



UNIVERSITY OF TORONTO

FACULTY OF LAW

*78/84 Queen's Park
Toronto, Ontario M5S 2C5 Canada*

October 7, 2020

Vice President and Provost Cheryl Regehr,
Office of the Vice-President & Provost
University of Toronto
27 King's College Circle
Simcoe Hall, Suite 225
Toronto, ON

Dear Provost Regehr,

We write to register our concerns about the aborted hiring of a Director for the International Human Rights Program (IHRP) at the Faculty of Law. We know that you have heard from various constituencies outside the law school protesting the decision of the Dean of the Faculty of Law and urging an independent inquiry. These interventions have adequately laid out the publicly available facts to warrant such an inquiry. We want, instead, to provide a perspective from inside the law school that helps to explain governance failures at the University of Toronto.

So far, the Faculty and University response to this crisis has been to 'deny, deflect blame, and move on.' This strategy of large institutions and powerful individuals is played out in the news with regularity. The corrosive consequences for academic culture of an effort to minimize the controversy and make it disappear have been on full display. One might have hoped for better from an institution of higher learning, especially the University of Toronto. It is especially concerning that these events occurred under the authority of the Faculty of Law.

Maintaining, for instance, that Faculty's 'timing needs' could not be satisfied is far from satisfactory. Terms of employment were in the process of being negotiated when the Dean declared that Dr. Azarova would not be hired to direct the IHRP. We do not understand how this decision could speed up hiring of a new IHRP Director, particularly in the circumstances of a pandemic, where most or all of her work would be done remotely. While we are dissatisfied with these and other explanations offered by the Dean of Law regarding his decision to terminate the hiring of Dr. Azarova, we prefer to highlight in this letter the institutional environment that enabled the Dean to ignore the advice of his own advisory committee and, thereby, sideline academic colleagues.

The Dean of Law wields extraordinary authority for a community that calls itself self-governing. This is the case not only as concerns the IHRP but also as concerns curriculum matters, faculty appointments, and other subjects that are of concern to the law school community. It is, nevertheless, startling that the Dean intervened in the appointment of the IHRP Director without referring the matter back to the hiring committee that identified a short list and interviewed candidates. He took these steps, moreover, by informing rather than consulting with our colleague, Professor Audrey Macklin, who chaired the hiring committee, nor with other colleagues who sit on the IHRP academic advisory committee. Claiming that 'legal constraints on cross-border hiring' barred Dr. Azarova's timely entry into Canada, the Dean would not consider Professor Macklin's advice that her immigration status was eminently solvable, and that the hiring committee had unanimously concluded that there were no qualified Canadians in the pool. No one in a position of authority, it seems, wanted to hear this. For this reason, we view immigration questions, and for that matter allegations that no offer had been made to Dr. Azarova, as pretextual.

It goes without saying that continual support from engaged and committed faculty is one of the keys to success of programmes like the IHRP. That the Dean of Law could act in such a high-handed manner in the IHRP appointment process, without fear of being called to account for his decision, is a sign of a decayed collegial environment. It also speaks to a failed vision of governance at the Faculty of Law. We have little doubt that too much power resides in deans elsewhere, too, at other units around the University. Our object in this letter is to call out this high-handed manner of governance for what it is – rule by fiat. It cannot be that our judgment and powers of critical reflection should be trained on all other institutions of power but must be turned off at the University gates.

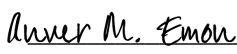
We are about to appoint a new Dean. We are worried that the culture of governance at the law school will remain unchanged. This is not a problem we faculty alone can solve. Beyond the small group of faculty that sit on the decanal search committee, we have no voice. Indeed, you have foreclosed even the possibility of discussions, in confidence with members of the decanal search committee, regarding the merits of candidates who will be placed on your committee's short list. Given our disenfranchisement both within the law school and in the appointment of a new Dean, we have no other outlet to express our frustration other than to plead with you, the single University administrator with influence, to change course. You have it within your power to help ensure that the new Dean of Law will not exercise authority in ways destructive of the culture of inquiry, learning, and accountability that we pride ourselves at the Faculty of Law.

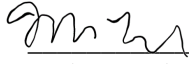
One last matter: We delayed sending this letter to you in order to give the Dean of Law an opportunity to address some of the unanswered questions arising out of this episode at our Faculty Council on October 7, 2020. The Dean was invited, repeatedly, by members of faculty and the Student Law Society to address matters related to the future of IHRP and governance at the law school. Although none of these questions related to the Azarova matter, the Dean refused to answer any of these questions. He also refused to comment on the role of academic freedom in relation to clinical programs or make a commitment to the faculty to hold a meeting where these questions could be discussed.

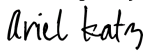
Sincerely,

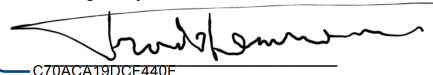
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Vincent Chiao
Associate Professor of Law

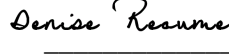
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Anver Emon
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Mohammad Fadel
Professor of Law

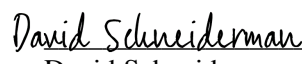
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Ariel Katz
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Trudo Lemmens
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Jeffrey MacIntosh
Professor of Law


Denise Réaume
Professor of Law

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Kent Roach
Professor of Law

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David Schneiderman
Professor of Law

cc: Meric Gertler, President, University of Toronto
Edward Iacobucci, Dean of the Faculty of Law, University of Toronto