political review. In fact, they are most interested in substituting their orthodoxy for what they see as a misguided and dangerous one. How far would they go in producing “intellectual diversity”? Maybe we should teach “intelligent design” in science courses as a balance against the consensus scientific views about evolutionary biology. Or mandate a proper balance between those who criticize the Bush Administration’s forays into Iraq, which was based upon lies and false information, with an appropriate number of scholars who will defend the Administration’s actions regardless of what are considered now as facts.

Any ideas should be fair game for debate at universities, but those that fail over time to persuade appropriate experts in the field should lose out in the marketplace of ideas rather than be retained because political pressure has been put on universities to offer them as “representatives” of alternative points of view. I want to postulate that external political interference with academic life, free inquiry, and the open discourse that is essential to it, has almost always had disastrous consequences for systems of higher learning.

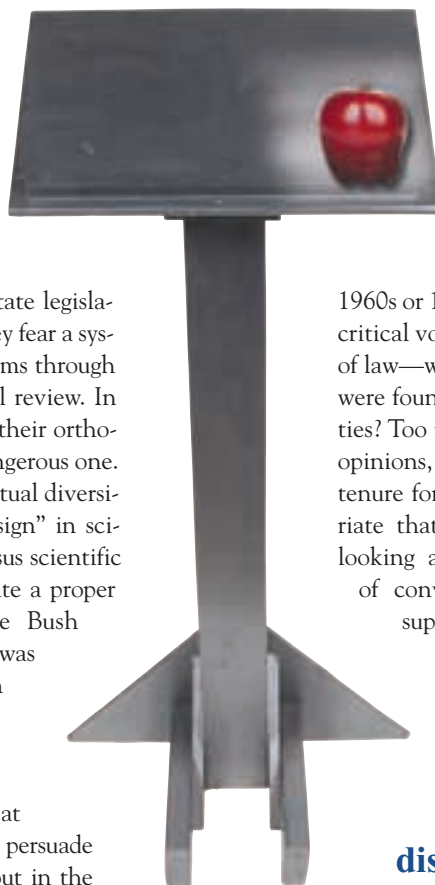
Horowitz is a man who simply does not trust the basic system of knowledge creation and transmission that has produced in the United States the greatest system of higher education in the world. He neither trusts its professors nor its students. He believes that the professors are presenting a world not as proposed or tested theories, but as ideology. He doesn’t trust students because he sees them as naïve and incapable of critical reasoning, and of distinguishing between sound and shoddy evidence. He worries about universities that give safe harbour to radically different ideas that question existing institutional arrangements in our society. He does not believe the professoriate capable of self-policing or of distinguishing between claims to truth that do, or do not, measure up against

rigorous methodological standards. At Horowitz’s university, professors would hold their intellectual punches for fear of facing star-chamber tribunals for what they say or fail to say in class. It would be a university rich in balanced, but flaccid, curricula. Horowitz would produce a dangerous, as well as a boring, university. In short, he would nullify the long-standing and highly successful compact between American society and its universities.

In fact, the problem with today’s university lies less in the absence of intellectual diversity and more in the seeming unwillingness of most faculty members to engage in a civil but public clash of ideas. The absence of sustained intellectual contest and criticism of received wisdom and public policy—on the right and

the left—is a far greater threat to the university than the problem of ideological imbalance. Where, in fact, is the sustained criticism among faculty and students of public policies that many at the universities privately consider to be wrongheaded? The deafening silence, the absence of debate, at American universities about current domestic and foreign policies, compared with, say, the

1960s or 1970s, is cause for deep concern. Where are the critical voices and defenders of basic ideas—like the rule of law—when we need them most and that, historically, were found in significant numbers at our great universities? Too many faculty members, even those with strong opinions, now say, “I’d rather not get involved.” What is tenure for, anyway? And, if it’s the liberal-left professoriate that Horowitz fears, one can only conclude by looking at outcomes that it has done a terrible job of convincing college youth of the merits of its supposedly subversive ideas.



External political interference with academic life has almost always had disastrous consequences

Horowitz is right about one thing: More academics identify themselves as politically liberal than as conservative. But Horowitz attributes this to a power elite of leftist liberal professors’ wielding their power to discriminate against those with more conservative ideas. He is wrong about this on two counts. First, the liberal orientation of faculty members at American universities is nothing new; there has been no sharp turn to liberal orthodoxy. Seymour Martin Lipset and Everett Carl Ladd, Jr., among others, have shown that the American professoriate has consistently over the past 50 years identified more with a liberal political agenda than with a conservative one. Secondly, the life of the intellectual, the scientist, the scholar, tends to attract those who are critical of existing social institutions, inequalities, public policies, and dogmas, those more interested in change than stability, those who identify themselves as liberals. That process predominantly involves self-selection by these people into the academic life, not discrimination against conservatives in the academic reward system.



During my 14 years as provost and dean of faculties at Columbia, I oversaw more than 700 tenure cases involving thousands of faculty members, and I found no evidence that the so-called liberal-left or conservative professoriate allowed their personal politics to influence hiring and promotion decisions. The personal political views of candidates were never raised as an attribute that would either qualify or disqualify candidates for tenure. The quality of research and teaching, as assessed by a set of qualified external and internal peers, was the overwhelming criterion used to determine who received tenure. Perhaps this is a case of windmills being mistaken for enemy soldiers.

Horowitz's confusion of process with outcomes is compounded when he draws the false and misleading inference that professors' personal political beliefs are correlated with the way they conduct their classes. Edward Said, the extraordinary literary critic and defender of the Palestinian people, was the *bête noir* of types like Horowitz, but in all of the years that I knew Said at Columbia he taught literature, not politics (with a point of view to be sure), challenged his students to think more clearly, and was revered by them. They flocked to his classes, and I never heard a single complaint that he was biased or intimidating or refused to listen to alternative views of his students.

If Horowitz fears radical professors, the American public does not, according to Harvard sociologist Neil Gross and his colleague Solon Simmons of George Mason University, whose 2006 survey showed that the public has far greater trust in higher education than most other institutions, and that fully 80 per cent were opposed to the government controlling "what gets taught in the college classroom." The public has real concerns about universities and colleges, but political orthodoxy of radical professors is not

high on that list.² Number one is the high cost of college tuition (43 per cent)—a concern of roughly equal importance to liberals and conservatives. More than twice as many people thought that "binge drinking by students" (17 per cent) rather than "political bias in the classroom" (8 per cent) was the biggest problem facing universities. Although 12 per cent of the public felt that the term "radical" appropriately describes professors, 40 per cent preferred the term "professional." A majority believed that professors respected their students regardless of their political views. Older, conservative Republicans, who have had relatively little education themselves, are the group most concerned with biased professors.

Because of the way they label and classify professors and academic discourse, Horowitz and his followers fail to acknowledge the many crosscurrents of intellectual diversity in universities that cannot be captured through caricatures. The liberal left is hardly a monolithic, orderly group of academics conforming to a single orthodoxy. For example, in their orientation to the core ideas of the liberal state and the place of multiculturalism in it, professors sharply diverge. Some believe that sub-cultural groups in a larger society

should be able "to sustain and perpetuate their cultural or religious differences...and their distinct communal identities." Others believe that individuals in sub-cultural groups should be offered the opportunity "to attain 'mainstream' educational, socioeconomic, occupational, and political status..." that conforms to the larger value and cultural system and strives to eliminate group-based differences.³ On a host of issues, from the prerogative of parents to sustain religious beliefs that do not conform to the interest of state-run schools to the legitimacy of customs related to circumcision, two proponents of liberal theory might well differ passionately—while classifying themselves as politically "liberal." In short, the

**Where are the critical voices
and defenders of basic ideas
that historically we found in
significant numbers at our
great universities?**



complexities and nuances in academic discourse limit the value of type-casting professors as either ideologically liberal or conservative, and Horowitz fails to mention them.

Finally, there is a problem with Horowitz's idea of a fact. His book, *The Professors: The 101 Most Dangerous Academics in America*, is replete with factual errors and grossly misleading statements in every Columbia University case he cites. Horowitz claims Lisa Anderson, a political science professor and dean of Columbia's School of International Studies, selected Middle East

studies professor Rashid Khalidi, to occupy the Edward Said Chair at Columbia. She did not. A blue ribbon committee of scholars reviewed the credentials of scores of candidates before deciding Khalidi was the best person in the nation for the job. Horowitz, noting that Columbia University president Lee Bollinger appointed Victor Navasky, a journalism professor and former editor and publisher of the *Nation*, to a group examining the future of journalism, asserts that Bollinger made no attempt at ideological inclusiveness. That is factually wrong. Although I doubt that Bollinger considered political ideology when inviting people to serve, he did include people like Karen House, the senior vice-president of Dow Jones and publisher of the *Wall Street Journal*, which is hardly known for its liberal editorial page. Finally, in uncovering the 101 most "dangerous" academics in the United States, Horowitz apparently could not find a single conservative professor that met his definition of "dangerous." Is the American academy totally free of dangerous conservatives? It defies statistical probability.

Before jumping on an illusory bandwagon labeled "Eliminate liberal or radical orthodoxy/ Legislate intellectual diversity," we would be well advised to be skeptical. What is their actual intent? Are they portraying accurately a disease at our colleges and universities, or are they asking for a remedy for a non-existent disease that will undermine academic freedom and free inquiry at our institutions of higher learning? Jumping on that bandwagon will almost certainly contribute to the weakening of the system of higher learning in the United States that remains the envy of the world—one that dominates the list of the world's greatest 20 or

More than twice as many people thought binge drinking rather than bias in the classroom was the biggest problem facing universities

50 universities. If we allow political outsiders to undermine those values and structures that enable the teaching and discoveries that come from the very same universities that Horowitz identifies as exemplars of intellectual orthodoxy, but which actually suffer from no disease and that contribute mightily to the artistic, humanistic, scientific, social, and economic welfare of the nation, then the international preeminence of American universities will be at real risk. It will require active resistance, vigilance, and courage from those who understand the real idea of a university to see that this does not happen. **AM**

¹ The American Council of Trustees and Alumni has concluded: "Throughout American higher education, professors are using their classrooms to push political agendas in the name of teaching students to think critically. In course after course, department after department, and institution after institution, indoctrination is replacing education." (May, 2006).

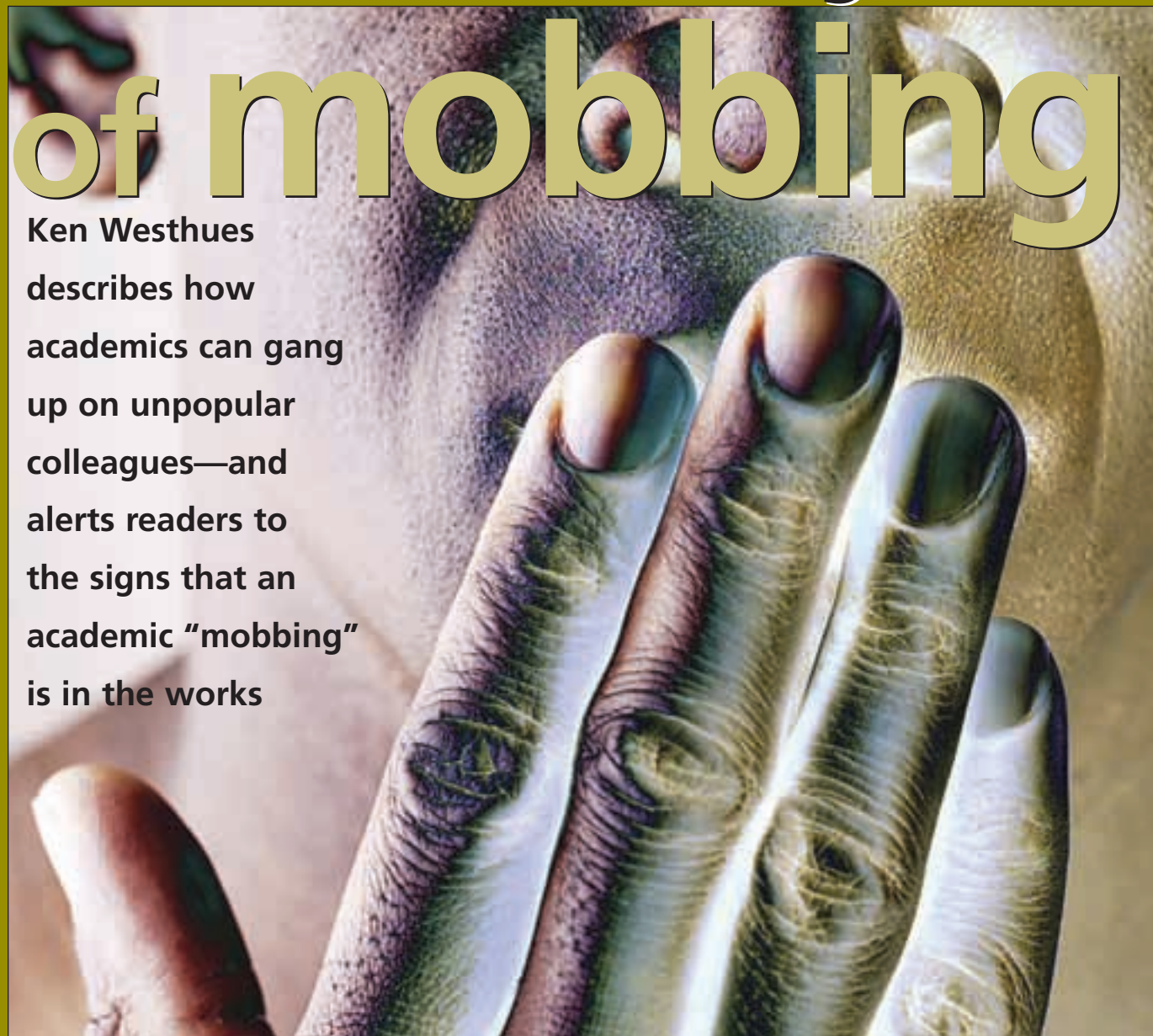
² Neil Gross and Solon Simmons, "Americans' Views of Political Bias in the Academy and Academic Freedom," Working Paper, May 22, 2006.

³ See Richard Shweder, "Conflicting Varieties of Liberal Expectancy: With Special Attention to Schooling in America." Prepared for SSRC/RSF volume, *Multicultural Schoolyard Fights: Is There a Conflict Between Pluralism and Inclusion in American Higher Education?* Forthcoming. Pre-print, 3-4. Quoted with permission of the author.

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The unkindly art of mobbing

**Ken Westhues
describes how
academics can gang
up on unpopular
colleagues—and
alerts readers to
the signs that an
academic “mobbing”
is in the works**



Twenty years ago, Swedish psychologist Heinz Leymann gave the name “mobbing” to this terror, taking the word from Konrad Lorenz’s research on aggression in non-human species. Mobbing of alien predators and sometimes of members of the same species occurs among many birds and primates. Something about the target arouses a fierce, contagious impulse to attack and destroy. Mobbers take turns vocalizing hostility and inflicting wounds. The target usually flees. Sometimes it is killed and eaten.

Violent mobbing is endemic to our species. Harvard sociologist Orlando Patterson has analyzed lynching as a cannibalistic “ritual of blood.” Teenage swarming is similar, as in the murder of Reena Virk in Victoria, B.C., in 1997. Her friends set upon her

in a frenzy of bloodlust, reviled and tortured her, and eventually held her head under water until she was dead.

Leymann studied the nonviolent, polite, sophisticated kind of mobbing that happens in ostensibly rational workplaces. Universities are an archetype. If professors despise a colleague to the point of feeling a desperate need to put the colleague down, pummeling the target is a foolish move. The mobbers lose and the target gains credibility.

The more clever and effective strategy is to wear the target down emotionally by shunning, gossip, ridicule, bureaucratic hassles, and withholding of deserved rewards. The German word *Todschweigen*, or death by silence, describes this initial, informal

stage of workplace mobbing.

This is often enough to achieve the goal. Many targets crumble, flee to a job elsewhere, or take early retirement. Others surrender to the collective will, behaving thereafter like a dog that has been bested by another dog in a fight for dominance.

If the target refuses to leave or acquiesce, the mobbing may escalate to a formal outburst of aggression. Mobbers seize upon a critical incident, some real or imagined misbehaviour they claim is proof of the target's unworthiness to continue in the normal give-and-take of academic life. A degradation ritual is arranged, often in a dean's office, sometimes in a campus tribunal. The object is to destroy the good name that is any professor's main resource and to expose the target as not worth listening to. Public censure by the university administration leaves the target stigmatized for life. Formal dismissal with attendant publicity is social elimination in its most conclusive form.

In its more advanced stages, mobbing is rare. Leymann estimated that fewer than five per cent of ordinary workers are mobbed during their careers. The percentage among professors may be a little higher.

In his comprehensive book on academic freedom, York University historian Michiel Horn recounts some famous cases from Canada's past of what would today be called mobbing. Biochemist George Hunter's firing from the University of Alberta in 1949 is one example. Historian Harry Crowe's ouster from United College in Winnipeg in 1958 is another.

My own research has been on recent mobbings in academe. About two dozen of the 100 or so cases I have analyzed are from Canadian universities.

Because McGill University closed down its inquiry into her death, the 1994 case of Justine Sergent is especially noteworthy. She was a successful neuropsychologist, whose adversaries positioned her on the wrong side of the local research ethics board. Sergent received a formal reprimand and grieved it. The *Montreal Gazette* learned of the dispute from an anonymous letter and ran with the story. "McGill researcher disciplined for breaking rules," the headline read. The humiliation was more than Sergent could bear. She and her husband, Yves, wrote poignant letters the next day and then committed suicide.

My most detailed study has been of the seven-year mobbing of theologian Herbert Richardson at St. Michael's College, University of Toronto. His formal dismissal in 1994 was the most publicized in Canadian history. The case is unparalleled in its complexity and documentation and in the insight it offers into current cultural trends.

Other recent Canadian mobbing targets include theologian Hugo Meynell at Calgary, linguist Hector Hammerly at Simon Fraser, social work professor Kathleen Kufeldt at Memorial, and mathematician Jack Edmonds at Waterloo.

All these cases are contentious. Stigma, once officially imposed, is generally thought to be deserved. Like everybody else, professors want to believe the world is just. Academic mobbings are as hard to correct as wrongful convictions in courts of law.

At a practical level, every professor should be aware of conditions that increase vulnerability to mobbing in academe. Here are five:

- Foreign birth and upbringing, especially as signaled by a foreign accent
- Being different from most colleagues in an elemental way (by

sex, for instance, sexual orientation, skin color, ethnicity, class origin, or credentials)

- Belonging to a discipline with ambiguous standards and objectives, especially those (like music or literature) most affected by post-modern scholarship
- Working under a dean or other administrator in whom, as Nietzsche put it, "the impulse to punish is powerful"
- An actual or contrived financial crunch in one's academic unit (According to an African proverb, when the watering hole gets smaller, the animals get meaner)

Other conditions that heighten the risk of being mobbed are more directly under a prospective target's control. Five major ones are:

- Having opposed the candidate who ends up winning appointment as one's dean or chair (thereby looking stupid, wicked, or crazy in the latter's eyes)
- Being a rate buster—achieving so much success in teaching or research that colleagues' envy is aroused
- Publicly dissenting from politically correct ideas (meaning those held sacred by campus elites)
- Defending a pariah in campus politics or the larger cultural arena
- Blowing the whistle on, or even having knowledge of serious wrongdoing by, locally powerful workmates

The upshot of available research is that no professor needs to worry much about being mobbed, even when in a generally vulnerable condition, so long as he or she does not rock the local academic boat. The secret is to show deference to colleagues and administrators—to be the kind of scholar they want to keep around as a way of making themselves look good. Jung said that "a man's hatred is always concentrated on that which makes him conscious of his bad qualities."

The target of intense, collective humiliation is ordinarily scarred for life

Most of the mobbing targets I have studied were dumbstruck that such impassioned collective opprobrium could be heaped on them. They thought they were doing good work—as indeed they were, by standards broader than those locally in force. They trusted overmuch in reason, truth, goodness, and written guarantees of academic freedom and tenure. They missed the cue for when to shut up.

Mobbing is by now well researched and widely recognized as a workplace pathology. It is formally illegal in most European countries. Quebec enacted North America's first anti-mobbing law in 2004. Such laws force mobbers to use subtler techniques.

Professors and other workers will continue to be mobbed from time to time. Most will be idealistic high achievers with loyalties higher than the local powers that be. Targets will be humiliated and punished—though less harshly than Socrates was. The academy has in some ways progressed. AM

Ken Westhues is a professor of sociology at the University of Waterloo. His books on mobbing include *Eliminating Professors* (1998), *The Envy of Excellence* (2005), and *The Remedy and Prevention of Mobbing in Higher Education* (2006). For web resources on academic mobbing, either google his name, or go to mobbing.ca.

"We have met the enemy and he is us"

Jennifer Kate Bankier argues that some of the worst offenders against academic freedom are academics

That self-betrayal is wide-spread is demonstrated by a web search, which locates 79,000 sites quoting Pogo's famous statement.

The academic community is not immune to internal betrayals. If academic freedom does not exist at Canadian universities, it is because many academics do not recognize the reciprocal nature of academic freedom; namely, that if they wish to enjoy academic freedom, they must recognize and respect the academic freedom of others in their department and university.

Academic freedom is violated when sanctions are applied to academics because of their ideas or attitudes. The mere fact of criticism is not a violation of academic freedom. Criticism is the exercise of academic freedom by the critic.

The most likely context for the imposition of sanctions is through the reappointment, tenure, or promotion process. Since academics serve on tenure and promotion committees, there are frequent opportunities for them to violate the academic freedom of colleagues with whom they disagree. As a result, "member-against-member" academic freedom disputes are regrettably common.

It is easy to respect the academic freedom of your friends. The real test of commitment to academic freedom (or any other principle) is whether it also regulates your conduct toward your enemies. Many academics fail this test, and attempt to damage or destroy the careers of their academic enemies by abusing their power within academic decision processes.

Such failures of reciprocal academic freedom at the local level create challenges for academic unions. It is relatively easy to address academic freedom violations when they are perpetrated by management—such failures fit comfortably within the normal union grievance process. Member-against-member academic freedom violations create serious stresses for union decision-makers, especially when members of a departmental majority that has violated academic freedom threaten sanctions against the union (such as failing to support the union in the next bargaining round).

Some unions have sufficient courage, integrity, and commitment to academic freedom that they will proceed with a grievance even under these conditions. Others, unfortunately, do not. Academics whose academic freedom claims are abandoned by their unions as a result of the pressures described above may turn to their provincial or national faculty union associations for help. Such an appeal, in turn, challenges these organizations, which, as umbrella groups, are made up of academic unions, not individual members. Although they can attempt to persuade one of their member unions to enforce academic freedom rights in such a case, the member union can retaliate by threatening to quit the

umbrella organization if it assists the person claiming academic freedom in the dispute with the union. Resignation of even a single faculty association would have a serious financial impact on any one of these organizations, so such a threat may cause it to abandon the academic freedom claimant, who has already been abandoned by their local union.

What is to be done?

First, both the local faculty unions and the umbrella faculty associations must have the courage of their oft-proclaimed commitments to academic freedom and enforce academic freedom rights, even in the face of threats from their own members. If organizations do not do this, then individual unionists must have the courage of their own convictions and challenge such betrayals by their unions, up to the point of resignation from union office when all else fails.

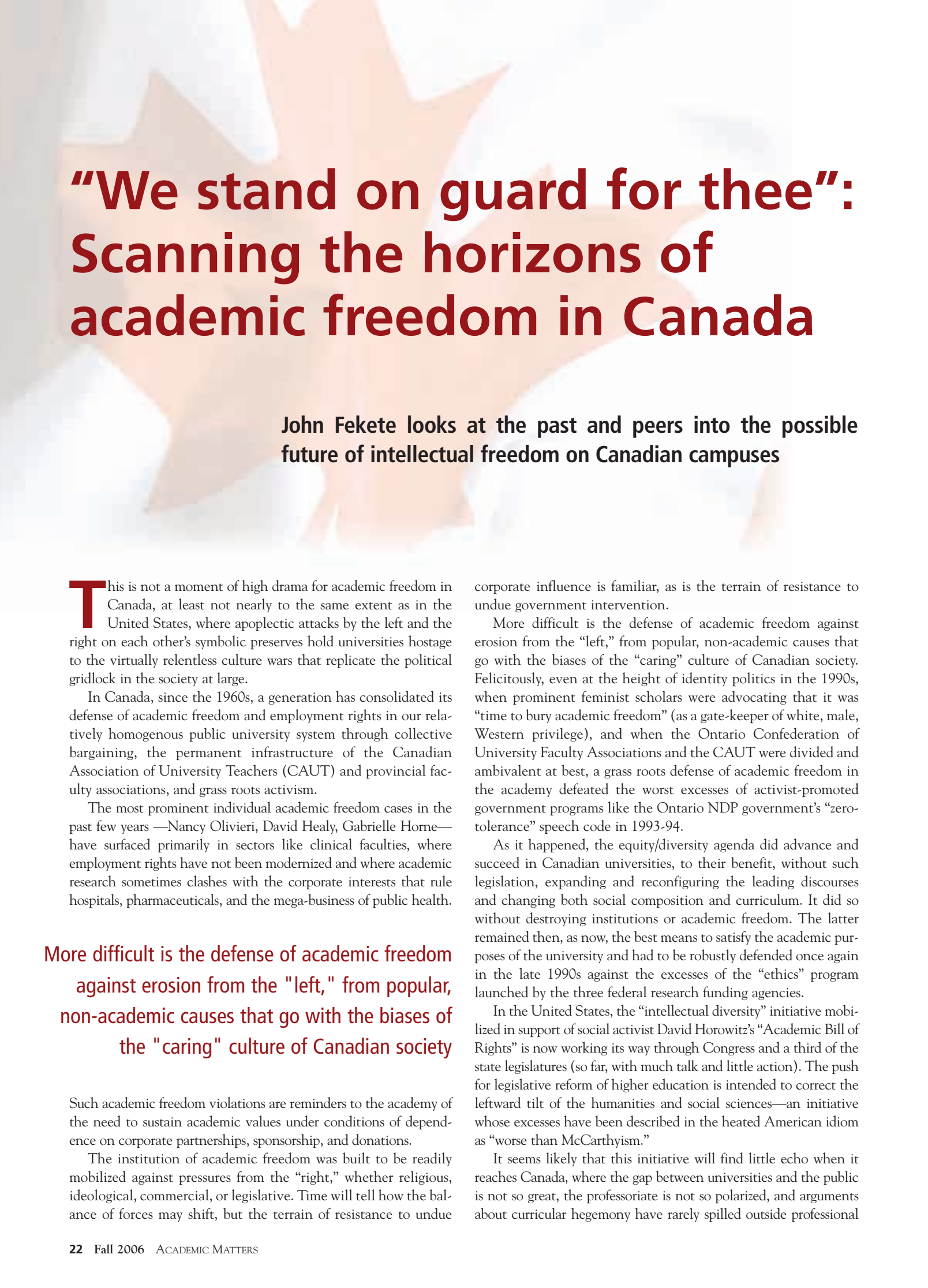
Secondly, there is an urgent need for all levels of faculty associations—local, provincial and national—to teach individual academics that academic freedom is both a right and an obligation. Workshops could be aimed at members of tenure and promotion committees, union executives, grievance committees, and other decision-making bodies. Orientation workshops for new academics should also address the question of academic freedom, and junior academics should

be encouraged to notify the union and request workshops directed at their department, if they believe that academic freedom problems are developing.

Thirdly, we should stop wasting time on the false dichotomy between academic freedom and anti-discrimination clauses in our collective agreements. Both are rooted in the legitimacy of difference and disagreement. Members of some oppressed groups have criticized my academic freedom work on the basis that it might provide an escape-hatch for unions that do not wish to litigate problems of discrimination in the academy. They warn that only academic freedom would be grieved and not discrimination. In fact, the problem is more serious. Some unions, in the face of pressure from dominant group members, refuse to litigate *both* academic freedom and discrimination claims of academics from disadvantaged groups. We must accept that all our members are members and fully enforce the rights of everybody in our unions, even when those claims are unpopular. **AM**



Jennifer Kate Bankier is a professor of law at Dalhousie University.



“We stand on guard for thee”: Scanning the horizons of academic freedom in Canada

John Fekete looks at the past and peers into the possible future of intellectual freedom on Canadian campuses

This is not a moment of high drama for academic freedom in Canada, at least not nearly to the same extent as in the United States, where apoplectic attacks by the left and the right on each other's symbolic preserves hold universities hostage to the virtually relentless culture wars that replicate the political gridlock in the society at large.

In Canada, since the 1960s, a generation has consolidated its defense of academic freedom and employment rights in our relatively homogenous public university system through collective bargaining, the permanent infrastructure of the Canadian Association of University Teachers (CAUT) and provincial faculty associations, and grass roots activism.

The most prominent individual academic freedom cases in the past few years —Nancy Olivieri, David Healy, Gabrielle Horne—have surfaced primarily in sectors like clinical faculties, where employment rights have not been modernized and where academic research sometimes clashes with the corporate interests that rule hospitals, pharmaceuticals, and the mega-business of public health.

More difficult is the defense of academic freedom against erosion from the "left," from popular, non-academic causes that go with the biases of the "caring" culture of Canadian society

Such academic freedom violations are reminders to the academy of the need to sustain academic values under conditions of dependence on corporate partnerships, sponsorship, and donations.

The institution of academic freedom was built to be readily mobilized against pressures from the “right,” whether religious, ideological, commercial, or legislative. Time will tell how the balance of forces may shift, but the terrain of resistance to undue

corporate influence is familiar, as is the terrain of resistance to undue government intervention.

More difficult is the defense of academic freedom against erosion from the “left,” from popular, non-academic causes that go with the biases of the “caring” culture of Canadian society. Felicitously, even at the height of identity politics in the 1990s, when prominent feminist scholars were advocating that it was “time to bury academic freedom” (as a gate-keeper of white, male, Western privilege), and when the Ontario Confederation of University Faculty Associations and the CAUT were divided and ambivalent at best, a grass roots defense of academic freedom in the academy defeated the worst excesses of activist-promoted government programs like the Ontario NDP government's “zero-tolerance” speech code in 1993-94.

As it happened, the equity/diversity agenda did advance and succeed in Canadian universities, to their benefit, without such legislation, expanding and reconfiguring the leading discourses and changing both social composition and curriculum. It did so without destroying institutions or academic freedom. The latter remained then, as now, the best means to satisfy the academic purposes of the university and had to be robustly defended once again in the late 1990s against the excesses of the “ethics” program launched by the three federal research funding agencies.

In the United States, the “intellectual diversity” initiative mobilized in support of social activist David Horowitz's “Academic Bill of Rights” is now working its way through Congress and a third of the state legislatures (so far, with much talk and little action). The push for legislative reform of higher education is intended to correct the leftward tilt of the humanities and social sciences—an initiative whose excesses have been described in the heated American idiom as “worse than McCarthyism.”

It seems likely that this initiative will find little echo when it reaches Canada, where the gap between universities and the public is not so great, the professoriate is not so polarized, and arguments about curricular hegemony have rarely spilled outside professional



channels. Canadian universities have proved to be capable of self-reforming development. Generational changes also will likely resolve some of the outstanding conflicts and bring innovations to shake up professional orthodoxies without the kinds of infringement on academic freedom that legislative or administrative scrutiny and regulation of beliefs would occasion.

Other skirmishes on the horizon and historical events, however, may come to shake the institution of academic freedom to the core. Security issues, in connection with instruments like the *American Patriot Act* or the *Canadian Anti-Terrorism Act*, and the public's aversion to risk, will likely test the universities' resolve to protect and promote free inquiry and expression. As security considerations mix with sensitivity concerns (e.g., the Danish cartooning of Islam), and advocacy politics (e.g., the Canadian Union of Public Employees' campaign of divesting from Israel), unprecedented dissonances are possible and probable, putting enormous pressure on the institution of academic freedom.

When applied to academic inquiry and expression, the taking of offence or the attempt to pre-empt harmful risk based on subjective criteria (related to a sense of safety, patriotism, dignity, ethnicity, religion, identity, or propriety), and any associated moral panic, will assuredly damage the university if it allows an appeal to regulation which trumps the academic process underwritten by academic freedom.

Under new pressures, the universities will find themselves once again challenged to reflect and decide on their purpose

"The right to offend," sometimes in the face of opposition from conformist majorities, and the simultaneous right to challenge any offending inquiry or expression, remain the best and most effective road, though the hardest road, to assure freedom of inquiry and expression. In accordance with such freedom, it is also the most effective road to assure the legitimate satisfaction of security, sensitivity, and other non-academic concerns.

It will be said that academic freedom is not an end in itself but a contingent professional and employment right that serves the mission of universities. Under new pressures, the universities will find themselves once again challenged to reflect and decide on their purpose. What is their distinctive contribution in a decentralized information economy? What is to be their role as institutions that are porous and variously accountable to society and civilization? Or their role as profane and diversified forums that are not only removed from the ivory tower but also sometimes hosts to a contest of incommensurable claims? How will they face the challenges ahead, enmeshed in history, less and less subject to the modernist figurations of a heroic mission, and yet always with some unique mandate in pursuit of truth and knowledge, constantly negotiated under pressure? Academic freedom, on this account, has a continuing and constitutive role in that process of reflection, decision, pursuit, and negotiation. **AM**

John Fekete is a distinguished research professor of cultural studies and English literature at Trent University.

WHITENESS

By Ahmad Saidullah

The following is an excerpt from a short story entitled "Whiteness." The story describes the struggles of Ruksana, a documentary filmmaker, who has lost her memory. This excerpt conveys some of what she begins to remember

I am carrying a camera. This is near an Uummanaq settlement. A bulldozer is flattening the houses and the area beyond. A loader scoops up the dirt. It throws the earth into different piles. A crane with a Danish company's logo on the side stands idle, ready to begin the construction of the fishing plant. I stand in the middle of some protestors. It is a small clutch of twenty or so activists, workers, and some migrants from Pakistan and Ghana. They are holding up placards: "Leave our burial grounds alone" and "Free our people: empty the jails." Two police officers chat with some troopers in white from what I presume is an alpine unit whose car, white with black tracks, is parked by the crane. The protestors blow on whistles and a voice comes through a megaphone with a staccato. Syllables pour out like hail. Here is the morphology of occupation, of suffering, of a speck in a larger world.

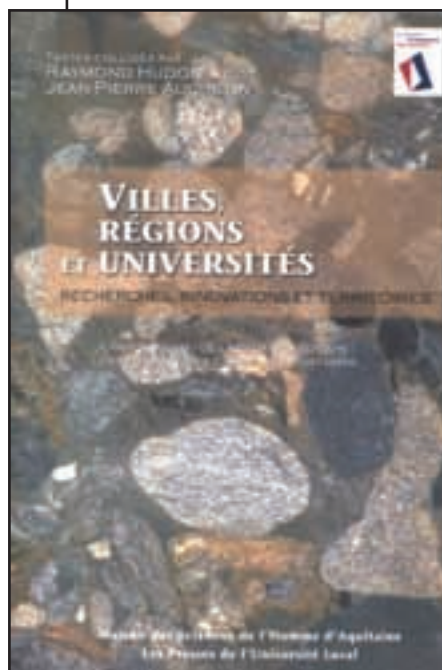
The storm arrives without warning. Suddenly, everything turns white. The sun goes grey. The houses are cancelled by the swirling drifts and fade until they can't be seen. The snow keeps coming as if someone was tipping a cruet. The ice and water on the ground shine like mercury. Wraith-like vapours lift. The machines are still and then elided from sight. Gone, the police, the army, the protestors. The piles of dirt take on the shape of hills in a primordial winterscape. From a distance comes the crack of ice and the mournful sound of ships. Then all is muffled.

Near me, I can see the tangles of roots covered in snow reaching into the earth for comfort. The few trees there seem to move in the mist like ghosts, ready to take back what was taken from them. There is menace in the stillness; the beauty is minatory. The few forms I can see are runes signifying the end. Everything seems remote and pristine. This is a canvas, a white dot on a white world, not a terrain that will hold an encroacher's footprint. It is the erasure of time and history. It is a telluric mystery, the creation of another world, restoring to the dispossessed a primordial vision, a world reclaimed, of whiteness overcome by whiteness. I stop the camera.

Ahmad Saidullah won a CBC Literary Award in 2006 for the short story *Happiness and other disorders*. His work appears in *enRoute*, *L Magazine*, *Drunken Boat*, and *Toronto Review of Contemporary Writing Abroad*. He is working on his second novel.



La Tour d'Ivoire mise à profit



Villes, régions et universités : recherches, innovations et territoires, par Raymond Hudon, et Jean-Pierre Augustin. (Les Presses de l'Université Laval, 2005), 385 pp.

Le présent ouvrage est un compte-rendu des présentations faites dans le contexte de la Deuxième Édition des Rencontres Champlain-Montaigne, qui a eu lieu à Bordeaux, en France, en 2002, la Première Édition ayant eu lieu à Québec en 2001. Ces Rencontres s'inscrivent dans le cadre général du jumelage des villes de Québec et de Bordeaux, qui existe depuis plus de quarante ans. La formule des Rencontres de Bordeaux visait à favoriser les échanges entre, d'une part, le monde universitaire représenté à la fois par ses gestionnaires de haut niveau et par les chercheurs œuvrant dans différents domaines comme les sciences technologiques, l'urbanisme, le développement économique et l'animation sociale, et, d'autre part, les intervenants du milieu qui étaient des élus et des gestionnaires des villes et des collectivités territoriales, des chefs d'entreprises, et des consultants. Près de 30 participants provenant des deux côtés de l'Atlantique se sont interrogés sur l'objectif principal de ces rencontres, à savoir comment rendre l'université plus pragmatique, donc plus axée sur des recherches ou sur un enseignement et une formation qui répondent aux besoins du milieu, tant aux plans social et politique qu'au plan économique. Pour atteindre cet objectif, les participants ont fait part non seulement des réussites de partenariat entre l'université et le milieu, mais aussi sur le besoin de nou-

veaux partenariats basés sur des problématiques et actions émanant du milieu : étant donné la diversité des sujets traités, nul doute que ces Rencontres ont donné lieu à un « enrichissement réciproque » (p. 10).

Les présentations ont été regroupées sous quatre thèmes mettant particulièrement en évidence les actions innovantes

Ces Rencontres s'inscrivent dans le cadre général du jumelage de villes de Québec et de Bordeaux, qui existe depuis quarante ans

aux plans social, technologique, de la gouvernance et de la recherche. Par exemple, sous le thème de la gouvernance territoriale, on y souligne les nouveaux défis des villes et territoires face à l'augmentation de leurs responsabilités et aux défis de leurs populations grandissantes et diversifiées. Toutefois, les exemples de partenariats réussis entre l'université et le milieu retiennent l'attention. Par exemple, la Communauté urbaine de Bordeaux dispose d'un grand nombre de véhicules électriques, et ce choix est le résultat d'un « environnement scientifique, technologique et industriel favorable, dont les recherches et les travaux peuvent ... être mis au service de la collectivité » (p. 130). Un autre exemple est celui de l'impact spectaculaire de la

recherche dans le domaine de l'optique-photonique à l'Université Laval, qui a été à l'origine d'une croissance économique considérable (par exemple, la création de plus de 25 entreprises entre le milieu des années 1980 et 2003). Il apparaît que la réussite de tels partenariats entre l'université et le milieu est possible dans la mesure que l'université devienne un « acteur économique » (p. 318) et ce rôle irait en s'accroissant, sans doute à cause du besoin d'agir rapidement localement en réponse aux pressions de la globalisation des marchés.

Toutefois, le sujet crucial du juste équilibre à conserver entre la « recherche libre » (i.e., apparemment sans utilité immédiate) et la « recherche orientée » (i.e., qui serait reliée à des applications identifiées) est mentionné (p. 317) mais non traité en profondeur, en particulier au niveau du financement de ces deux catégories de recherche. Peut-être serait-il pertinent de consacrer une prochaine Rencontre à la valorisation de la recherche dite libre et aux questions reliées à la liberté académique. **AM**

Robert Leclerc est professeur agrégé à l'École de psychologie de l'Université d'Ottawa et ses présentes recherches sont du type recherche-action. Pendant de nombreuses années, il a été un membre très actif au sein de l'Association des Professeurs de l'Université d'Ottawa (APUO) et il en assume présentement la présidence.

9/11's shadow over academia

Reviewed by James Naylor



Academic Freedom after September 11, edited by Beshara Doumani, (Zone Books, 2006), 327 pp.

On the morning I was sitting down to review *Academic Freedom After September 11*, CBC Radio's *The Current* featured a report on David Horowitz. Unless you've dozed off and missed the culture wars of the past couple of decades, you'll know Horowitz as a media savvy conservative activist with a particular concern about leftist domination in American universities. Recently, he declared there were 50,000 professors in the United States who "identify with the terrorists." His evidence and logic are easy to dismiss, but several state legislatures have considered legislation to counter "campus liberalism." The example of Horowitz speaks to one of the main observations of this book: the significance of non-governmental threats to academic freedom.

The terse title of this volume and the cover picture of protesting Yale University students wearing gags over their mouths, effectively convey post-9/11 anxieties in the academy. As the past five years have demonstrated, rational, independent thought is no ally in the "war on terror." Rather, debate and criticism are often vaguely, and sometimes overtly, deemed unpatriotic by both state and non-governmental actors.

While occasioned by the attacks of 2001, *Academic Freedom after September 11* presents a sober analysis of longer term processes. Many of these date from the Reagan years or earlier but have certainly picked up steam. The pre-emptive military strategy of the Bush Administration, the political triumphs of neoconservatives, and the privatization and commercialization of just about everything, including knowledge, have all served to

shake the terrain beneath universities.

Challenges to academic freedom in the era of the *American Patriot Act* and similar legislation in Canada and elsewhere is apparent, but the authors are keen to differentiate the present from the Cold War era. The most ominous force a half-century ago was the state, as professors fought loyalty oaths and were paraded before the House Committee on Un-American Activities. Despite the continued repressive power of the state, the authors suggest, the immediate threat is elsewhere. Funding is a key concern. Most infamously, in 2003 the United States House of Representatives attempted to establish an advisory committee to monitor federally funded area studies programs to correct, to use the language of one congressman, the "anti-American bias" that "pervades" these university programs.

Funding comes from many sources, giving non-governmental actors vast power. Universities, of course, did not emerge in a world entirely separate from the power

Funding comes from many sources, giving non-governmental actors vast power

relations of corporate America. But those of us who toil in the liberal arts could ignore much of this connection, at least until the important Ford and Rockefeller foundations chose to include political restrictions on their grant recipients. The Ford Foundation, for instance, prohibits activity that "promotes violence, terrorism, bigotry, or the destruction of any state." These are ambiguous terms that have sent a chill through the research community. While the foundations have backtracked on their interpretations of the restrictions, the restrictions haven't gone away.

This is an important moment for clear thinking on the meaning of academic freedom. The contributors to this volume engage in a prolonged debate over whether academic freedom is an individual (in American terms, a First Amendment) right or a collective right rooted in academics' professional expertise. While this may appear an esoteric distinction, it does address the grounds upon which we defend these rights.

Robert Post argues that the tendency to defend academic freedom on First Amendment grounds is historically inaccurate and politically tenuous. Since its seminal 1915 statement, the American Association of University Professors has built its case on the basis of the distinct social function of professors and the social benefits to be derived from their self-governance and their unique ability to establish academic norms. Judith Butler's well-conceived response addresses the limits of this argument, pointing to the historical construction of these norms themselves.

Other arguments follow. Are professors uniquely protected, or does academic freedom apply more broadly? Are students protected?

There is much here to inform a Canadian debate about academic freedom. It is worth noting that the main articulations of academic freedom occurred in the United States during the two world wars and the Cold War. They were responses to challenges not unlike those in the post-9/11 world. With the Canadian government's increasing willingness to join in the fray, universities here will not be insulated from the consequences. **AM**

James Naylor is associate professor of history at Brandon University

An early introduction to censorship and intellectual freedom

There could be no better time in recent history to introduce young people to issues concerning censorship and the international history of freedom of expression.

You Can't Read This, an engaging book for young readers, is winningly illustrated with black-and-white photos and prints. Organized in brief, well-written chapters, it will satisfy younger readers and entice older readers to turn to useful source notes at the back. This book should be in every school library for class projects and for discussion when the recurring phenomenon of restricted reading or book banning passes like a dark cloud through the culture.

Val Ross begins with ancient Sumer's most wonderful female priestess, Enheduanna, who used the world's first known script, called cuneiform, to write on tablets and the walls of the temples. Enheduanna not only had the temerity to compose poetry but is the earliest known person to sign her name to her work, that is, to claim authorship. Her poetry is fierce, exultant, and audaciously feminine.

Politics and spying have always inspired code making and breaking. Ross describes Mary Queen of Scots' assassination plot against her cousin Elizabeth I written codes. In separate chapters we scroll forward through the fifteenth-century Alberti code, through first and second world war codes and end with a U.S. Defense Department research project called ARPANet that was the genesis of today's internet.

Engaging stories of individuals are the backbone of this book. We read about Afghan girls defying the Taliban to go to secret schools and about the slave Frederick Douglass who taught himself to read, a skill he used to fight for black emancipation and at the end of his life, the rights of all women. We read about the implications of translation and literacy for the Maori of New Zealand in their land rights claims, and for European freedom of thought when the Bible was first translated into English by William Tyndale. In Japan, Lady Murasaki who

wrote one of the world's first novels, *The Tale of Genji*, defied social censure against a woman's right not only to write, but to own her manuscript. And there is a marvelous account of the comic Superman and how war propaganda and capitalism fought it out during the golden age of comic books.

The ultimate human weapon is the freedom to express ourselves

Knowing stories such as these inspires us to reflect on and act against the ever present threat against freedom of expression. This year, Deborah Ellis' highly respected *Three Wishes: Palestinian and Israeli Children Speak* has been restricted by a number of school boards throughout Ontario in spite of widespread protest.

Censorship can arise unwittingly as I witnessed when I taught in China in 1985. I was teaching selections from the Bible and Greek mythology as a conventional background study to English literature and was viewed with open suspicion by university authorities who had been trained to believe that myth and religion are anti-revolutionary. Later in the year, I was threatened with public criticism over campus loudspeakers for supporting the teaching of William Blake. In secret, at night and in unused classrooms, I helped a student translate from

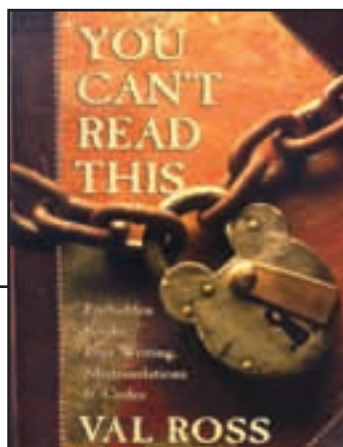
Chinese to English a collection of traditional Chinese mythology which had been banned during the Cultural Revolution.

In a twist on censorship, revolution and capitalism, a few years later this "secret" translation was published by the Beijing Foreign Languages Press and then sold for publication in the West with an introduction (unseen by the translators) describing how China's ancient mythology demonstrates the

virtues needed for a twentieth-century revolution. Today, brave Chinese intellectuals continue to fight censorship, not only of books but of full access to the internet.

Books such as *You Can't Read This* serve as a timely reminder that individuals everywhere have fought for the freedom to be literate and the freedom to use their literacy since the first cuneiform writing was pressed into clay. Whether language is oral, written in stone or electronic, we need to teach our young people this history in order to protect humankind's ultimate weapon: the freedom to express ourselves. **AM**

Reviewed by Kim Echlin

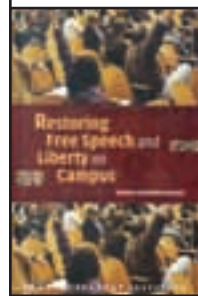


*You Can't Read This:
Forbidden Books, Lost Writing,
Mistranslations & Codes* by
Val Ross (Tundra Books,
2006), 152pp.

Kim Echlin is a novelist, editor and teacher. Her books include *Elephant Winter*, *Dagmar's Daughter*, and *Inanna*. In 2006, she won the CBC Creative Nonfiction Literary Award for "I, Witness".

Civility, speech codes, and free expression

Reviewed by Michiel Horn



Restoring Free Speech and Liberty on Campus by Donald Alexander Downs (The Independent Institute and Cambridge University Press, 2005), 295 pp.

Donald Alexander Downs, a political scientist at the University of Wisconsin, deals with important subjects: academic due process and the uses and abuses of speech codes on U.S. campuses. In doing so, *Restoring Free Speech and Liberty on Campus* immerses the reader in blow-by-blow accounts of campus politics at several major American universities. Since the internal politics at some distant university tends to be boring, this volume is a bit of a slog to get through, also because Downs's prose style is best described as pedestrian.

Initially believing that speech codes can be justified by their promotion of civility and good interpersonal relations in institutions where various minorities are trying to make their way and gain respect, Professor Downs came gradually to the view that he had been wrong. The idea that shapes this book is that freedom of expression not only best accommodates the search for truth, but also serves the cause of diversity better than speech codes do.

Noting that for many decades attacks on academic free speech came mainly from the right, Downs argues that in the more recent past, starting in the mid-1960s with Berkeley's Free Speech Movement, the left has become their chief source. The pursuit and consolidation of "virtue" became more important than free expression in the service of "truth." In pursuit of greater equality and the redress of historical grievances, some students, as well as some administrators and faculty members, became prepared to suppress views that they considered to be wrong-headed or evil. Having gained a new understanding of what *they* considered to be truth, the champions of virtue were ready, if not to impose this truth on

others, then to keep them from expressing themselves freely if this offended some significant interest group.

Downs's analysis may well be accurate at the elite institutions he discusses, California at Berkeley, Columbia, Pennsylvania, Wisconsin. Does it apply more generally? The reader cannot be sure. As Russell Jacoby observed ten years ago in *Dogmatic Wisdom*, the culture wars that had broken out on elite campuses had little relevance to the bulk of students and facul-

Freedom of expression serves the cause of diversity better than speech codes do

ty in the overwhelming majority of American institutions of higher learning. At many universities and colleges, freedom of expression is probably constrained by the limited tolerance of the local community for the expression of aberrant opinions far more than by campus speech codes.

The backdrop to the issues Downs describes includes the First Amendment, which serves as a defence of free expression, and the key role that especially ethnicity (or "race") has come to play in the shaping of university policies. The first of these really has no counterpart in Canada, and the second is far more muted. The great historical evils that continue to trouble the United States, such as large-scale human slavery and its successor, Jim Crow, have less significance north of the border (which is not to say that we don't face inter-ethnic problems of our own). Furthermore, Canadians seem to be more reserved than Americans in expressing their opinions when these might offend others. "If you have to choose between making

a point and making a friend," the pollster Allan Gregg said recently while addressing my son's graduating class, "it is better to make a friend." Is it fair to describe this as a characteristically Canadian point of view? I suspect that it is and that it has affected and limited the range of discussion on Canadian campuses, for good and ill.

Several of the people whom Downs admires as champions of free speech seem more than eager to make points rather than friends. Downs reproduces a 1994 e-mail by Alan Kors of the University of Pennsylvania, co-founder in 2000 of FIRE (Foundation for Individual Rights in Education), to a colleague that begins with the words: "I do not know if you are merely stupid or wicked, or some sad combination of the two" It goes on to use invective of a kind I have never read or heard before in an academic context. A sobering aspect of this book is the evidence that some alleged victims of speech codes and some defenders of free speech seem very largely lacking in emotional intelligence.

Downs's conclusions make it clear that he continues to hold civility to be an important objective. He just does not think that the effort to promote it should trump freedom of expression. I have a lot of sympathy for this view, and within broad limits I support it. However, I am conscious that my perspective is shaped by my experience. Freedom of speech is most easily used by those who have long been confident in its possession. **AM**

Michiel Horn is a professor emeritus of history and university historian at York University. His most recent book is *Academic Freedom in Canada: A History* (University of Toronto Press, 1999).

The university in the market place

Around Canadian campuses, faculty members are increasingly concerned over the direction of higher education. The focus of this concern is not the public purpose of our institutions but rather their standing in institutional rankings and their capacity to respond to market demands.

Remaking the American University: Market Smart and Mission Centered, by Robert Zemsky, Gregory R. Wegner, and William F. Massy, provides a thoughtful and provocative analysis of how market forces have shaped the ways higher education institutions act and the extent to which they have allowed their pursuit of market success to undermine core elements of their mission. The reader is introduced to how market philosophy has come to shape the competition for students, the emergence of a commercially dominated market for scholarly publications, and the promotion of the e-learning business. The authors capture the ills facing higher education under the general heading: "The Three Cs." The first C is competition, referring to the internal consequences of trying to win the race for the best students, for faculty, and for research grants and facilities. The authors discuss how competitive preoccupation with rankings resulted in an admissions arms race that has drained institutional resources and energies. The second C is commodification, which, according to the authors, makes education something to be bought and consumed, whose purpose is about obtaining jobs, positions, and careers rather than learning for learning's sake or the generation of knowledge for public purposes. The third C is commercialism, referring to the inclination of institutions to engage in for-profit ventures, which leads them to encourage their faculty to pursue ideas which have high likelihood of bring-

ing an economic return.


The book presents a fascinating description of how the introduction of a new budget system, Responsibility Centre Management, came to change the politics on campuses around the United States. Deans, who had become increasingly responsible for generating their own income, quickly learned the lesson that it was easier to raise additional revenue than to enact the painful cuts needed to survive on centrally allocated operating funds. A similar process has taken place in Canada. These changes can be seen as an internal adaptation to external changes in the political economy that saw governments intro-

**The best we can hope for is
that the higher education
system is market smart
and mission-centred**

duce various program and funding reforms aimed at strengthening the role of market forces in higher education. The authors astutely observe how the need to manage the new markets caused an explosion of new administrative positions within the institutions. The book helps clarify how pressure for administrative growth was accelerated by a new, growing cohort of highly skilled and professional administrative staff that came to own their jobs, just as faculty do.

A harsh, and to some, offensive assertion is that university faculty members—particularly those at research intensive institutions—have been the principle beneficiaries of these changes. Market-generated income, particularly from sponsored research, brought greater independ-

Reviewed by Kjell Rubenson



Remaking the American University: Market Smart and Mission Centered
by Robert Zemsky,
Gregory R. Wegner,
& William F. Massy
(Rutgers University Press, 2005) 231 pp.

ence. Faculty are teaching less, and an increasing number of courses are being taught by sessionals. The changes in academic tasks has, according to the authors, shifted the faculty norm away from institutionally defined goals and towards more specialized concerns of research, publication, professional service, and personal pursuit. While the authors recognize that the developments differ across the university, it would have been helpful if they had provided a more detailed analysis of how the impact of the market varies between disciplines and schools.

The message from the authors is that it is highly unlikely that market forces will come to play a less dominant role than they presently do and that the conversion of institutions into market enterprises will continue. In their opinion, the best we can hope for is that the higher education system and individual institutions are market smart and mission centred. This would involve a strategy by which revenues generated in the market are used strategically to maximize a college's or university's ability to achieve its mission. Instead of trying to work outside market forces, the authors say, educational leaders should work with and even through these markets. In a similar vein, the authors urge public policy makers to consider what incentives and processes are available that will encourage public institutions to be mission centred as well as market smart.

The book brings a fresh and intriguing perspective on how market forces are remaking, not only American, but also Canadian higher education. **AM**

Kjell Rubenson is a professor in the department of educational studies and co-director of the Centre for Policy Studies in Higher Education and Training at the University of British Columbia.



A compendium of unusual and interesting research findings unearthed by Canadian researchers

Sniffing out heart attacks: Researchers at Carleton University's Department of Systems and Computer Engineering are developing an "e-nose" that can detect heart attack patients by simply smelling their breath. Researchers hope the e-nose, equipped with 32 sensors, will alert doctors to early signs of heart failure.

Red tape blues: Bureaucratic organization is a major cause of workplace stress, according to a recent study by two Concordia University researchers. Donald de Guerre and Henry Hornstein find that heavily hierarchical workplaces sap initiative and undermine morale, affecting performance and productivity. The solution? Not eliminating management but engaging employees appropriately in decision-making and power sharing through flatter, more open organizations.

Monkey see, monkey do? University of Waterloo anthropology researcher Anne Zeller's study of long-tail macaques indicates monkeys may be capable of using tools in much the same way humans use them. Until now, anthropologists have believed only apes such as chimpanzees are capable of tool manipulation. "Demonstrating that monkeys use objects as tools will fundamentally change our understanding of their intellectual capabilities," Zeller says. "This has enormous ramifications for our understanding of the evolution of human tool use behaviours."

Unintelligent design? The study of emerging infectious diseases by University of Alberta mathematical biologist Mark Lewis shows that it is frequently humans who are making wildlife ill, contrary to the common assumption that wildlife are the reservoir of infectious human diseases. "With emerging infectious diseases of wildlife today, there's almost always some human component," observes Lewis. His research has helped to document how commercial salmon farms off the British Columbia coast have created breeding grounds for sea lice, which then infect wild salmon in the Pacific Northwest.

A fruitful discovery: Biologists Brian Staveley and Annika Haywood at Memorial University have cured Parkinson's disease in fruit flies. The two isolated the parkin gene, thought to be involved in the disease. By adding more parkin genes into fruit flies, the scientists managed to suppress the disease. The scientists are now working on a model to cure Parkinson's disease in humans.

Evolving mates: Adapting to a new environment can alter mating preferences, at least in the case of stickleback fish. Research by University of British Columbia zoology post-doctoral fellow Tim Vines found that female sticklebacks almost always choose to mate with males from their own feeding environment rather than with unfamiliar males from other lakes. Vines observes that "adaptation somehow changes mate preferences so females only accept mates from their own environment, effectively stopping interbreeding between populations in different habitats. This in turn allows populations to diverge into new species."

Adbuster: A Concordia University media studies professor has launched a website that allows users to track products found in films. The site, www.brandhype.org, designed by Matthew Soar, is intended to highlight the extensive use of brand placement in films. According to Soar, films are increasingly being written with commercial products in mind: "It's escalating to a point where more and more movies are conceived or adapted to allow for placements in scenes and dialogues to work as advertising vehicles ... We end up with yet one more arena in society saturated by advertising."

E-mail your research findings to mrosenfeld@ocufa.on.ca.

WIGGINS AND DINGUS AND THE YELLOW FUNGUS



Once upon a time, Wiggins and Dingus invented the most fabulous fungus, a yellow fungus that tasted like chocolate but was as good for you as broccoli.

Wiggins and Dingus loved the yellow fungus. They ate it for breakfast, lunch, dinner and snacks in between. They made yellow fungus porridge, yellow fungus pancakes, yellow fungus sandwiches, yellow fungus soup, and yellow fungus juice. All day long, they ate yellow fungus. They had never been happier.

One day, a man with a big smile knocked on the door. BAM! BAM! BAM! His smile was so big that Dingus couldn't see the man's face, just some hair, two ears and a smile in between.

"Hello," said the man, shaking Dingus's hand so hard that Dingus fell over. "I'm from BrandNuFoodico Inc., a maker of fine food products. You must have heard of us!"

"Er, maybe..." replied Dingus, but the man didn't stop talking.

"We heard you made a wonderful fungus!" the man said. "A fungus that tastes like chocolate but is as good for you as broccoli!! It's tremendous!"

The man's smile got even bigger. "BrandNuFoodico would love to make it in our factory and ship it all over world!" the man declared. "We'll call it 'Zazzamungus Fungus!'"

The man started to sing. "If your hunger is humongous, have some Zazzamungus Fungus!"

"It's tremendous!" the man exclaimed. "It will fit with BrandNuFoodico's commitment to great tasting but healthy food products! Here's our standard contract."

Soon Zazzamungus Fungus was sweeping the world. Thousands of people lined up to buy it. Parents fed it to their kids. Teenagers ate it at raves. Professors sent their research assistants to find it. One famous doctor wrote a book called Zazzadiet: Eat, Eat, Eat Your Way to Goodamungus Health! The mayor of their town gave Wiggins and Dingus a key

to the city. "It's tremendous!" said the man with the big smile.

But one day, Dingus woke up, got out of bed, and fell over. He got up and fell over again. "Wiggins!" he cried, falling over yet again. "My feet have shrunk to the size of ladybugs!"

Wiggins and Dingus did not know what to do, but after some study, they realized that Dingus's ladybug feet were caused by Zazzamungus Fungus.

They went to see the man with the big smile. "Zazzamungus Fungus is tremendous!" he told them, smiling his big smile and shaking Dingus's hand so hard that Dingus's pants fell down. "Everyone loves it! Here's a letter from the Mayor of your town. She eats it every day and has never felt better! It's tremendous!"

Dingus pulled up his pants and showed the man his feet.

"Ladybug feet! Tremendous!" the man cried, still smiling his big smile. "Is this your latest invention?"

"No," Wiggins replied. "The fungus did it. If you eat Zazzamungus for more than a month, your feet will shrink! We have to tell people to stop eating Zazzamungus Fungus."

The man with the big smile was not smiling any more. "But everyone loves Zazzamungus Fungus," he said with concern. "Our factory makes it all day and night. What about all the workers who make Zazzamungus Fungus? Do you want them to lose their jobs?"

"Well, I guess not..." said Wiggins, but the man didn't stop talking.

"Are you sure it's Zazzamungus? Could eating ladybugs be the problem? Do you eat ladybugs? Maybe you should stop eating ladybugs!"

"Well, I guess we didn't..." said Dingus.

"Yes, check into this ladybug angle!" said the man with the big smile, who was smiling again. He shook Dingus's hand so hard that Dingus had to go home and take a nap.

The next day, the Mayor fell over during a speech. She tried to get up, but fell over again. "My feet have shrunk to the size of jellybeans!" she cried.

Wiggins and Dingus went to see the man with the big smile. He shook Dingus's hand so hard that Dingus's eyes bounced up and down in his head.

"The mayor's feet have shrunk to the size of jellybeans!" they told the man.

"But does the mayor eat jellybeans...?" the man started to ask, but this time Wiggins kept talking.

"And we're sure that the fungus did it."

Now the man had a big frown, a frown so big that his chin completely disappeared.

"Here is your contract," he told them. "You promised you would never say anything bad about Zazzamungus Fungus. If you do, you have to give us ONE B-ZILLION DOLLARS!"

Wiggins and Dingus were scared. They didn't have one b-zillion dollars. The man with the big frown shooed them out and slammed the door so hard that Dingus bounced up and down on his ladybug feet.

On the way home, Wiggins and Dingus walked to the grocery store to buy some broccoli. Everywhere they looked, people kept falling over. A woman with a briefcase and feet the size of raspberries fell down a sewer grate. A bus driver's sewing-needle-sized foot got stuck on the brake and the bus wouldn't move. The passengers were very angry. A whole parade had to be cancelled because the horses had hooves the size of crab apples.

The whole town was miserable, and Wiggins and Dingus were very, very sad.

"That man and his big smile," Wiggins complained. "When he first showed up, we should have said 'Go away! And take your big smile and huge handshakes with you!' We were so happy until he came along."

Dingus fell over. "You're right, Wiggins," he replied. "But what do we do now? We don't have a b-zillion dollars."

Wiggins scratched his head, then fell over too. "I don't know, I don't know..." **AM**

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Academic freedom and public policy

Government legislation and public policy can profoundly affect the integrity of academic freedom on university campuses. This is particularly the case in periods of real or perceived crisis.

During the height of the Cold War, a number of American academics were fired for their actual or presumed ties to the political left.

In Canada, the Cold War climate was also felt on university campuses. The RCMP collected information on faculty and students, using paid informants, taped telephone conversations, spies in university classes, and the cooperation of some members of the university community in order to root out deemed "subversives."

The current "war on terror" poses many similar, as well as some unique challenges, to academic freedom. Anti-terrorism legislation directed at speech, freedom of association, and the exchange of scientific knowledge, among other concerns, threatens to corrode academic freedom. The same can be said for state regulation of academic curricula and speech within the university classroom, disingenuously presented as the promotion of intellectual diversity.

Other areas of government policy also have an impact on academic freedom, although their influence is often more subtle.

Funding is one area that immediately comes to mind. At the federal level, cash transfers to the provinces for post-secondary education under the Canada Social Transfer program are estimated to be 40 per cent lower than in 1992-93, adjusted for inflation and population growth. As a share of the economy, provincial grants to higher education fell to 1.07 per cent from 1.49 per cent of Gross Domestic Product between 1992-93 and 2004-05. Although there have been increases in recent years, underfunding has remained a reality on university campuses.

What does this mean? Fiscal pressures have led university administrators to embrace—willingly or unwilling—a variety of far-reaching strategies in response. Hiring of "flexible," less expensive contingent faculty is one approach. This past year in Ontario, only 35 per cent of the net new hires reported by universities to

GOVERNMENT POLICY PROMOTING THE EROSION OF UNIVERSITY AUTONOMY IS A GRAVE THREAT TO ACADEMIC FREEDOM

the provincial government were tenure stream, a figure notably below the levels of the previous few years.

Untenured contingent faculty lack the protections of academic freedom so inextricably linked to tenure. With the growth in contingent hiring, the institution and culture of academic freedom will be increasingly challenged, unless contingent faculty can be afforded the same protections as their tenured colleagues.

Constraints in public funding have also led universities to seek out alternative sources of funding, particularly in the private sector. This approach has been encouraged by governments through matched public-private funding programs for academic study and the construction of university physical infrastructure. Such programs can be very beneficial to cash-strapped institutions, particularly in the context where government funding represents an increasingly smaller proportion of university revenues.

Such programs, however, can also test a university's commitment to academic freedom. The most obvious examples are where private funders seek to influence the curriculum or hiring in an academic program. Less obvious are the subtle pressures that may be brought to bear on faculty to refrain from criticizing donors. In addition, the shifting of internal university resources to more lucrative programs, encouraged by matched funding arrangements, can make it more difficult for less favoured programs and departments to maintain their academic viability and promote a culture of critical inquiry and debate.

The encouragement of greater private sector involvement in university research, through matched funding and research

commercialization policies, is another concern. Funding arrangements that, for commercial purposes, restrict the free flow of research findings or inhibit the publication of findings which may adversely affect a private-sector partner are a direct threat to academic freedom. Prominent and highly visible cases have resulted in a number of changes to university research policy and conflict-of-interest guidelines. Nonetheless, such funding arrangements create an ever-present challenge to protecting academic freedom in research.

Accompanying the influence of private sector funding are intrusive policies intended to promote greater university accountability to government. Tied funding, extensive reporting requirements, performance measures, and other monitoring mechanisms are intended to ensure the public that money is well spent in enhancing quality and access on university campuses. Some of these initiatives are understandable, given the need for universities to demonstrate public accountability and for governments to exhibit how they are attaining public policy objectives.

These initiatives also can create a mindset that accepts uncritical compliance to ever-increasing government intervention into university autonomy.

It just may be that government policy that effectively promotes the erosion of university autonomy is now one of the greatest, if most subtle, threats to academic freedom on Canadian university campuses. **AM**

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