



BROCK

Society for Academic Freedom and Scholarship
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Dr. Gervan Fearon, President, Brock University

May 7, 2021

Dr. Lynn Wells, Vice President, Academic, and Provost, Brock University

Dear Doctors Fearon and Wells,

We are writing to you as members of the Executive Committee of the Brock Chapter of the Society for Academic Freedom and Scholarship, an organization dedicated to the defence of academic freedom and the merit principle in higher education. (For further information, please visit www.safs.ca.) Our letter is occasioned by the “Announcement of a Panel Inquiry into Anti-indigenous Sentiments at Brock University” which the Director of the Human Rights and Equity Office (hereafter: ‘the Director’) recently circulated by email by to unspecified members of the university community (the recipient list was suppressed).

We have grave concerns about the selective distribution of this announcement, the undisclosed make-up and membership of the proposed “independent third-party Panel,” and the unknown identities and qualifications of the “external reviewers” to be tasked with “gathering information and identifying themes for the panel to review and evaluate.” This lack of transparency gives the Panel the chilling aspect of a secret Star Chamber designed to ‘bring to book’ those suspected of having engaged in “inappropriate actions, including recordings of meetings being sent to external media outlets.” According to the Director, this and other unspecified actions

“... have resulted in an **[1] open and widespread undermining of the fourth pillar of the Institutional Strategic Plan** (*Fostering a culture of accessibility, inclusion, reconciliation and decolonization*)” as well as “**[2] personal attacks against Indigenous students, staff and faculty,**” which have in turn “**[3] allegedly created an environment that has negatively impacted the security of Brock community members in vulnerable positions** and **[4] that undermines University governance in a manner that goes beyond the scope of free speech and association in a university environment.**” (Numbering and boldface added).

Item (1) may just be a convenient shorthand for those “inappropriate” *actions* whose alleged consequences are listed under (2), (3), and (4). But “undermining of the fourth pillar” may include *holding and expressing (and so fostering) opinions* critical of a certain institutional “culture” and therefore “anti-Indigenous” (among other things). Whatever its merits, no one is obliged to refrain from critical thought and comment on Brock’s “fourth pillar” in exchanges with interlocutors within and outside the university. Article 11.01 of the BUFA Collective Agreement guarantees “the right to speculate, investigate, and comment publicly without deference to prescribed doctrine.” Reading the above extract, a reasonable person would conclude that deference to the doctrine(s) on which the fourth pillar rests is now obligatory because dissent must inevitably fan the flames of “anti-Indigenous sentiment” and produce the chain of dire consequences listed under (2), (3), and (4). This constitutes a serious threat to academic freedom and freedom of speech at Brock.

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While (2) and (3) are matters that fall within the scope of the Respectful Work and Learning Environment Policy, any breaches of that Policy should be investigated in accordance with its own provisions and not by a special extra-judicial “independent third-party” tribunal not foreseen by this or any other university policy. Since the Director does not say that her office has received a *formal* complaint from anyone or against anyone, there is every reason to believe that she is acting *ultra vires* in impanelling this jury.

As for (4), freedom of speech (a Charter right) is covered by the Brock Freedom of Expression Policy. Whether the unspecified “speech” to which the Director alludes is of a kind that is *not* protected by that Policy is not for her, much less for an *ad hoc* jury, to decide. The Policy itself admits only of rare exceptions (harassment, defamation, criminal hate-speech). Finally, the reference in (4) to freedom of “association” and undermining “University governance” is especially ominous. Given the context, it would appear to mean communication with “external media outlets” about the work of a special Senate Committee. But except for *in camera* discussions, or sensitive personnel matters, it is difficult to imagine why, in a free society, committee deliberations in a public institution should not be shared, discussed, and criticized both internally and in the press. This can be expected to *strengthen* rather than “undermine University governance.”

As the recent Lindsay Shepherd case at WLU has demonstrated, recording a meeting unbeknownst to the others present and subsequently making the tape available to the media is neither illegal nor liable to academic discipline. In Ms. Shepherd’s case, it was a courageous act that performed a public service by exposing a shocking abrogation of the academic freedom of a student. The same may be true of whoever supplied Jonathan Kay with the tapes that were the basis of his article on “The Dissonances of Indigenization,” which informed the Canadian public, in a fair and balanced way, of the recent efforts of the TRC to track down the owners of an anonymous Twitter account. That episode caused considerable embarrassment to the university. This Panel, which seems eerily similar in intent, has the potential to do the same. We respectfully urge you put an immediate stop to this highly irregular, secret procedure.

This letter will be posted on our website (www.safsbrock.ca). In the interests of an informed public debate, we invite you to furnish a reply for us to post along with it.

Yours sincerely,



Murray Miles, Department of Philosophy



John Bonnett, Department of History

c.c. Mark Mercer, President, Society for Academic Freedom and Scholarship
Michelle Webber, President, BUFA
Gary Comerford, Chair, Board of Trustees
Leela Madhava Rau, Director, Human Rights and Equity