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Military and colleges in duel at high court

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Are universities free agents to deny military recruiters access to students, and at the same time claim the right to federal funding?

For 10 years, America's higher-education establishment has been playing cat-and-mouse with military recruiters. The confrontation is playing out before the U.S. Supreme Court, which this month heard arguments over enforcement of the 1994 Solomon Amendment, a congressional act denying federal funds to campuses that prevent military recruiting.

The conflict is between institutions of higher education committed to blocking military recruiters in the name of gay rights, on the one hand, and a Congress determined to keep those campuses open to military recruiting.

To understand what this case is really about, one must understand what it is not about. It is not directly about homosexuals in the military, although gay student activists and their faculty supporters would like it to be seen that way. Nor is the case about campus policies against employer discrimination.

The case is about what Congress can and cannot do constitutionally to support military recruiting on campus. It is about how the military is treated at America's colleges and universities. It is about students' having the freedom to decide for themselves if they want to hear the military's recruiting message.

Today's shabby treatment of the military at many campuses _ particularly at elite universities such as Harvard, Yale and Columbia _ strikes some as reminiscent of the 1960s. But the post-9/11 years are not the '60s. Students now are more independent-minded and less likely to march lock-step with professors who harbor hostility toward the military.

Studies in recent years show that faculty are far more left of center than their students or the general public. One history professor at Yale says, "These are the kids of Reagan. When I lecture on Reagan, the kids love him. Their parents are horrified and appalled."

At Columbia, for example, the University Senate voted last spring by a wide margin to reject a proposal to return ROTC to campus. But in a 2003 referendum, nearly two-thirds of the students had voted to bring ROTC back.

Public confidence in today's military is in marked contrast to public confidence in college faculty. A survey released this year of 1,643 faculty members, by Stanley Rothman and others, documents the widening divide between faculty political attitudes and those of the general population. Meanwhile, national polls continue to show that the public has more confidence in the military than in any other major American institution.

In the final analysis, it is the soldier who defends the American way of life and endures the sacrifices that make it possible for us to live in a free society. Congress understands this, and is neither a helpless nor a sleeping giant in addressing its constitutional responsibility to support the military's recruiting mission at colleges and universities.

By an extraordinary majority, on Feb. 1 the House of Representatives reaffirmed the Solomon Amendment and resolved to "explore all options necessary" to achieve its purpose. There should be no doubt that Congress has the will and the resources to fulfill its commitment.

(Melvin H. Bernstein, of Lincoln, Mass., a lawyer and political scientist, is chairman of the New England region for the American Council of Trustees and Alumni.)

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