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## Guest Comment

On **NRO**

### Kafka U.

Civil liberties go on trial at Columbia University.

By Jaime Sneider  
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**N**ow that Columbia University has forsaken basic civil liberties in the handling of sexual-misconduct charges, other

institutions of higher learning may soon follow suit. With a \$15,000 donation from the Ms. Foundation, the Students Active for Ending Rape (SAFER), the group that persuaded Columbia to junk basic rules of procedural fairness, are taking their crusade national.



On February 23, the Columbia University student chapter of the American Civil Liberties Union (ACLU) invited Harvey Silverglate, an attorney and member of the Massachusetts ACLU board of directors, and Vivian Berger, a retired Columbia law professor, to discuss the deficiencies of Columbia's new sexual misconduct policy. Silverglate and Berger advised the gathering that the Columbia policy abridges the right of accused students to be present during testimony, to cross-examine witnesses, and to have access to full transcripts or tapes of the proceedings. In fact, it doesn't even set a burden of proof that must be met to assess guilt or innocence.

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SAFER's support for a policy that undermines the principle of protecting the innocent is rooted in its belief that all charges of rape are legitimate. When questioned about the policy's defects, Sarah Richardson, a SAFER student leader, told the *Boston Globe*, "Why are we so concerned about the rapist?"

Nor does SAFER seem much concerned about the basic civil rights of those who dare to criticize the sexual-misconduct policy. The student organization regularly employs menacing scare-tactics to attack its critics. Even though Columbia President George Rupp has endorsed the new policy, SAFER members recently ganged up on him in a public meeting, chanting: "Fess up George Rupp! How many rapes did you cover up?"

Despite the fact that the policy has been implemented, SAFER continues to impugn the character of those who critique the policy. James Applegate, one of the two university senators courageous enough to vote against the

policy, told the ACLU forum that he knew of other Senators who shared his concerns but were too afraid to go on record as opposing the measure.

“SAFER's position essentially contends that anyone who opposes the policy on due-process grounds is a would-be sexual assailant.”

Jeff Senter, another SAFER leader, called ACLU's Silverglate "far right" in the pages of the *Columbia Daily Spectator*. By branding Silverglate a conservative, SAFER believes it can dismiss anything he says. And Columbia students, who are almost universally left-of-center, are wont to conclude that conservative views are unworthy of consideration.

For Silverglate, the "far right" appellation was a surprise. He has worked extensively on behalf of the ACLU, not generally recognized as a right-wing lobby group. Also, Silverglate notes that he began his legal career by defending Harvard students who were protesting the Vietnam War.

SAFER has launched a similar smear campaign against Karl Ward, the ACLU member who organized the Feb. 23rd-panel discussion. Ward has campaigned on behalf of Ralph Nader, but was accused by SAFER of being a "reactionary." Supporters of the policy have described Ward's opposition to it as "underhanded," "inflammatory rhetoric," and "political in nature."

Ironically, SAFER even went so far as to claim that the muffled critics of Columbia's sexual-misconduct policy are at root motivated by fear, observing, "Increased recognition of campus

sexual assault is, after all, a threat to many." SAFER's position essentially contends that anyone who opposes the policy on due-process grounds is a would-be sexual assailant.

Representatives from the university's administration and from SAFER were invited to defend the policy at the ACLU-sponsored discussion. But the head of the sexual-misconduct office at Columbia, Charlene Allen, declined, saying that she refused to discuss the policy with people "external to the Columbia community." As the only speaker who was neither a Columbia student nor a professor, Silverglate noted that Columbia's concern that he is "external" obviously wasn't much of a concern when it accepted his payments for his son's Columbia education or when it solicited donations from him.

SAFER not only refused to participate in the ACLU's recent event, its members tore down posters which advertised the event and an offer by the Foundation for Individual Rights in Education to help students accused under the policy. When contacted about the damaged posters, SAFER leader Sarah Richardson would not confirm or deny the charges. Another SAFER leader dismissed reports that the group tore down the posters, suggesting instead that the maintenance staff might be responsible.

Remarkably, after all her group had done to discredit its critics, Richardson recently wrote an Op-Ed in the *Columbia Daily Spectator* decrying student activism that involved criticizing other student groups, asserting that this only "fragments the support base needed to present a united front to the Administration."

Richardson now says that the Columbia administration, not SAFER, is responsible for omitting basic legal protections from the sexual-misconduct policy. She says: "The disciplinary procedure of the Sexual Misconduct Policy is simply [modified] Dean's Discipline" But the complete opposite is the case. The Dean's discipline actually allows for the accused to have an attorney or legal adviser present at the hearing; it also requires that a recording or transcript be made of all proceedings so that appeals can be conducted properly. By contrast, under the sexual-misconduct policy, the only records that must be kept for the purposes of handling appeals are the notes of the judges who handed down the initial verdict.

Because Columbia is a private institution, the courts would probably uphold the university's right to maintain its kangaroo court. But the question at hand is not whether the policy is technically permissible, but rather, what lesson Columbia, as a university, wishes to convey to its students about rights and about justice. SAFER wants to transform the open intellectual environment that has classically defined academic institutions,

replacing due process with a dogma that defines all women as victims, stifles free and honest discussion, and replaces it with academic authoritarianism.

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