



# Why did CAUT Council censure the U of T administration?

UTFA Membership Meeting  
May 27, 2021

# Four pillars of academic freedom

- 1) Teaching and discussion
- 2) Research and publication
- 3) **Intramural academic freedom** – right to participate in the governance of the institution, to criticize the institution, the administration, and the system in which one works
- 4) **Extramural academic freedom** – right to freedom of expression, thought, conscience, religion, assembly, and association

*Academic freedom always entails freedom from institutional censorship.*



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# IHRP Hiring Controversy

- ❖ CAUT alerted on September 11, 2020
- ❖ Pursuant to the CAUT *Procedures in Academic Freedom Cases*, the matter was investigated and referred to the Academic Freedom and Tenure Committee in October
- ❖ The Committee approved a preliminary report on the case and recommended that the CAUT Executive Committee recommend to Council that censure proceedings begin
- ❖ Notice of motion of censure passed unanimously by CAUT Council in November 2020 (6 months notice)
- ❖ Imposition of censure debated at April 2021 Council meeting



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# Chronology of key events

- **Week of April 20th** - Advertisement for the position of Director of the IHRP is posted with a deadline of June 17
- **July 30<sup>th</sup>** – Second round of interviews concludes and Dr. Azarova is unanimous preferred choice
- **August 4<sup>th</sup>** – Assistant Dean informs HR she would “like to make an offer” to Dr. Azarova as soon as possible
- **August 11<sup>th</sup>** – Assistant Dean informs Dr. Azarova she is the preferred candidate and is offered the position
- **August 17<sup>th</sup>** – Assistant Dean briefs the Dean (Dean does not ask for dossier or name of the preferred candidate)
- **August 19<sup>th</sup>** – Dr. Azarova accepts offer; Immigration lawyer advises work permit will take 2-3 months



# Key events (cont'd)

- **September 1**
  - Assistant Dean requests summary of employment offer from HR so it can be shared with Dr. Azarova “this week”
- **September 3**
  - German employment lawyer reviews independent contractor arrangement proposed by the University and finds that the “likelihood that the relationship will be challenged either by governmental authorities or the individual is quite low...”
  - Assistant Dean schedules September 8 meeting to “brief the Dean and seek his approval”



# Key events (cont'd)

- **September 4**
  - Assistant Dean preparing work visa application
  - Donor flags concerns with Assistant Vice-President (Advancement) about Dr. Azarova's research and advocacy work on Israel and Palestine, reading from a memo forwarded by Centre for Israel and Jewish Affairs (CIJA)
  - AVP inquires about the status of the hiring, contacts the law school's Assistant Dean (Alumni and Development) who obtains information from the Assistant Dean confirming identity of candidate
  - Dean is briefed by Assistant Dean (Alumni and Development) about the Donor's concerns
  - **Assistant Dean contacts Selection Committee Member 1 to inform her of the Donor's call**



# Key events (cont'd)

- **September 5**
  - On the Saturday of the Labour Day long weekend, the Dean, previously uninvolved in the selection process, reviews dossier, including status of work permit and the independent contractor arrangement
  - The Dean speaks with the Provost and VP Human Resources and Equity referring to the Donor's concern as a "complicating factor"



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# Key events (cont'd)

- **September 6**
  - Dean calls Selection Committee Member 1 to inform her of his decision to cancel the hiring process with Dr. Azarova
  - Committee Member 1 is skeptical of the Dean's rationale and asks whether Dr. Azarova's work on Israel/Palestine is the real issue
  - Committee Member 1 says Dean's reply was: "It is an issue but given the other two [work permit/immigration] issues, I don't need to get to the third issue."
  - **The Dean claims he did not say this but rather that Dr. Azarova's research and advocacy were "irrelevant" to his decision. This is contradicted by a witness to the conversation.**





# Key events (cont'd)

## September 9

- Dean emails formal decision to terminate hiring process
- AVP (Advancement) follows up to inquiry about status of hiring decision so she can update Donor – and, remarkably, suggests distributing Dr. Azarova's dossier to other alumni to canvass their opinions

## September 11

- Selection Committee Member 1 resigns from the committee and from her position as academic chair of the IHRP



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# Key events (cont'd)

## September 16

- The three remaining members of the faculty advisory council for the IHRP resign. The second member of the selection committee, an IHRP Research Associate, resigns his paid position.

## September 17

- In an e-mail message to members of the Faculty of Law, the Dean denies allegations that outside influence affected the outcome of the search and announces that he is shutting down the search for a new director of the IHRP for the current year.



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# Analysis:

## Stated reasons for terminating the hire

- The Dean provided the following explanation about the reasons for terminating the offer:
  1. There was a hard starting date of September 30, 2020.
  2. The independent contractor arrangement was illegal.
  3. Other qualified Canadian candidates were available who could begin working by September 30.
- Points 1 and 3 are disputed by Selection Committee Members 1 and 2.
- Point 2 is, on balance, overstated.



# Sept. 30 hard starting date

- Selection Committee Members 1 and 2 insist the Committee's consensus view was that the Director had to be in place to teach by **January 2021**
- The September 30 deadline is contradicted by the Dean's own evidence and conduct – he does not say anything about a September 30 start date when initially giving reasons to Committee Member 1 for discontinuing the hiring.
- The Dean also said he believed there was a good chance of finding a Canadian candidate to fill the position “before the end of [September] or at least in the fall” – something that was also true of Dr. Azarova.



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# Independent Contractor Arrangement

- The “illegality” of the independent contractor arrangement is disputed.
- The draft agreement was prepared by the Assistant Dean in consultation with the University’s HR Consultant, and was not reviewed by the University Employment Lawyers before it was sent to German lawyers for comment.
- German lawyers cited “low risk” that, if challenged, might require the University to pay German social security contributions.
- The VP Human Resources and Equity confirmed that the University was comfortable using independent contractor agreements.



# Qualified Canadian Applicants

- Selection Committee Members 1 and 2 stated that the Committee unanimously decided that if neither the first nor second choice (both foreign nationals) were available, a failed search was to be declared.
- The HR staff person that worked with the Selection Committee affirmed the weakness of the Canadian candidates when the Dean took over the search process.



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# Admin commitments to avoid censure

- Not prepared to offer Dr. Azarova the still vacant position
- Will “examine appropriate forms of [academic freedom] protection for professional staff” while “recognizing the unique circumstances, including standards of professional practice, that warrant further careful consideration.”
- Will “review all existing policies related to [the University’s] advancement activities and clarify them as necessary.”
- Will “review and, where necessary, enhance existing policies and protocols to articulate more clearly and explicitly that any representative of the University who receives an inquiry related to an active search from sources external to the University’s established hiring processes, including alumni, donors and external organizations, should respond that recruiting processes are confidential, and that they cannot share any information about the search.”



# CAUT Council's Decision

- On the balance of probabilities, the Dean's decision to terminate the hiring process was influenced by the Donor's intervention such that fundamental principles of academic freedom, collegial governance, and institutional autonomy were violated
- The Administration's commitments do not satisfactorily remedy the matter
- Censure supported unanimously with one abstention



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