



April 20, 2021

Dear Colleague,

As some of you may know, last year's hiring process for the director of the International Human Rights Program (a PM4 administrative position in the Faculty of Law) has come under public scrutiny over the last few months. An advisory selection committee struck by the then-Dean of the Faculty identified a preferred candidate, but the hiring process was not completed. There were allegations that an offer was made to and accepted by the candidate but subsequently rescinded because of views the candidate had expressed in her published writings. There were also allegations of inappropriate external influence in the hiring process, and concerns about apparent breaches of confidentiality.

Given the significance of these allegations, I commissioned an independent review of all the events related to this search. My goal was to ensure a fair, impartial and independent review conducted by a widely respected figure who was entirely at arm's length from the University and the Faculty of Law. The Honourable Thomas A. Cromwell, CC, a former Justice of the Supreme Court of Canada and a former academic, agreed to conduct the review.

All relevant parties participated voluntarily in the review. Mr. Cromwell is the only person who has had complete access to the full body of relevant materials and information, and he generated a comprehensive narrative and authoritative review of the facts, leading him to reach important findings and recommendations. My conclusion is that this review process was impartial and thorough, and that Mr. Cromwell's conclusions are clear and compelling.

In his 77-page report, Mr. Cromwell concluded that, while negotiations with the preferred candidate were at an advanced stage, no formal offer of appointment in the legal sense of the term was ever made or accepted, and thus no offer was rescinded. He further determined that, having reviewed all the evidence, he would *not* draw the inference that external influence played any role in the decision to discontinue the recruitment of the preferred candidate, and that the inference that the candidate's academic freedom had been breached was, in his view, *not* justified. He did, however, highlight the evident breaches of confidentiality in the hiring process. He also questioned the appropriateness of advancement personnel relaying the advice of an alumnus during an ongoing search process, even though this external intervention did not influence the decision to discontinue the candidacy of the preferred candidate.

Professor Jutta Brunnée (the newly appointed Dean of the Faculty of Law) has asked Professor Emerita Rebecca Cook to undertake a review of the IHRP and its long-term needs, including how to ensure its future strength after a very difficult period. To that end, she has been soliciting input from faculty members, students, administrative staff, alumni and other IHRP stakeholders. Professor Cook's recommendations will feed into a faculty-wide consultation

around the future needs of the IHRP. It is critically important that this process of collegial consultation and reconciliation within the Faculty of Law be allowed to run its course. The University has accepted all of Mr. Cromwell's recommendations, including the need to strengthen confidentiality in hiring processes and to develop explicit policies or protocols on how to handle any inquiries made by alumni or other external actors regarding a recruitment process.

I have also asked the Provost and Vice-President, Human Resources & Equity to co-chair a committee comprised of colleagues from across the University to make recommendations on appropriate forms of protection for professional/managerial staff whose positions may involve taking on controversial or unpopular causes, and to examine this issue not only within the Faculty of Law, but elsewhere in the University where similar positions may exist.

The Canadian Association of University Teachers (or CAUT, of which University of Toronto Faculty Association is a member organization) will be considering a motion to [censure](#) the University of Toronto when it meets this Thursday, based on the allegation that the preferred candidate's academic freedom was violated.

Last week, Dean Brunnée and I had the opportunity to meet with the leadership of CAUT. We conveyed to them verbally, and in subsequent correspondence why, in light of the findings of Mr. Cromwell's review, CAUT does not have grounds to impose censure.

Moreover, we submitted that a decision by CAUT Council to impose censure on the University of Toronto would undermine the vital process of reconciliation that has begun at the Faculty of Law, rather than enhancing these important efforts. It would also needlessly and inappropriately bring harm to the University.

In our view, CAUT Council should withdraw its censure motion when it meets this Thursday. It is my hope that I will have something positive to report after CAUT Council has deliberated on this matter later this week.

Sincerely,



Merik S. Gertler
President

For more information, see:

[Independent Review of the Search Process for the Directorship of the IHRP](#)
[President's Response](#)