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Confusing Equality with Tyranny: Repealing the Statement of Principles

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Matter Commented on: [Law Society of Ontario Statement of Principles](#)

Tomorrow, the Law Society of Ontario will vote on a [motion](#) to repeal the Statement of Principles (SOP) requirement for Ontario lawyers and paralegals. Many lawyers opposed to the requirement were [recently elected](#) to the Law Society's governing body. But their opposition is, for the most part, disingenuous — pro speech *in form*, but anti-diversity *in substance*.

As background, the SOP requirement asks every Ontario lawyer and paralegal to write an annual statement acknowledging their existing legal obligations relating to equality. It seeks to promote reflection on racism in the legal profession. The statement is private. It is never disclosed to, or scrutinized by, the Law Society. Other than acknowledging one's existing legal obligations, the statement's content is entirely up to the author. And the Law Society has never indicated that any lawyers or paralegals would be sanctioned for failing to complete their SOP. It is a modest regulatory requirement.

Despite its modesty, however, the SOP has received hyperbolic resistance. There have been requests of accommodation for those who would conscientiously object to giving any thought to racism (stretching the meaning of “conscience”). Multiple scathing op-eds have been penned, actually likening moderate Canadian equality promotion to oppressive regimes in [North Korea](#), [Nazi Germany](#), and [Communist Russia](#). There is an ongoing legal application challenging the SOP requirement's constitutionality (since annual private journal entries purportedly compromise Canadian public discourse). And, now, there is a motion to repeal the SOP requirement.

Many SOP opponents claim that their opposition has nothing to do with equality, and everything to do with free speech. But this is, largely, a smokescreen. They say nothing about the Law Society's [regulation of legal advertising](#), for example. And lawyers [must pledge an oath](#) to join the profession. When a public state-drafted oath demanding that licensees “champion” the “rule of law” goes virtually unchallenged for over a century and a private self-drafted journal entry alluding to “diversity” inspires instant fury, free speech rings hollow. Indeed, one must be wilfully blind to characterize this debate as having nothing to do with diversity. It is the *content*, not *compulsion*, of the SOP that is its primary controversy.

How can we know this? Because SOP opponents have told us, repeatedly. They claim that diversity is [vacuous](#) and a [misguided trend](#). They assert that racial minorities are simply [disinterested in the law](#). They consider “[systemic racism](#)” and “[white privilege](#)” a myth. And they think equality promotion is [tantamount to anti-Semitism](#). Perhaps most alarmingly, one

recently elected anti-SOP benchers even tweeted — [and then deleted](#) — that racial minorities are underrepresented in law, “in large part”, because they lack “a culture of learning.” This admitted contempt for equality, and open admission of racist beliefs, illustrates that the material reason for much of this forceful opposition is precisely the rationale for the SOP’s imposition: insufficient awareness of systemic discrimination in Canadian legal practice, which has been detailed [time](#) and [time](#) and [time](#) and [time](#) again. The protest against the SOP, ironically, magnifies its purpose. SOP proponents are not “making everything about race” (as that recently elected benchers [claimed](#)); rather, many SOP opponents seem convinced that *nothing* is about race.

We need to start thinking more critically about questions of race in Canada. And that must start with examining vague phrases that conceal a latent commitment to the unequal status quo. We live in an era of dog-whistle politics, where overt state racism evolves into more subtle forms, such as racial profiling of Black people at [conferences](#), [campuses](#), and [courts](#) across Canada just this past month. Indeed, unveiling these racial subtleties is especially relevant in Canada, where we routinely deny the racism in our own backyard despite [clear evidence to the contrary](#). The mask of “free speech” can conceal diversity opposition. But a vibrant critical race discourse has been interrogating superficially neutral concepts, like free speech, for decades. We must draw on this discourse to enrich our understanding of inequality. Supporting free speech is important. But freedom of speech should not license [revenge porn](#), just as freedom from compelled speech should not shield cigarette packaging from health warnings, or regulated professionals from completing annual reporting forms — which is all the SOP amounts to. We can only draw these fine distinctions by interrogating, not accepting, vague phrases that may masquerade as progressive when they are anything but. Tomorrow, if the SOP requirement is repealed, free speech won’t win; equality will lose.

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