



Report of the Executive Director

David Robinson

As membership-based organizations, academic staff associations and CAUT are only as strong as the support we have from our members. If we cannot mobilize and organize our members around a position we are taking at the bargaining table, or in meetings with politicians, or more broadly in the public sphere, then we are failing to fully leverage our political muscle.

In 2013, Council expressed its desire to adopt and support an organizing model for CAUT and its member associations. It was recognized that the days are long gone when members could treat their academic staff associations or CAUT as they would their insurance companies – as nice to have when you have a problem but not otherwise needing your involvement or attention. We have come to realize that if we are to defend our profession against the threats before us and to promote our vision and values, then we need to better engage our members in that work.

This is going to require new tools and new ways of organizing ourselves. CAUT has begun this process through the development of new education courses and workshops for members, the acquisition of more targeted and interactive campaign tools, and better communications. However, moving in an organizing direction will require all of us to re-examine how we have worked historically, including our organizational structures, practices and priorities. It will require us to reflect upon whether there are things we are currently doing, however well-intentioned, that may have the effect of de-mobilizing and disengaging members. Ultimately, it will require us to determine what we should be doing better to build an engaged membership.

Academic freedom

The past year has been marked by a number of widely publicized controversies over academic freedom and free speech on Canadian campuses. Unfortunately, media coverage and the ensuing public debate on these cases have often confused matters, particularly by conflating academic freedom and free speech. At the risk of oversimplification, the right to free speech generally allows anyone in a wide variety of settings to express their views on all sorts of topics. Academic freedom, on the other hand, generally addresses the right of academic staff within an educational context to



teach, research, and exercise their intramural and extramural speech. Freedom of expression gives all citizens the right to advocate that life was created 6,000 years ago by a benevolent deity. A professor of biology who advocated such views in their research or teaching would be guilty of professional misconduct because there is no scientific evidence to support this view. Unlike free speech, academic freedom is bounded by professional norms and standards.

Academic freedom and free speech on campus are limited in other ways – principally by libel law, statutory prohibitions against hate speech, and legal restrictions on harassment and discrimination. Academic freedom and free speech do not permit one the right to libel someone or to engage in harassment. However, the thresholds at which these legal prohibitions are set are quite high. The Supreme Court of Canada found that hate speech, for instance, does not include expression that is just offensive: “[E]xpression that ridicules, belittles or otherwise affronts the dignity of an individual...does not rise to the level of ardent and extreme feelings constituting hatred required to uphold the constitutionality of a prohibition of expression in human rights legislation.”

The problem is that offensive speech is increasingly interpreted by some as *equivalent* to expression that is hateful or discriminatory, and this seems to be animating much of the current debate around free speech on campus. On the one hand, there are demands that all kinds of expression that might be seen as offensive, intolerant, uncivil, or disrespectful be prohibited in order to ensure an inclusive, safe, and harassment-free learning environment. On the other side, self-described free speech advocates mock and deride “illiberal leftists” for allegedly calling for students to be shielded from ideas that are simply uncomfortable.

This polarized political climate creates some significant challenges for CAUT as an organization committed both to academic freedom and equity. However, I believe the current debate rests on a false dichotomy. Colleges and universities can be inclusive *and* protect freedom of speech and academic freedom. Freedom of expression and academic freedom are foundational values of colleges and universities, and limiting the expression of ideas would undermine this core mission. But it is precisely these values that facilitate inclusivity, that ensure the campus as a whole is a place for the critical examination of viewpoints, ideas, and theories that may be new, controversial, or even discomfiting. Yes, freedom of expression and academic freedom can mean that what some may view as offensive speech within the law will be permitted, but these values have also opened spaces for the development, often in the face of opposition from powerful vested interests, of feminist theory, critical race studies, and anti-colonialist perspectives within the academy.

These issues have been brought to the fore by a number of recent cases. CAUT, for instance, spoke out against Ryerson University for cancelling a panel discussion ironically titled “The Stifling of Free Speech on Campus”, and featuring Jordan Peterson of the University of Toronto. We also called on Dalhousie University to amend its Student Code of Conduct when it was invoked to launch an investigation into Masuma Khan, vice-president of the Dalhousie Student Union, after she took to social media to defend her group’s decision not to participate in or endorse the Canada 150 celebrations. Responding to critics on Facebook, Khan used a number of expletives and wrote “white fragility can kiss my ass. Your white tears aren’t sacred, this land is.” We also publicly criticized the administration of Wilfrid Laurier University when teaching assistant Lindsay Shepherd was accused of violating the law and the institution’s Gendered and Sexual Violence Policy for showing students a clip of a television debate with Jordan Peterson on the use of gendered pronouns. These cases all touched on contested and controversial issues, but CAUT has been at all times consistent in its defence of academic freedom and free expression on campus.

These issues will likely be further addressed by CAUT through an ad hoc committee of inquiry that has been launched into the case of Professor Rick Mehta at Acadia University. Professor Mehta is being investigated by the University over allegations that he is discussing topics in his lectures that

are not relevant to the course, that he is using class time to discuss his own political views, and that he has made inappropriate and offensive comments on social media. These allegations raise a number of important questions about the exercise of academic freedom in teaching and in extramural speech.

A report to the Academic Freedom and Tenure Committee on the case involving Andrew Potter at McGill University is, at the time of writing, about to be released. Following the posting of a controversial blog column he wrote, Prof. Potter resigned as Director of the Institute for the Study of Canada. Prominent political figures had condemned the posting in which the author argued that the response to a March snow storm in Montreal was reflective of a "pathologically alienated and low-trust society" in Quebec. Our report, prepared by Prof. Mark Gabbert of the University of Manitoba, found numerous failings on the part of the McGill administration to protect Prof. Potter's academic freedom.

Earlier this year, CAUT released the report of an independent committee of inquiry into the dismissal of Professor Denis Rancourt of the University of Ottawa. Beginning in the early 2000s, Prof. Rancourt and the administration became involved in an escalating series of disputes over the pedagogy and grading of his assigned courses that culminated in his termination in 2009. The committee's report concluded that the University of Ottawa was justified in terminating Prof. Rancourt for insubordination. The committee found he was not fired for his ideas or beliefs, but rather for persisting in violating the Collective Agreement by not grading on an objective basis after being warned on several occasions to do so. The report notes that Prof. Rancourt had the right to teach his courses as he saw fit as long as he covered in a general way content from the approved course descriptions. However, academic freedom could not shield him from his violation of other clauses in the Collective Agreement, particularly his requirement to adhere to the University's grading policy as stated in the Collective Agreement.

In October, CAUT published the report of an investigation into allegations of conflict of interest and violations of academic freedom at the University of Calgary. Beginning in 2011, the University worked to secure a sponsorship from Enbridge, a major oil and gas pipelines company, to establish a research institute at the Haskayne School of Business. Dr. Joe Arvai, a recently-appointed Haskayne faculty member, was asked to be the director of the institute that eventually became the Enbridge Centre for Corporate Sustainability (ECCS). Dr. Arvai soon came into conflict with representatives of Enbridge and his Dean over a number of important decisions about the ECCS, including the naming of the centre, the choice of its partner institutions, and the role of the director. Arvai informed the CAUT investigatory committee that he was eventually removed from his position as director a week after he informed Enbridge's public relations firm of his opposition on scientific grounds to the Northern Gateway pipeline. He later left the University of Calgary.

The committee found that Dr. Arvai's academic freedom was compromised. Further, the investigation concluded that Elizabeth Cannon, the University's President, was in a "clear appearance of a conflict of interest." At the same time the University was negotiating the sponsorship, Cannon held a seat on the board of an Enbridge holding company for which she was highly remunerated. Cannon announced earlier this year that she would step aside as president before her term expires.

CAUT also assisted in a successful resolution of governance problems at Carleton University. All members of the Carleton Board of Governors, including elected faculty members, were required to sign a code of conduct prohibiting them from publicly criticizing Board decisions, and consulting with their constituencies. The Carleton University Academic Staff Association launched a grievance when an elected faculty member was reprimanded for not abiding by the Code, and CAUT Council was poised to impose censure if the Code was not amended. I am happy to report that the Board

adopted a new Code of Conduct in January that eliminates the most egregious elements of the previous version.

CAUT supported the University of Lethbridge Faculty Association in a case involving a tenured professor who was suspended, initially without pay, and banned from campus for allegedly violating the provincial human rights code. The University did not follow due process and natural justice and argued the suspension could not be grieved under the faculty agreement. A protracted legal battle ensued that culminated with the Alberta Court of Queen's Bench ordering that the matter be sent to arbitration. The University then agreed to a settlement that included the withdrawal of the human rights complaint.

Finally, more than two years ago the report of the Independent Committee of Inquiry into the cases of Drs. Horne, Goodyear, and Nassar at Dalhousie University was released. In response to the report, the University established a committee to review the findings and recommendations. While the process was slow, the committee presented its report last summer. It recommends a review of the University's recently adopted grievance policy, the establishment of a Memorandum of Understanding between the Faculty of Medicine and the Health Authorities to address issues related to faculty academic performance and faculty academic freedom, and the creation of a process to promptly identify when a performance concern may have both a clinical and academic component. These recommendations are consistent with many of those in the CAUT report, and if implemented could provide better procedural and academic freedom protections for clinical faculty at Dalhousie.

Political Action

One of our biggest political wins of the past year came in the 2018 Federal Budget. After more than a decade of lacklustre funding for Canada's research granting councils, Budget 2018 makes substantive investments in research and science. Overall, the Budget allocates just over \$1.6 billion in new research funding over five years, including:

- \$354.7 million over 5 years and \$90.1 million ongoing for NSERC
- \$354.7 million over 5 years and \$90.1 million ongoing for CIHR
- \$215.5 million over 5 years and \$54.8 million ongoing for SSHRC

CAUT's *Get Science Right* campaign played an important role in ensuring this success. The campaign, first launched when the previous Conservative government was in power, initially focussed on mobilizing our members to raise awareness about the impact of declining investments in basic research, and the need to restore funding. In the 2015 Federal Election we targeted the campaign's message on key ridings, and following the election we kept the heat on the Liberal Government through our annual Parliament Hill Day and in our government relations and public advocacy work. Thanks to the efforts of all of the CAUT members who participated in the campaign, we were able to secure an important victory for the entire academic community in Canada.

Budget 2018 also delivers on important equity measures that CAUT has long advocated. The government is promising to table Proactive Pay Equity legislation for federally regulated sectors that may influence provincial governments to follow suit. The Budget also provides \$15 million over 5 years for the granting councils to implement programs that support improved equity and diversity at post-secondary institutions. SSHRC will receive \$3.8 million in 2018-19 to develop a strategic plan that identifies new ways of doing research with Indigenous communities, including strategies to grow the capacity of Indigenous communities to conduct research and partner with the broader research community.

The Budget will also allocate funding for the creation of a new Centre for Gender, Diversity, and Inclusion Statistics within Statistics Canada. The goal will be to increase data collection of a broader range of categories, with a particular focus on the experience of Black Canadians. The government is also creating the Indigenous Statistical Capacity Development Initiative to help Indigenous leadership, communities and governments build their own data and research capacities.

CAUT's Fair Employment Week was held from October 23-27, 2017. This year, the campaign was given a new look and message. The campaign followed on the heels of our Contract Academic Staff conference that focused on skills-building around advocacy and campaigning.

The casualization of employment in post-secondary education remains one of the most serious challenges we face, and we will need to step up our efforts at the bargaining table and in our public advocacy and coalition work to better promote job security, academic freedom, fair remuneration and benefits, and respect for all academic staff regardless of their appointment status. One important initiative CAUT is taking to help us achieve this goal is a national survey of Contract Academic Staff led by Dr. Karen Foster of Dalhousie University. This is the first national survey of Contract Academic Staff, and results should be released later in the Spring.

CAUT has also launched a Fair Copyright Campaign as Parliament is set to review the *Copyright Act*. The Act regulates an essential part of academic life - the creation, ownership and use of literary and artistic works. Because of its importance, educators have worked hard to successfully ensure that copyright law serves the public good - protecting both the creators and users of material and allowing ready access to learning and research content. In contrast, large corporate publishers have pushed in the opposite direction, determined to establish legislation that allows them to maximize profit by restricting access to material. It is essential that we ensure the academic community mobilizes to protect principles of fair dealing.

Communications and membership engagement

CAUT continues to improve its communications work. Our website has been redesigned with tools that are allowing us to run more effective and targeted digital campaigns. We have also launched an annual review that highlights the key activities and events undertaken by CAUT over the previous year. I encourage you to share the publication with your members.

In a series of consultations we have conducted with member associations, specific communications needs have been identified. Our communications team has prepared a strategic plan to develop more targeted information that can be reused by member associations with their membership.

One common concern we have heard from our associations is the challenge of engaging their membership. CAUT is developing a workshop on membership engagement that will be delivered locally and regionally.

Collective bargaining and member services

Government austerity measures continue to affect collective bargaining in several provinces. The government of Nova Scotia introduced Bill 148 last year, imposing a wage settlement on 75,000 public sector workers and signalling its continued willingness to interfere with collective bargaining. The Nova Scotia Government Employees Union is challenging the constitutionality of the law. Similarly, unions in Manitoba have launched a legal challenge against the Public Services Sustainability Act (PSSA). While Alberta has not introduced legislation limiting wage increases, the province is directing universities and colleges to seek zero percent increases in each of the next two years. For the third year in a row, the Saskatchewan government cut funding to universities, reducing support from \$489 million in 2014-15 to \$450 million for the current year.

While the political and economic climate for negotiations remains challenging, many associations made important gains over the past year. One important highlight was the seven-week strike by 12,000 college faculty in Ontario represented by OPSEU. After an 87 per cent rejection of a final employer offer, college faculty were legislated back to work and arbitration imposed. The arbitration award represented significant gains for the union, including long sought language on academic freedom.

Unit 3 of CUPE 3902 (University of Toronto) representing Contract Academic Staff were able to win significant salary increases, enhanced job security, and improvements to pension and benefits. The University of Toronto Faculty Association successfully fought off concessions proposed by the administration at St. Michael's College, and with a strong strike vote were able to make improvements for part-time members and contractually limited employees. The University of British Columbia also made some job security gains for its lecturers, as well as winning full benefits for those whose appointments are less than 100 per cent or less than 12 months.

The University of Ontario Institute of Technology Faculty Association secured an annual salary increase of two per cent for its teaching faculty unit. The new agreement also saw some important gains on equity with the addition of gender identity and gender expression added to the list of prohibited grounds. As well, a new joint standing Committee on Employment Equity to address systemic discrimination in faculty hiring will be established.

In an important decision rendered in February, the Manitoba Labour Board found that the University of Manitoba violated the law when it withdrew its salary offer during its negotiations with the association in 2016. The University of Manitoba administration pulled its salary offer off the bargaining table just days before a strike deadline, ultimately setting the stage for what would be a three week strike. The administration claimed that it was forced to do so by the conservative provincial government. In the decision, however, the Board found that the administration didn't try to dissuade the government from demanding a zero per cent wage increase. The Board concluded that the administration acted in bad faith by not telling the University of Manitoba Faculty Association about the government's mandate and ordered the administration to apologize and pay up to \$2.4 million dollars to the Association.

To better assist associations in their work, we are continuing to revamp our on-site education workshops. Staff have reviewed and updated the Collective Bargaining Workshop and the Grievance Handling Workshop. Improved versions of the Equity Workshop and Communications are scheduled to be completed shortly. In order to ensure greater availability of our workshops, we are also developing a facilitators' program to train volunteer members to deliver our courses and workshops.

Research

CAUT's research staff provide data and analysis to assist member associations in collective bargaining and advocacy. We publish an annual Almanac of Post-Secondary Education in Canada, and financial reports of universities and colleges. Our research team is in the process of revamping the on-line presentation of the Almanac to ensure easier visualization and use.

The reinstatement of the University and College Academic Staff Systems (UCASS) has allowed us to once again collect and provide detailed salary information and demographic data about academic staff in Canada. We continue to be in consultation with Statistics Canada about plans to expand UCASS to cover Contract Academic Staff and to collect equity data.

Our biennial Librarians' Salary and Academic Status Survey will be released this year. It is the most comprehensive survey of the terms and conditions of employment of academic librarians in the country.

International relations

Much of CAUT's international work is done in conjunction with Education International (EI), a trade union federation representing more than 30 million teachers and education workers from more than 400 member national organisations in 171 countries and territories.

In November of this year, EI will convene its Further and Higher Education Conference in Taipei, Taiwan. The conference is an important opportunity for academic staff unions and associations from around the globe to discuss and share information on topics such as collective bargaining trends, precarious employment, international solidarity, and academic freedom.

CAUT also continues to engage in bilateral solidarity initiatives. We have ongoing partnerships and projects with the National Association of Graduate Teachers of Ghana (NAGRAT), the Palestinian Federation of Unions of University Professors and Employees (PFUUPE), the College and Lecturers Association of Zimbabwe (COLAZ), and the Syndicat unitaire et démocratique des enseignants du Sénégal (SUDES). We recently assisted COLAZ to organize a gender equity workshop for members, and helped fund a leadership training program for PFUUPE. We are also exploring a new partnership with the University Teachers Association of Ghana (UTAG).

Legal

CAUT's legal work focuses on issues of national importance and on providing summary advice to member associations. Our legal staff monitor court and arbitration decisions of relevance to post-secondary education, and prepare periodic legal advisories on issues of relevance to academics. For cases qualifying under the CAUT Arbitration Service, we provide legal representation.

In November, CAUT's General Counsel appeared before the Supreme Court of Canada in a case involving Trinity Western University (TWU) and the law societies in Ontario and British Columbia. TWU was granted leave to appeal an Ontario Court decision rejecting a bid by the University's law school for recognition by the provincial law society. The Ontario Court found that the law society acted "reasonably" in voting not to grant accreditation to the law school because of concerns about TWU's "community covenant" which forbids sex outside of heterosexual marriage. The Court stated: "The Covenant is a document that discriminates against LGBTQ persons by forcing them to renounce their dignity and self-respect in order to obtain an education." For CAUT, the issue of academic freedom is also important for the Court to consider. A 2009 CAUT investigation into TWU found that the institution violates academic freedom by requiring academic staff to adhere to a statement of faith that recognizes the Bible as the ultimate authority on all matters. The TWU Policy on Academic Freedom states: "Trinity Western University is committed to academic freedom in teaching and investigation *from a stated perspective*, i.e., with parameters consistent with the confessional basis of the constituency to which the University is responsible..." (emphasis added).

CAUT legal staff continue to handle a Canada Human Rights Commission complaint we filed on behalf of a group of academics concerned by the failure of the Canada Research Chairs Program to abide by the terms of a 2006 Settlement that CAUT helped negotiate. Specifically, the claim is that the CRC Program has failed to carry out an update of the targets established for representation of members of the four protected groups. We are hopeful that mediation on the complaint will proceed within the next few months.

CAUT engaged legal counsel to intervene in the case of a request by the pharmaceutical company GlaxoSmithKlein (GSK) to secure access to the confidential research data of Université de Montréal

graduate student Takoua Boukhris and her supervisor, Professor Anick Bérard (School of Pharmacy). Dr. Bérard signed a confidentiality agreement with the Commission d'accès à l'information du Québec to obtain patients' personal information for the study. After concerns about research confidentiality were raised by Dr. Bérard and the Fonds de recherche du Québec (FRQ), GSK agreed not to pursue the raw data, but still sought the output printout of the study's final analysis which links directly to the data that could reveal the identity of research subjects. GSK eventually sought a stay in the proceedings. Our suspicion is that it was becoming too difficult for them politically.

CAUT also successfully intervened in the case of Professor Marie-Ève Maillé of the Université du Québec à Montréal. A lower court had ordered Professor Maillé to turn over the names of people she interviewed as part of her research into the development of a wind farm in the area of Arthabaska, a decision that jeopardized the confidentiality of research subjects. On May 31, 2017, Justice Marc St-Pierre ruled that Professor Maillé's promise of confidentiality met the four criteria of the "Wigmore" test for determining whether her research is privileged and upheld then principle of researcher-participant confidentiality.

Membership

CAUT has 80 academic staff association members, including three federated associations. As of January, paid individual affiliated membership stands at 51,797, an increase of about 400 from the previous year, and nearly 3,000 higher than in 2016. The number of academic staff we represent now exceeds 70,000 when including members of our federated associations.

Staffing

As a result of increased membership and the number and complexity of challenges member associations are facing, I am anticipating there will be more demands on CAUT staff in the near future. This is particularly true in the area of collective bargaining where I believe there is a need for more research support to proactively assist member associations with respect to university and college financial analysis, salary and benefit comparisons, pensions and benefits information, collective bargaining agreement analysis, and costing of proposals.

There have been two staff changes since my last report. Larry Dufay retired in September after more than 17 years as CAUT's senior research officer. Louise Birdsell Bauer was appointed to take up the position in October. In September, Christina Muehlberger was appointed as Membership Engagement Officer to replace Shelley Melanson who joined the Professional Institute of the Public Service of Canada (PIPSC).

A final note of thanks

I would like to conclude by once again thanking the dedicated leaders and activists of our associations who fight for better working conditions and rights for our members, better learning conditions for students, and a more just and equitable society. I also want to express my gratitude to the many people who volunteer their time and energy to serve CAUT on its committees, working groups, and networks. Without your dedication and support, we simply could not do the important work that that we do.