

Saint Mary's students abandon their complaint against Peter March

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The twenty-four or so students here in Halifax at Saint Mary's who last March formally complained that Peter March harassed them or discriminated against them have decided not to pursue their complaint any further. The students announced their decision in a press release Monday 1 November 2006. Their abandoning their complaint ends the formal process at Saint Mary's into the matter.

In February 2006, Dr March, a professor in the Department of Philosophy, posted on his office door the notorious cartoons from *Jyllands-Posten*, cartoons that offend many Muslims. The Vice-President, Academic and Research, of Saint Mary's University, Terrence Murphy, quickly ordered the cartoons removed, citing threats to public safety. Many administrators, professors, and students would have been happy had the cartoons been ordered down on any of a large number of other grounds. (See "Report on the Peter March Affair," Newsletter of the Society for Academic Freedom and Scholarship, September 2006.)

The students had complained to the University that Dr March's behaviour was harassing or discriminatory, if not merely in his posting the cartoons, then in his remarks to students or reporters in the days following. The Conflict Resolution Advisor at Saint Mary's, Bridget Brownlow, was unable to resolve the complaint informally, and the students elected to go to a formal process overseen by Ms Brownlow's office.

The formal process involved a three-member Harassment and Discrimination Hearing Committee, two members of which were Saint Mary's professors, the third a student. A volunteer investigator, a Saint Mary's professor who had been trained by the Nova Scotia Human Rights Commission, submitted to the Committee in April a report on the incident, a report the Committee was to use in determining whether Dr March indeed harassed or discriminated against the complainants. Had the process continued and had the Committee determined that Dr March had harassed the complainants or discriminated against them, the Committee would have said so to the president of Saint Mary's University, Colin Dodds, who then would have accepted or rejected the Committee's determination. Had he received and accepted a determination against Dr March, the president would have chosen a sanction he felt appropriate. Perhaps President Dodds would have sent Peter March a letter of reprimand, a copy of which would have remained in Dr March's university file.

The students cite in their press release as their reason for abandoning the formal process both its complexity and the slow speed at which it had been moving. They neither said that they now see their complaint to be without merit nor reaffirmed their complaint.

Problems with the formal Harassment and Discrimination process appeared almost immediately after it began. The Saint Mary's University Faculty Union opposed it, both because

it has no status in the Collective Agreement and because it requires union members to sit in quasi-legal judgement over another union member. Its proceedings were confidential. Peter March declined to participate. Various interested parties consulted lawyers and the lawyers' bills were huge. All in all, the process lacked any of the virtues of informal conflict resolution and had none of the transparency, rigour, or authority one would hope for in a legal proceeding on a matter as serious as harassment or discrimination. In May, a couple months after it began, the Committee declared itself unable to use the investigator's report. The process bogged down with that declaration, and it did not recover.

All things considered, it might be best that the thing ended as it did, with the complainants withdrawing from the process. The only other possible option, it seems, given that the complainants were keen that it not end with a determination of no harassment or discrimination, was for it to remain mired in its bog.

One might have wished for the students actually to have withdrawn the complaint itself, acknowledging it to lack merit. But the process itself likely would have prevented that ever from occurring, as it not only bound the complainants together as an interest group but shielded them from having as individuals to engage critically with the arguments that Dr March did not harass or discriminate against them.

Certainly, had it been allowed to make a determination, the Committee very most probably would have found no harassment or discrimination. After all, no complainant's work was graded unfairly by Dr March, no one was prevented from attending class or denied use of university facilities, Dr March did not follow anyone around the halls. Even if Dr March's behaviour was as insulting and offensive as some people maintain it was, and as lacking in academic or political significance, one is hard pressed to understand how that behaviour could have imposed "burdens, obligations or disadvantages" on anyone or how it could have limited anyone's access to "opportunities, benefits and advantages," as it would have had to have done in order to run afoul of the Nova Scotia Human Rights Act. Many people were insulted and hurt by his gesture or his comments, but no one could have been harmed. (Indeed, *The Journal*, the student newspaper here, reported that the administration sought legal advice about what to do with Dr March, and was told it could do nothing, as Dr March had broken no law. And yet the university's board of governors continues to think that if the image of Saint Mary's has suffered because of the Peter March affair, it is Dr March's fault, and not the fault of the administration's misconceived and heavy-handed attempts to deal with Dr March.)

It might be best, then, that the students walked away rather than continued a process that threatened indefinitely to drain time, money, energy, and emotion. On the other side, though, harassment and discrimination are serious matters, and if Peter March did not harass anyone or discriminate against anyone, it is important for all of us, once the formal process into the matter began, that his name be cleared. (Or, if he did harass or discriminate, it is important that he be found to have done so and punished.) Moreover, it would have been wonderful for all of us at Saint Mary's, once an official body became involved, that that body, despite its questionable status, affirmed that however insulting or offensive our behaviour might be, we do not merely in being insulting or offensive harass anyone or discriminate against anyone.

The offended students should not have brought a formal complaint against Dr March in the first place. Doing so was inconsistent with their aspirations to be intellectuals and to live the life of the mind. Intellectuals respond to insults or offence by criticism or disdain (maybe also by flinging a few insults of their own), not by asking authority to rule an expression out of bounds. Intellectuals ought not ask this of authority, for to do so is to seek to remove a topic

from debate and to impose a conclusion by force. But an intellectual wants that conclusions, especially regarding what is true or good or right, be accepted by people freely and only on the basis of argument.

Yet, misguided as they were, the students who brought the formal complaint are blameless for doing so. After all, they were hurt and angry—and, arguably, they were right to be hurt and angry. They were looking for redress and it is perfectly understandable that they were. And, crucially, they are students, young apprentices in the life of the mind. They could not have been expected to know how, as intellectuals, they were to respond. Blame for their launching the formal process must be assigned to those administrators and professors who failed to teach them well, who failed to explain to them that to launch a formal process was out of line with their own best aspirations and who failed to show them how properly to manifest their hurt and anger. We, both professors and administrators, have the deep responsibility to lead our charges into the habits, customs, and values of the life of the mind. For me, one of the very saddest features of the Peter March affair at Saint Mary's is that we who should have known better so poorly discharged our responsibility to our students.

That the Peter March affair itself is over does not mean that the affair will have no bad repercussions for academic freedom or freedom of expression at Saint Mary's. It very well might have bad repercussions. Before I discuss the threats to freedom now in the offing, I should mention two other events from the closing months of the Peter March affair.

1) In September, Dr March began a series of public talks on Islam and Democracy. He gave his first talk Friday 15 September, right here at Saint Mary's. In addition to having him rent the hall, Saint Mary's required Dr March to hire four police officers for security. This might have been intended to make it prohibitively expensive for Dr March to speak at Saint Mary's. Three of the four other universities at which to date Dr March has spoken have required nothing above the usual room rental fees and the standard level of security, namely, two or three students with name tags. One of the four, though, Memorial University of Newfoundland, is now seeking to have Dr March pay a fee additional to those originally set and paid. It is unclear what this fee is for, as no extra security personnel attended the talk. Mention of this additional fee seems to have come after an officer of Saint Mary's contacted Memorial just before the talk.

At none of Dr March's talks has there been violence or any hint or threat of violence.

2) Dr March posted the cartoons on his office door again, in late September. Dr March said that he posted them the second time out of frustration with the formal process into harassment or discrimination. His view was that all the evidence on both sides was in, the Committee had indicated that it could not find against him, and yet the process evinced no sign of ending. "Justice delayed is justice denied," he told *The Journal*. (In an editorial, *The Journal* charged that it was all a stunt to publicize the Islam and Democracy talks.) Likely Dr March made a tactical error in posting the cartoons again when he did, for his doing so irked the complainants and may well have delayed the eventual outcome.

Again the cartoons came down quickly after they were posted, though this time Vice-President Academic Terrence Murphy took them down himself rather than ordered Dr March to take them down. Dr Murphy left a note for Dr March saying that the postings were inappropriate. Dr Murphy did not mention public safety in the note. Nor did Dr Murphy describe how the postings were inappropriate or explain how their being inappropriate in that way justified his removing them. My requests to Dr Murphy that he describe how the postings were inappropriate and explain how their being inappropriate in that way justified his removing them have gone unanswered. *The Journal* has sought to interview Dr Murphy on the matter, but

has not yet succeeded. A local daily that reported the incident, *The Chronicle Herald*, said it could reach no university spokesperson for comment.

The most optimistic view is that everything in the administration's actions throughout the Peter March affair had to do solely with the grandstanding and obstreperous Peter March and that nothing at all in them means anything one way or the other for academic freedom or freedom of expression at Saint Mary's. One would like for this to be true, bad enough as it is. But there is fair reason not to be optimistic.

Begin with the press release announcing the end of the affair. The press release stated that the students feel they will serve their interests better by undertaking a series of initiatives. It did not say what their interests are. One of these initiatives, the only one mentioned in the press release, will be a series of awareness sessions on matters such as Islam or fear of Muslims. That's fine and might do some good. What the other initiatives will involve we do not know. The press release says that the initiatives in general will concern harassment, discrimination, academic freedom, and the relation of academic freedom to other rights and freedoms. It does not, though, indicate the content or direction of these initiatives. It is not unlikely, I feel, that they will be initiatives to have Saint Mary's University recognize in its rules and codes insulting or disparaging behaviour, such as Peter March's, as harassing or discriminatory. It is not unlikely, that is, that the direction of the initiatives will be to expand what counts as harassment or discrimination at Saint Mary's.

Though it does not inform us of their direction, the press release does tell us that the initiatives are fully supported by the University. Dr Murphy has not replied to the question what it is that the University fully supports. Still, likely enough, the University is supporting merely the students' endeavours to create initiatives and to bring them to the appropriate bodies.

Now of course it is perfectly fine that members of the university community explore the value and limits of academic freedom and freedom of expression. It is perfectly fine, should they find the rules and regulations here overly tolerant, that members of the university community agitate for change in the direction of restriction, limit, and intolerance. What's worrisome to partisans of freedom is the degree of support such initiatives will find here.

Should we be worried that an initiative to limit protection under academic freedom or freedom of expression at Saint Mary's will succeed? There are signs that we should be worried, signs coming from the students, the professors, the union, and the administration. The president of the Saint Mary's University Students' Association, Zach Churchill, has written that if academic freedom "is a means to further disenfranchise an already segregated and suppressed group," then "it is part of the problem and must be re-defined" (*The Journal*, 18 October 2006). Mr Churchill believes, though not on evidence, that Muslims in Canada are a segregated and suppressed group and that the cartoons are effective tools of oppression. Whether his views about oppression or the usefulness of limiting expression in responding to oppression resonate with students is unclear, but these views do have the cachet of being in line with a widespread, though naive, strain of humanist sentiment. In any case, no student has yet publicly criticised Mr Churchill's views.

As for the professors, many were pleased that the cartoons were officially suppressed, both first time and second. Through the last nine months very few professors have voiced any concerns about academic freedom at Saint Mary's. Protecting academic freedom does not seem to be high on professors' lists here.

In his President's Report of February 2006, issued soon after the cartoons were removed, the then-president of the faculty union, Steven Smith, seriously misread the academic freedom clause of the Collective Agreement. He took a sentence that is merely hortatory, its force moral, a sentence to the effect that we are to use our freedom responsibly, actually to impose a substantive limitation on our freedom. On Dr Smith's reading, we are free in our research or teaching only to the point at which an officer of the University declares we are not engaged in an honest search for knowledge. Neither the current president of the union, Larry Haiven, nor any other member of the current executive, has repudiated Dr Smith's reading. That the union intends, once we have a new contract with the University, to revisit the issue of the limits of academic freedom is, then, cause for concern, especially given the union's inaction throughout most of the Peter March affair. As well, the union is currently trying to have protections against psychological violence in the workplace strengthened. Neither Dr Haiven nor Victor Catano, the other member of the executive who responded to my inquiries, is much concerned with the possibility that these protections will conflict with academic freedom. It might well be that the union sees the problem of bullying as more significant than that of ensuring academic freedom and would be willing to restrict freedom should it think doing so will help defend us against bullies.

The administration, of course, says little but does much. Vice-President Terrence Murphy might indeed be a good person in a tight spot, as people have said to me. Yet his instincts are not toward protecting academic freedom or freedom of expression. Whether his concern not to alienate Muslim or foreign students would be well served by tighter limits on expression at Saint Mary's or not, clearly his attitude is that they would. It is not likely that an initiative, coming either from the students or the union, the effect of which would be to restrict freedom at Saint Mary's, would meet with principled opposition from Dr Murphy.

Will the students who brought the complaint and their allies launch an initiative to include hurt feelings in the rubric for "harassment" and, thereby, to restrict freedom of expression at Saint Mary's? If they do, will their initiative find wide support among students and faculty? Will the union's revisiting of the issue of academic freedom result in demands for less freedom? Will the union, should it gain the changes it seeks in the Collective Agreement regarding psychological violence, be casual about academic freedom should it think freedom aids or abets bullying? These are the questions to which we now, at the end of the Peter March affair, await answers.