

5 October 2018

Professor Andrew Szeri
Provost and Academic Vice President
UBC Vancouver

Professor Patricia Lasserre
Provost and Vice Principal Interim
UBC Okanagan

Professor Neil Guppy
Senior Adviser to the Provosts on Academic Freedom

SENT VIA EMAIL

Dear Profs. Szeri, Lasserre, and Guppy,

Re: Freedom of Expression Statement

In light of the publication of the finalized UBC statement on freedom of expression, “Freedom Matters” (<https://academic.ubc.ca/freedom-matters>), the UBC Faculty Association would like to make a few comments and ask a few questions.¹ In part we are following up on former FA President Nancy Langton’s letter in response to the draft of the statement that was sent in January and to which we never received a response.² There are, however, also aspects to this final statement that raise new questions for us.

We apologize for the delay in getting this response to you. The website says that the statement was finalized in April but the leadership of the FA did not know of the final statement until it was linked by Professor Szeri’s June blogpost.³ We had a new leadership group start at the beginning of July and this group could only meet with the start of the new academic term.

Since the UBC statement was published, international and national developments have further pushed issues of freedom of expression on university campuses to the fore.⁴ Principal among these events in

¹ We have been unable to locate this statement on the UBCO website but as members of both campuses helped draft the statement, we presume it is meant to cover both campuses.

² https://www.facultyassociation.ubc.ca/assets/media/UBCFA_Statement-on-Freedom-of-Expression_Jan2018.pdf

³ <https://academic.ubc.ca/academic-community/news-announcements/news/message-provost-summer-2018>

⁴ See, for example, in the USA the controversy regarding the reopening of the Rutgers anti-Zionist case (<https://pen.org/press-release/doe-case-against-rutgers-could-infringe-free-speech-campus/>) and in Canada conflicting reports regarding the reasons why Rick Mehta was fired from Acadia University:

<https://www.cbc.ca/news/canada/nova-scotia/rick-mehta-acadia-university-1.4819220>;

<https://montrealgazette.com/news/canada/controversial-nova-scotia-professor-fired-after-fire-storm-over-comments/wcm/de20a17d-b4ee-4996-990c-8e5b1982be07>

Canada is the effort by Premier Doug Ford of Ontario to legislate a particular understanding of freedom of expression on Ontario university campuses.⁵ The difference in the tone and content of responses to this from the CAUT and the Council of Ontario Universities is remarkable.⁶ This difference of response suggests that there is no common understanding yet between universities and their academic employees about the role of freedom of expression on campus. In any case, it indicates the opportunity for a Canadian university to assume a leadership role in an international debate about freedom of expression and academic freedom. The UBC freedom of expression statement is meant to be “educational and aspirational.” The spirit of this letter is correspondingly exploratory, an effort to clarify UBC’s intentions and views and to aid UBC to become an internationally leading university on this file.

In her letter, Professor Langton urged the final statement to do several things. We note with pleasure the efforts made to distinguish freedom of expression from academic freedom (but see below). We also appreciate the discussion of the protections we owe to historically under-represented groups, especially indigenous scholars and students (but again see below). We are disappointed to see that one of Professor Langton’s central points was not taken up: threats to academic freedom from those who advocate freedom of expression are particularly troubling in situations in which institutional power is decoupled from expertise. The dangers to academic freedom fall particularly strongly upon those who have the least institutional power, but the statement is silent on contingent and untenured faculty. We urge UBC to be diligent in committing itself to its positive duty to protect the academic freedom of all faculty members, but especially these vulnerable faculty members. Along these lines, it is clear that both the demands of freedom of expression and the threats to academic freedom fall differentially upon faculty members in different disciplines. The most vulnerable disciplines are those research touches aspects of our society and our sense of ourselves as humans and that often reach research conclusions on such matters that are outside of mainstream opinion—the humanities and social sciences. Any university that wishes to lead this conversation must address this difference in vulnerability and undertake to support any professor whose research, because it makes unusual or unpopular claims regarding people and societies, comes under attack. The silence in the statement on such matters is troubling.

As noted above, we appreciate the effort in the statement to distinguish between freedom of expression and academic freedom. We are left, however, with unease regarding what is said about these two freedoms and about the tensions among various freedoms.⁷ There is a suggestion in the statement that freedom of expression is a particular, perhaps foundational, value of UBC. Freedom of expression, according to the statement’s subtitle, “fuels what good universities do.” At the end of the document, the freedom of expression is a matter of UBC’s “resolute commitment” albeit balanced by its commitment also to inclusion. Academic freedom is not mentioned in the final paragraph, suggesting perhaps that its status is secondary to these two values. This is concerning from the FA’s point of view. As Professor Langton pointed out in her letter, the Framework of Collective Bargaining between UBC

⁵ <https://news.ontario.ca/opo/en/2018/08/upholding-free-speech-on-ontarios-university-and-college-campuses.html>

⁶ <https://www.caut.ca/latest/2018/08/ontario-free-speech-requirements-universities-and-colleges-cause-concern>; <http://cou.on.ca/articles/free-speech-on-campus/>

⁷ On these matters see Emma Cunliffe’s recent essay “Freedom of Expression, Academic Freedom, and Equality: Seven Institutional Responsibilities” https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3083561.

and the FA enshrines academic freedom as *the* central value. The Framework commits both UBC and the FA to being “determined not to interfere with ... academic freedom” which is “essential” to the ability of FA members to “carry out their academic functions.”⁸ Any suggestion in the statement that academic freedom is one freedom among many—a matter to be balanced against other freedoms—threatens to violate the jointly-adopted framework for collective bargaining between UBC and the FA.

In the matter of specifics relevant to the above point, we note two particular passages for which we seek clarification. The fourth paragraph from the end finishes with this claim: “UBC has created procedures that help community members to work through conflicts together, guided by shared values.” We presume the conflicts mentioned are the “tensions” in the commitment to various freedoms discussed earlier in the paragraph. The FA is not aware of any UBC policies or statements that precisely fit the description “procedures that help community members to work through [such] conflicts together.” Nor does the statement anywhere specify what these procedures are. (In this matter it differs greatly from the Respectful Environment Statement, which outlines procedures for community members to follow should they feel that the commitment to a respectful environment has not been met.⁹) We would appreciate being told what procedures are being referred to, and we recommend that links to the procedures be provided.

The third from last paragraph contains the following claim: “In UBC’s 2018 Strategic Plan, President Ono has offered a framework within which to decide how to balance freedoms and rights.” We do not recall any suggestion during the formation of the strategic plan that indicated it was to be used as a framework to balance the rights and freedoms of UBC persons. Nor do we find any suggestion within the document that it is to be so used. We doubt that as either a matter of BC law or UBC policy the strategic plan could be so used. We seek clarification of what this claim means and whether in the implementation stage UBC plans to use the strategic plan in this way. (Nothing here is meant to dispute the obligations of UBC to scholars from under-represented groups. The FA’s view is that in the case of these scholars, as with all UBC scholars, UBC’s principal obligation is to secure and protect their academic freedom.)

Any comments and recommendations made by the FA are made on a without prejudice basis to any position we may take with respect to the statement in the future. The FA therefore reserves our right to challenge the statement and its application, in whole or in part, including through the grievance and arbitration process.

Sincerely,



Bronwen Sprout
President
On behalf of the Executive Committee

⁸ <http://www.hr.ubc.ca/faculty-relations/collective-agreements/collective-bargaining-framework/>

⁹ <http://www.hr.ubc.ca/respectful-environment/files/UBC-Statement-on-Respectful-Environment-2014.pdf>