

# Judge rules that “being upset or offended is not the same as discrimination”

Justice Centre for Constitutional Freedoms  
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<https://www.jccf.ca/judge-rules-that-being-upset-or-offended-is-not-the-same-as-discrimination/>

**HALIFAX, NS:** The [Justice Centre for Constitutional Freedoms](#) is pleased to announce that the Nova Scotia Supreme Court has dismissed a discrimination complaint on the basis that there is no right not to be offended. In her [decision](#), Justice Denise Boudreau ruled that “being upset or offended is not the same as discrimination.”

This outcome is a significant victory that upholds the right of Canadians to express controversial views in public without having to fear being charged with discrimination.

In 2019, a student accused Saint Mary’s University (University) and the Society for Academic Freedom and Scholarship (Society) of discrimination after professor John MacKinnon had published an article critiquing the state of academic integrity in post-secondary institutions.

In that article, professor MacKinnon asked readers, “[h]ow many academic regulations have been relaxed or ignored, how many transcripts tampered with, how many grades inflated and pseudo-subjects concocted in deference to the imperatives of ‘indigenization’?”

The student, only referred to as “Q” in the publication, soon realized she was its subject. Thirteen months later, she filed a discrimination complaint against the University and the Society to the Nova Scotia Human Rights Commission (Commission).

The Commission conducted an initial investigation.

On June 6, 2024, the Commission referred the complaint to the Board of Inquiry for a formal hearing to determine whether discrimination had occurred under

Nova Scotia's *Human Rights Act*. To be referred to a Board of Inquiry, the Commission must be satisfied that the allegations, if proven, could establish a case of discrimination.

On July 30, 2024, the University asked the Supreme Court of Nova Scotia to review the Commission's decision to escalate the case by referring it to the Board of Inquiry. And, in January and February 2025, lawyers for the University and Society argued in court before Justice Denise Boudreau that the complaint should never have been referred to the Board of Inquiry.

In addition to pointing out procedural unfairness due to unreasonable delays, the Society argued that there is no evidence of discrimination and that human rights laws do not exist to prevent hurt feelings, humiliation, or offensiveness.

On the contrary, discrimination laws are meant to address only "the most extreme type of expression that has the potential to incite or inspire discriminatory treatment against protected groups on the basis of a prohibited ground." And, the original article, the Society argued, posed questions on issues of public importance: the integrity of academic institutions. To decide that such inquiry is discriminatory would be a violation of freedom of expression – protected by section 2(b) of the [\*Canadian Charter of Rights and Freedoms\*](#).

On April 17, Justice Denise Boudreau of the Supreme Court of Nova Scotia dismissed the discrimination complaint.

In her decision, Justice Boudreau wrote, "being upset or offended is not the same as discrimination." She also confirmed that "there was no evidence of any 'burden, obligation or disadvantage imposed upon her [the student] not imposed upon others.'"

At paragraph 74 of her decision, Justice Boudreau even saw fit to note, "Let us recall that freedom of expression is a *Charter* protected right in Canada."

Constitutional lawyer Chris Fleury remarked, "My client and I are elated with the decision. The Court rightly agreed with our submission that freedom of

expression is not to be interfered with, even in the context of a human rights complaint.”

“This is a significant victory for Canadians overall, and particularly for those who seek to express controversial opinions,” he explained.

The [full decision](#) can be read here.

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