

Goddard & Shanmuganathan LLP

May 14, 2021

Dean Jutta Brunnée
University of Toronto, Faculty of Law
78 Queen's Park
Toronto, Ontario M5S 2C5

Dear Dean Brunnée,

A few weeks ago, you wrote to me to tell me that I had been nominated to serve as a Co-Chair of the University Tribunal. Initially, I responded and said that I would be glad to accept the nomination.

The opportunity to serve as a Co-Chair on the tribunal is important to me. One of my core beliefs is that there is an urgent need to increase diversity and representation among adjudicative bodies like the University Tribunal. I know that racialized students are overrepresented among those who are prosecuted for academic misconduct at the University. And while I know the reasons behind this overrepresentation are complicated, I also know it is vital to have an adjudicative body that reflects the diversity of the student body and the students who appear before it. The nomination was also important to me because I saw it as a small step to pave the way for racialized law students and young lawyers. It is important for them to know that there is room for people like them in positions of power like this one.

With all that being said, I am sad to be writing now to tell you that I must decline this nomination.

I do so because of the censure currently imposed by the Canadian Association of University Teachers (CAUT) relating to the controversy surrounding Dr. Valentina Azarova's hiring, and the University of Toronto Law Union's statement that has urged legal professionals to respect the censure and to decline appointments at the University of Toronto.

This was a difficult choice to make and one I arrived at after long hours of careful thinking. I have read the Cromwell report and the responses to it. I have read the New Yorker article. I have read many of the statements released by others in relation to the controversy and the CAUT censure. And I have read some of Dr. Azarova's academic writing in an attempt to understand what might have prompted concerns about appointing her to serve as Director of the International Human Rights Program.

I am troubled by what has happened, and I am unsatisfied by the findings of Justice Cromwell's report, which were explicitly made on a limited mandate that did not involve examining the credibility of the evidence and information that was received. As a criminal defence lawyer, I know that adjudicating contested facts and searching for the truth can't be done in a satisfying way without scrutinizing what people say and asking whether it is believable.

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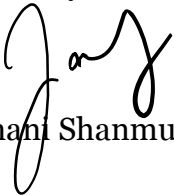
Academic freedom is important to me. I represent unpopular people and take difficult positions all the time. I am sometimes criticized for it, and so are my colleagues in the defence bar. I believe that academics should be able to challenge the status quo, criticize popular and powerful institutions, and offer valuable perspectives, without having to worry about negative professional consequences being visited upon them — particularly when their views are not actually controversial within their field of expertise.

As a lawyer I have challenged laws and pushed back on what I have felt are unfair and discriminatory ways of thinking. I would hope that I have not lost out on opportunities because of my willingness to champion people and causes that may not sit well with others. It would be hypocritical of me to demand this respect for myself as a lawyer, without also demanding this respect for academics.

This is why I must respect CAUT's censure, which was imposed because of its conclusion that there had been a serious breach of academic freedom. I stand with those who have similarly resigned positions with the University of Toronto over this controversy.

This was not an easy decision for me, and I do not relish in turning down this opportunity. I hope that the University of Toronto is reflecting on how this entire situation could have been handled better, and how it must now respond in a meaningful way to the censure and restore its commitment to academic freedom. If a meaningful response happens and the censure is lifted, I would be happy to accept another nomination in the future, so that I can do the important work that I'd hoped I would be able to do on the University Tribunal.

Sincerely,



Janani Shanmuganathan