

Universities should not be funding defamation suits

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Former University of Ottawa physics professor Denis Rancourt is about to go to court. Three years ago, on 11 February 2011, Rancourt wrote on his blog “U of O Watch” that documents he had seen “suggest that [U of O] law professor Joanne St. Lewis acted like [U of O] president Allan Rock’s house negro when she enthusiastically toiled to discredit a 2008 [U of O Student Appeal Centre] report about systemic racial discrimination at the university.”

Professor St. Lewis sued Dr Rancourt for defamation. The trial begins Monday 12 May 2014.

“House negro,” Rancourt explains in that blog posting, is a term from Malcolm X. The house negro serves the master by persuading the field negroes to remain peaceful, to bear the iniquities of the system quietly and count their blessings. In the quotation above, Rancourt is saying that there’s evidence that St. Lewis’s response to the report serves the interests of President Rock, presumably to continue the status quo, rather than the interests of the black students at the university.

It’s hard to see how Rancourt’s evaluation could possibly count as defamatory, even if it is false. It imputes no despicable motive to St. Lewis, for house negroes are often ignorant both of being used by the master and of the effects of their actions; usually they believe they are helping the field negroes. It suggests no character flaw worse than being self-satisfied or being oblivious to what’s really happening.

But let’s suppose, for the sake of argument, that a reasonable person could interpret Rancourt as charging St. Lewis with being a quisling, with freely and knowingly collaborating with an oppressive regime against her own people. Well, what of it? It’s a thesis, it’s on the table, it’s to be discussed (or ignored, if one pleases). What is the evidence in favour of the charge? Is that evidence any good? What is the evidence that St. Lewis is, rather, a careful and conscientious university administrator, concerned that the university treat its black students as well as it treats its other students? These are matters for anyone who cares about them to determine for herself.

Professor St. Lewis has the wit and resources needed to answer whatever charge she thinks Dr Rancourt has made against her, if she thinks the charge merits an answer. If Rancourt is wrong, St. Lewis can say so and explain how he’s mistaken. It’s no business of any court to get involved, especially as St. Lewis’s career hasn’t suffered because of Rancourt’s criticism.

And what will the court do, anyway? It will ask questions of meaning and evidence and render a judgement regarding the validity of what it takes to be Rancourt’s charge. All of that could happen without a trial. Moreover, those of us who, using our own judgement, come to a

conclusion opposed to that which the court reaches will think the court mistaken; the court's judgement whether Rancourt had grounds to compare St. Lewis's response to the actions of a house negro will be just one opinion among many.

Certainly the term "house negro" is hurtful, whether Rancourt meant to hurt or not. Malcolm X despised house negroes, and Malcolm's star is bright. If St. Lewis did act as a house negro would, she would, in the eyes of many black students, richly deserve condemnation.

Well, again, these are matters for discussion. If St. Lewis didn't act as a house negro would, the idea that she did could be countered by evidence. If Rancourt shouldn't speak hurtfully even though speaking truly, that also could be argued.

That this defamation suit has made it as far as it has, all the way to trial, is a sure sign that something is wrong with defamation law or practice in this country. Defamation law must not prevent people from criticising the attitudes and actions of others, but knowledge of a case like this cannot but inhibit candour and a willingness to speak. Even if defamation law has the purpose of helping people recover what they have objectively lost as a result of being falsely maligned, safeguards must be built in so that people do not, out of fear of being sued, speak only guardedly or in code, or defer in their manner to standards of decorum not their own, or remain silent.

Particularly puzzling, and disturbing, is that the University of Ottawa itself, by the order of its president, Allan Rock, is funding St. Lewis's suit. By involving itself in this way, the U of O is seeking both to silence a critic and to serve notice to others that criticizing the university might be costly. A university should be a place of freedom of expression, of candid discussion and vigorous criticism. It is contrary to the mission of a university to help in the suppression of criticism, even harsh criticism, even false or unfair criticism. Its commitment must be to answer criticism, not to try to stifle it. Only answering criticism is consistent with its mission to be a place of intellectual community, and with its role as an example for the larger society.

How could it happen that a university president place the resources of a university at the service of a private defamation suit, one, moreover, that doesn't concern objective losses suffered, but simply harsh, perhaps hurtful, criticism—especially when the risks the suit poses to discussion, candour, and criticism are so great? These things can happen only because people let them happen. University professors are busy teaching, conducting research, writing articles and books, just as they should be. Yet we professors had better start taking an active interest in institutional goings on, or continue to allow the degradation of our culture.