

## York University case is not about rights

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Just about everyone, including the Ottawa *Citizen*'s editorial board, thinks that the York University incident in which a student asked for special accommodation is properly understood as a conflict between religious rights and our desire for a non-discriminatory society. Even the professor of the course thinks of it that way, as do the university administrators who ordered the professor to honour the student's request.

But a conflict of rights is not how we should conceive the case at all. We should think of it entirely in the context of university education. The only question a professor should ever seek to answer when asked to make a special accommodation is whether making that accommodation is consistent with the educative goals of her course.

Media reports tell us that back in September, a student at York asked his professor, Paul Grayson, to be exempted from a group project because the group included women and working in physical proximity with women was against his religion. Dr Grayson considered his student's request and denied it. The Dean of the Faculty of Liberal Arts and Professional Studies, though, has ordered Dr Grayson to accede to the request, arguing that failing to do so violates the duty to accommodate religious belief.

That Dr Grayson himself thinks the matter has to do with a conflict of rights or a conflict between a right and a social goal is clear from the fact that he solicited opinions from religious authorities about the request. He denied the request only after his authorities informed him that neither Islam nor Orthodox Judaism prohibit men and women from working together in person on scholarly projects.

Presumably, he would have granted the exemption had he learned that working together was indeed prohibited. Or maybe he would have denied it anyway, thinking that aiding sexism was worse in the case than making it difficult for a person to practice his religion. Either way, Dr Grayson thought himself engaged in a balancing act, seeking the proper path between two competing ideals.

Finding a balance among rights or ideals might well be fine when considering seating arrangements at a political event or dress codes for police officers or school children. The request in this case, though, had to do with an assignment in a university course.

Dr Grayson must have thought the group work had pedagogical value or he would not have assigned it or graded it. If the assignment has pedagogical value, then not completing it is to the detriment of the student's education. As well, making an exception for a student—that is, allowing that student to skip a piece of work without his grade suffering—compromises the

integrity of the course. The B of a student not penalized for skipping an assignment is not equivalent to the B of a student who has completed and, thereby, learned from that assignment.

Dr Grayson need not have consulted either experts in religion or his feelings about sexism, for both are irrelevant. All Dr Grayson should have asked is whether the goals of his course would be served just as well by exempting his student. If the integrity of his course would not be affected, then the student can skip the assignment. Indeed, if Dr Grayson had discovered that the integrity of his course would not be affected, he should have made the assignment optional generally, if not dropped it.

The only judgement that should have come into play was Dr Grayson's own professional judgement as the teacher of his course.

Now one might object that since universities are public institutions, they must honour public values as well as academic and educative values, or, better, they should fashion their educative goals in light of public values. Part of the public value of universities is that they train lawyers, doctors, politicians, business people, journalists, and other elite workers. It's important that our elites mirror the diversity in our society. Thus, universities should educate in a way that enables people of diverse religions and cultures to take their place within the leading professions.

Universities that understood their social role well would consciously design courses and programmes so that they do not refuse or alienate people with minority religious or cultural commitments.

Well, the relationship between universities and government has always been turbulent and marked by conflicting values and goals. Universities committed to liberal education, to education as broadening the mind and liberating the person from ignorance and conformity, must, though, reject the call to make themselves trainers of the social elite and credentializing agencies. They must keep central to everything they do their commitment to learning and intellectual community for their own sake.

What about the duty to accommodate, one, apparently, written into the Ontario Human Rights Code, as the Dean says he was told it is? The answer in this particular case is that it should be up to the professor of that course how to perform this duty. After all, the course is in service to the teaching goals of the professor. Refusing a request that would compromise the integrity of the course is not to fail in one's duty, but dutifully to judge the request unreasonable.

The larger answer to this problem is that human rights policy is currently a contested area. As such, it's open for universities and other institutions to put their own values forward to mould policies so that they do not compromise their mission. Universities have not been doing this, unfortunately, as can be seen in their acceptance of the concept of hate speech and their willingness to construct codes of behaviour inconsistent with civil liberties.

To sum up: Reasonable accommodation in universities should not be understood in terms of conflicts of rights or ideals, or between individuals and groups. It should be understood entirely through the lens of the values and mission of the university as a place of liberal education and intellectual community.