

Letter to University of Toronto from International Human Rights Clinics and Scholars

October 5, 2020

Dr. Meric S. Gertler
President, University of Toronto
27 King's College Circle
Toronto, Ontario, Canada

cc: Professor Edward Iacobucci, Dean
University of Toronto Faculty of Law
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Via email

Dear President Gertler,

We write as group of human rights clinical faculty, scholars and students throughout the world to express our serious concern about the recent allegations that a sitting judge and major donor interfered in the hiring process of the Director of the International Human Rights Program (IHRP) at the University of Toronto Faculty of Law (the "Law School").

Media reports indicate that following a competitive hiring process, Dr. Valentina Azarova was unanimously selected by an expert hiring committee as the most qualified candidate to lead the Law School's long-established and well-respected IHRP. We understand that Dr. Azarova accepted the Law School's offer of employment in August 2020 through a Zoom call and was working out immigration logistics with the Law School to move from Germany to Canada when the offer was abruptly rescinded by the Law School Dean. Members of the hiring committee reported that they were not meaningfully informed or consulted before this turn of events. Credible reports indicate the about-face was the result of external pressure from a donor – a sitting judge of the Tax Court of Canada – who objected to aspects of Dr. Azarova's human rights work. The Program's entire faculty advisory committee resigned from the committee and a research associate on the hiring committee resigned from his job in protest after the Law School Dean refused to provide a sufficient and transparent explanation for what had occurred. Amnesty International and Human Rights Watch – two of the most significant and well-regarded international human rights organizations – have formally expressed concerns to the U of T and have called for an independent, external investigation. To date, the Law School and the University have not adequately explained the scandal.

It is hard to overstate how dangerous this development is for our work as human rights academics and clinicians and for academic freedom, the rule of law, and democracy more broadly. Commitment to academic freedom has long been a cornerstone of Canadian universities, and is essential for fostering open discussion and legitimate scholarly debate on topical and complex matters. Academic freedom is particularly crucial where human rights are concerned, as these rights can be controversial and forcefully opposed by powerful actors. The Supreme Court of Canada puts it succinctly in *McKinney v University of Guelph*: “academic freedom and excellence is necessary to our continuance as a lively democracy.” The Court’s astute observation is, unfortunately, not hypothetical. Threats to academic freedom are on the rise around the world, including in Canada, despite being protected by domestic laws and policies as well as international human rights norms.

International human rights law protects academic freedom in various ways. Members of the academic community, including a director of a human rights program, enjoy rights to freedom of opinion, freedom of expression, freedom of association and freedom of assembly. Moreover, international human rights law protects an individual’s right to receive a non-discriminatory education, which can only be enjoyed when accompanied by the academic freedom of faculty, staff and students. Together these rights enable members of the academic community to carry out their work without fear of discrimination or repression, including work that is controversial or challenging to the status quo. Finally, academic freedom requires that universities remain autonomous, meaning they are free from external pressure, while still being publicly accountable. We are gravely concerned that the University of Toronto’s recent conduct violates each of these principles.

Despite these basic human rights undergirding academic freedom, the University of Toronto now hides behind unconvincing technicalities rather than address these fundamental principles. Perplexingly, the University and Law School claim academic freedom should not apply to this senior position as it is a “staff” position rather than a “faculty” position. While we are concerned that classifying a position like this as “staff” itself evidences inappropriate concern for the issues we raise here, it is clear that international human rights law itself calls for academic freedom for this “staff” position. The United Nations Committee on Economic, Social and Cultural Rights specifically notes in its General Comment 13 that all members of the academic community at institutions of higher education should receive the highest level of protection as “staff and students in higher education are especially vulnerable to political and other pressures which undermine academic freedom.” Indeed, it is difficult to conceive of a university position more in need of academic freedom than the director of a human rights program.

To ensure respect for the fundamental human rights underpinning academic freedom, academic institutions and their administrators are surely compelled to do at least as much to protect staff working on human rights issues as they do to protect tenured faculty. A human rights director’s work often involves far more political controversy than arises from the work of many tenured faculty. As this very incident demonstrates, the position is highly exposed to powerful actors who seek to shape education and dialogue to their desired message. The position calls for greater protection from external political pressure because of this reality, not less. The University and Law School’s failure to protect these basic principles is a grave warning to those of us working in this field and to the academy more broadly: it demonstrates that universally accepted rights are threatened within the walls of our most august institutions.

We are also deeply disappointed the Dean's decision has undermined the ongoing work of the IHRP. The IHRP is "cherished" by students, undertakes important real-world work, partners widely with domestic and international organizations and helps bolster the University's reputation as an institution supporting social progress. It is especially discouraging that the Law Dean has made this decision at a time when new challenges to human rights arise daily and all human rights defenders, including those in the IHRP, need to function at full capacity to respond.

That this scandal is taking place in one of Canada's top law schools makes us wonder how we can trust the very institutions that are supposed to be teaching us about law, justice, fair process and inalienable rights. The University, and particularly the Law School, prides itself on teaching these concepts and training future lawyers to respect and embody the highest ideals of the legal profession. These institutions should thus be held to a high standard in complying with these laws and principles. Because it is their professional obligation to foster respect for justice, human rights, the rule of law, fairness, and transparency, it is incumbent upon all faculty and staff members to present themselves as exemplars of these values. This is especially true of those in leadership roles. Further, not only is the fact of academic freedom central to the university's mission, the perception of academic freedom is equally crucial to ensure a vibrant intellectual community. We do not see the Law School's actions – either in revoking Dr. Azarova's offer or in inadequately responding to the wave of subsequent criticism – as consistent with these standards.

When the University of Toronto's Law School bows to external interference, it fails to fulfill its purpose as a place that supports and develops the open and dynamic exchange of ideas – even controversial ones. This exchange is foundational not only to human rights clinics and other academic programs, but more generally to the rule of law and democracy. We thus add our voice to the growing calls for the immediate reinstatement of Dr. Azarova and for a transparent explanation of the controversy through an independent and impartial investigation. If this situation is not immediately rectified by the University of Toronto and the Law School, it will render the harm already done to the reputation of the IHRP irreparable and send a chill throughout human rights clinics and the academy at precisely the moment where this type of work is especially needed and increasingly under threat.

Now is the time for the University of Toronto and its Law School to demonstrate their commitment to preserving and protecting the very academic freedom and commitment to transparency that underpins the institution's reputation as a respected leader in education. As human rights clinicians and scholars, we undertake as a collective to do our utmost to hold the University of Toronto and our own institutions to these universal standards.

Sincerely yours,

International Human Rights Clinic Directors and Faculty

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