

## **Critical Comments on the UBC Freedom of Expression Statement Draft, November 8, 2017**

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Note 1: Some of my comments contain critical political analysis recognizing the power structures and interests at UBC and its context, and thus might sound politically incorrect. My intentions are: Free and open discourse unencumbered by any limitations to freedom of expression.

Note 2: At this point, this analysis is merely a draft. A more comprehensive analysis and systematic critique of these developments at UBC is overdue.

### **Overall Comments:**

- The biggest problem of the “UBC Freedom of Expression Statement” (UBC-FoES) is that it is full of mixed messages. It offers a lot of language in support of freedom of expression, but then it constrains it. It appears a bit like a Trojan Horse. Looking nice on the outside, but really hazardous in the inside. At the same time it is ambiguous – it raises more questions than it answers.
- It does not grant unconstrained freedom of expression.
- It is essentially a statement confirming that freedom of expression has limits at UBC.
- The limits set by the UBC-FoES statement can be interpreted in a large number of ways, which is likely to happen in a diverse context.
- I am not sure why UBC needs to issue statements/rules that can impinge on natural and charter rights of members. Why does UBC need to stick its head out so far? Is current law lacking constraints on freedom of expression, that UBC urgently needs to install? It involves a lot of resources. It seems it exposes UBC unnecessarily to legal hazards. Is there a ‘business case’ about issuing such statements?
- Shouldn’t universities grant more – not less – freedoms of expression than the rest of society because usually our community includes members with experience and expertise that can handle every legal form of expression. I do think we have the capacity to handle expressions that are too free to be “possible”. Who else would have that capacity?
- Why do we have an avalanche of rules and statements at UBC that combine conspicuous virtue signaling with potentially harsh constraints of our freedoms? The statements displayed in UBC-FoES look and feel like propaganda that is aimed at gaining support for silencing diverse ideas and views.
- Is the UBC-FoES statement a device that can be used to eliminate criticism of UBC authorities and their decisions? If we are limiting the right of individuals to speak up and to voice their opinions, this might lead down a slippery slope to silencing and punishing those who have alternate views to that of the University.

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<p>Freedom of expression matters. It fuels what good universities do.</p>	<ul style="list-style-type: none"> <li>• This statement sounds a bit like a commercial.</li> </ul>
<p>Especially in <b>turbulent</b> times, when facing challenges of contentious and divisive politics, economic uncertainty, <b>terrorism</b>, and environmental upheaval, the freedom to express and explore ideas must continue as our central mission. As one of the world's foremost universities, UBC must vigorously promote and defend the freedoms necessary for the successful pursuit and dissemination of knowledge. Freedom of expression is, <b>however</b>, one of a number of rights and freedoms each of us has. One person's freedom of expression <b>cannot be allowed to trample the freedom or wellbeing of others</b>.</p>	<ul style="list-style-type: none"> <li>• "One person's freedom of expression cannot be allowed to trample the freedom or wellbeing of others." The UBC is making a strong claim here. How do you define wellbeing? Does it include the discomfort of being exposed to expressions of divergent or dissenting others? So we cannot mention topics like "existence", "death", "natural selection", "corruption", "elites", "fake news", "God", "Hell", "gay", "sex", "climate gate", etc because they can make others uncomfortable?</li> <li>• How do we get from "terrorism" to freedom of expression and wellbeing? Is this merely a rhetorical device to make readers scared and compliant? Should we not assume that intelligent readers will catch this?</li> <li>• Note: There are studies that show that criticism can affect health. Does this mean that we have to eliminate criticism at UBC?</li> <li>• Is this statement a device that can be used to eliminate criticism of UBC decision makers or their associates?</li> <li>• How do "turbulent times" relate to this argument? How does it lead to a need to put constraints on the freedom of expression? Asking people that they do not express their views will help in turbulent times? Whom will it help?</li> </ul>
<p>For centuries, universities have held a special place in society. <b>We</b> are entrusted as <b>guardians</b> of the accumulated knowledge and wisdom of humanity, as trailblazers in advancing the frontiers of human knowledge and thought, and as leaders, mentors, and teachers in disseminating the fruits of this knowledge.</p>	<ul style="list-style-type: none"> <li>• I am sorry, but this characterization misses the main point of why universities are so special: Universities are the only places in society where things can be radically questioned. And the reason for this is <i>academic freedom</i>. Academic freedom is the most critical strategic asset of universities. Without academic freedom, universities lose that special place in society. Academic freedom allows us to study anything that can lead us to a deeper understanding of the world. It makes universities places in which curiosity is respected and encouraged. And that is rare in the rest of society, and that is the reason why universities play such an important role.</li> <li>• I agree that universities hold a special place in society, but the rest of that statement is hard to follow. The role as guardians seems to slip away from universities as libraries are getting replaced with online databases and faculty are forced to focus on current fads and two-year impact factors. Professional associations and networks of scholars become increasingly important instead.</li> <li>• Who is actually "we" in this statement? All members of UBC? Or the view of a</li> </ul>

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	<p>committee? At this point, the statement sounds like a concertive control norm. Is UBC aware of the pitfalls of concertive control systems?</p> <ul style="list-style-type: none"> <li>• How about we have a bulletin board on which everyone can post their statements about how things should be at UBC?</li> </ul>
<p>Central to this three-fold mission is the promotion of “the freest possible exchange of information, ideas, beliefs, and opinions in diverse forms” (see UBC Respectful Environment statement).</p>	<ul style="list-style-type: none"> <li>• This statement includes ambiguous language about “the freest possible exchange”. The statement indicates that there are exchanges that are too free to be possible. The reader is informed that there are limits to freedom of expression (apparently articulated in the Respectful Environment Statement) but they are not presented at this point.</li> <li>• The UBC Respectful Environment statement contains significant constraints on academic freedom and freedom of expression. At the same time, it is full of hazardous ambiguities and gaps and contradictions.</li> </ul>
<p>So, for example,</p> <ol style="list-style-type: none"> <li>How can we safeguard the lessons of the past if objectionable parts of the historical record are suppressed?</li> <li>How can we create significant breakthroughs if entire lines of inquiry are forbidden?</li> <li>How can we equip students to tackle future challenges, if they are shielded from demanding, provocative thought?</li> </ol>	<ul style="list-style-type: none"> <li>• These sound like important questions.</li> <li>• The suppression of historical records is extremely dysfunctional. It has enormous negative implications in larger contexts outside UBC. But I am not sure it is really a good example for freedom of expression at UBC.</li> <li>• I am not sure that there are many lines of inquiry that are “forbidden”. The problem is more insidious. Entire lines of inquiry are obstructed through policies which discriminate against research that does not conform with a template. I would add this example:  <u>iv. How can we facilitate innovative research when our policies and systems discriminate against research that is novel, original, unusual, unpopular, risky, and unconventional?</u></li> </ul>
<p>Two principal reasons underlie our deep and abiding commitment to freedom of expression. First, pursuing ideas freely and openly moves us closer to truth, allowing all ideas to be criticized and tested, accepted and revised. Universities are communities of scholars where the free and open exchange of thought, belief, opinion, and expression is highly valued because it promotes better knowledge and understanding. Second, our scholarly community is composed of people with diverse histories and cultural viewpoints</p>	<ul style="list-style-type: none"> <li>• Both reasons sound agreeable, but could be massively strengthened.</li> <li>• I do think this would be a good place to highlight the importance of <i>academic discourse</i> for the progress of thinking and the creation of new knowledge. It is an institutional practice that is central to the mission of academic institutions. It is also a method of inquiry which can be extremely powerful in contexts that respect academic freedom.</li> <li>• I would consider strengthening the point about UBC. It is so strong, it characterizes UBC throughout. We are an extremely diverse place, and thus we are committed to an extremely open discourse. It makes sense, and we really can</li> </ul>

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<p>while also encompassing a wide array of disciplinary perspectives. This diversity makes universities, and especially <b>UBC</b>, a place unlike other institutions. When all the voices of a diverse university community can participate equally in intellectual exchanges, this provides a rich, vibrant resource that helps in promoting a wide spectrum of expertise and opportunities in the pursuit of excellence.</p>	<p>stand out on this dimension. And that is also a good reason to <i>not</i> put additional limitations on freedom of expression.</p> <ul style="list-style-type: none"> <li>• BTW, I would make diversity the starting point of a lot of things at UBC. And it has to include diversity of thinking and knowledge production. We could be #1 in terms of diversity – including diversity of thinking, talent, research topics, approaches, methodologies, culture, disability, national background etc. At the same time, we make it the most inclusive university in the world. For both we need freedom of expression. It makes a diverse, inclusive community thrive.</li> <li>• I am aware that everyone uses language about “excellence”, but we should also take into account that it is a bit of an empty phrase, especially in a system that rewards not excellence but rather publication counts.</li> </ul>
<p>Here is a significant <b>example</b> of why freedom of expression matters at UBC. A core challenge in Canada, and one to which UBC is committed to addressing, is the ongoing process of truth and reconciliation with Indigenous peoples. Our collective lack of a shared knowledge about the lasting effects of our colonial past acts as an impediment to the essential conversations and negotiations that progress on these multiple issues requires. This is exacerbated by historic power imbalances that make this a complicated, difficult engagement. It is an engagement that can only be tackled principally and ethically in a spirit of free and open dialogue and respect.</p>	<ul style="list-style-type: none"> <li>• I agree that the history and concerns of the Indigenous peoples are indeed important. I think it is very good that UBC cares about this.</li> <li>• I would consider moving this topic to a different statement dedicated to truth and reconciliation. It entails significant moral obligations that are indeed complicated. Establishing free and open dialogue on this topic is challenging, but it is necessary. Still, it is not a prime example of freedom of expression. It is more a case about a history of oppression and paths to reconciliation.</li> <li>• A better example might be the shortage of critical studies on the policies and strategies of powerful organizations and players on which UBC depends, including the BC Government, crown corporations, large donors, associations, accreditation and ranking organizations, political parties, and funding agencies.</li> </ul>
<p>Scholarly dialogue should help us make progress on difficult and complex problems like this. The</p>	<ul style="list-style-type: none"> <li>• This paragraph sounds very agreeable, but it contradicts other provisions in other</li> </ul>

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<p>intellectual richness of the university comes in recognizing alternatives, having contentious conversations, tackling stubborn assumptions, making brash conjectures, discussing uncomfortable facts, and engaging with sharp differences in values and visions. Scholarly work finds its dynamism in this engagement. It is the work that universities must do and do well (and, of course, we have not always done well as the need for truth and reconciliation highlights). Doing it well means holding open the idea that persuasion is still possible, that thought and evidence and reason can lead to solutions for the many grand challenges we face.</p>	<p>paragraphs of the statement.</p>
<p>The educational benefit of <b>exposure</b> to diverse understandings, views, opinions, and thoughts, when done appropriately and respectfully, comes in developing the skills of intellect and character, the inner resources and personal resilience, which allows one to successfully and constructively engage with a tumultuous and at times unsafe world. This necessitates scholarly spaces where critical thinking and incisive reasoning knows no bounds but is allowed to flourish unrestricted by who you are or to which social groups you might belong. The university works assiduously to create a place where people are physically safe. However, when confronting challenging ideas, ideas that question your deeply held beliefs, ideas that you might find noxious or offensive (or discovering that others find your deeply held beliefs noxious and offensive!), it is inevitable and appropriate to feel intellectually uncomfortable, even offended.</p>	<ul style="list-style-type: none"> <li>• This paragraph contains a lot of strong assertions. Many sound quite agreeable. But it is also a mix of statements. It opens the loophole of “exposure to diverse understandings, views, opinions, and thoughts” that might not be done appropriately or respectfully. This can create massive problems when perceptions and standards of appropriateness and respect differ (which is highly likely in a diverse context). I am not sure how necessary it is for UBC to sanction additional limits on the freedom of expression that go beyond what the law already forbids (e.g., slander and violence are illegal forms of expression already).</li> <li>• I like the part about “scholarly spaces where critical thinking and incisive reasoning knows no bounds but is allowed to flourish unrestricted by who you are or to which social groups you might belong.”</li> </ul>
<p>Creating and sustaining the conditions for such difficult discussions is hard, complex, and highly-charged. As former UBC President Stephen Toope correctly argued, “a tension exists between our community values of respect for human dignity and the special place of free expression that universities</p>	<ul style="list-style-type: none"> <li>• Again I think this is too broad and ambiguous. It opens all kinds of questions, e.g, what events are considered “breaches of the peace”? When are “statements judged likely to incite breaches of the peace”?</li> <li>• “...such statements are, at root, attempts to stifle or prevent the freedom of expression of others”. Perhaps this is the case, but what about the UBC Freedom</li> </ul>

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<p>protect.” Statements inciting hatred against identifiable groups, statements <b>judged likely</b> to <b>incite breaches of the peace</b>, and statements of a personal, ad hominem nature are foreign to the intellectual exchanges that strong universities must support and protect. This is so because such statements are, at root, attempts to stifle or prevent the freedom of expression of others, to dissuade any response or discussion.</p>	<p>of Expression Statement? Does it not contain provisions that will stifle or prevent the freedom of expression of people who question the authority of UBC officials?</p>
<p>Words can be used as weapons, aimed deliberately in pejorative ways to taint or stain the reputations and <b>authority</b> of others. Deliberate attempts to create a toxic environment must remain anathema to the practices of the university community. Freedom of expression <b>rests</b> on the potential of making <b>positive</b>, constructive contributions to the university community. Speech or artistic expression that harms the proper working conditions of the academic community, by for example using <b>hate</b> to dehumanize certain groups, is speech and expression that cannot be protected or condoned.</p>	<ul style="list-style-type: none"> <li>• “Words can be used as weapons, aimed deliberately in pejorative ways to taint or stain the reputations and authority of others.” Why “authority”? So “authority” is shielded from questioning? Why should I want my “authority” as professor be shielded from questioning? Since when does authority need protection? Is this the spirit of oligarchy channeled by a UBC committee?</li> <li>• Is this statement mainly a device that aims to eliminate each and any form of criticism of UBC authorities?</li> <li>• “Freedom of expression rests on the potential of making positive, constructive contributions to the university community.” This is a strong claim. Not sure this is valid in all cases. At the very least, you need to include whistle-blower protections.</li> <li>• What is the meaning of ‘positive’ here? Is UBC trying to put statements like “this school uses unfair practices” or “this Dean could not care less” outside the freedom of expression?</li> <li>• You say “using hate to dehumanize certain groups, is speech and expression that cannot be protected or condoned”. Ok, but who would advocate “hate”? Is that a problem that UBC has? Are there people running around on campus with signs that express hate? Note, in the current political discourse, “hate” is a label attached to political opponents. It is a hypothesis about the motives of others.</li> <li>• So then what is the meaning and purpose of this statement about hate? At this point it only throws an ambiguous phrase into a political setting.</li> </ul>
<p>UBC policies and practices work to promote the <b>smoothest functioning</b> of this scholarly community. From our academic freedom declaration, to our statement on a respectful environment, to our policies on harassment and discrimination, there are in place</p>	<ul style="list-style-type: none"> <li>• “UBC policies and practices work to promote the smoothest functioning of this scholarly community.” What does this mean? The smoothest functioning is more important than freedom of expression? Policies and practices (and freedom of expression) are subordinate to expediency?</li> <li>• UBC practices and policies “recognize the importance of freedom of expression,</li> </ul>

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<p>mechanisms intended to ensure that freedom of expression flourishes at UBC. Most fundamentally those policies and practices recognize the importance of freedom of expression, but they do so in the context of everyone’s fundamental right to equality. Freedom of expression does not trump all other rights. In the university community freedom of expression can only thrive constructively when accompanied by other rights, including the equality rights of equity, diversity, and inclusion.</p>	<p>but they do so in the context of everyone’s fundamental right to equality.” This statement seems to be rather ambiguous. So there is a fundamental right to equality and it constrains freedom of expression? Because we are equal we cannot express certain things?</p> <ul style="list-style-type: none"> <li>• What is the difference between the “fundamental right to equality” and the “equality rights of equity”?</li> <li>• What is the “right to diversity”, and how does it affect freedom of expression? How come that freedom of expression can only thrive in a diverse community? Isn’t it the other way round? <i>A diverse community can only thrive if there is freedom of expression.</i> How come UBC turns this relationship around?</li> <li>• Is UBC sure there are not exceptions to its claim that freedom of expression can only thrive when it is accompanied by “rights of inclusion”? Isn’t the reverse claim much more valid? <i>An inclusive community can only thrive if there is freedom of expression.</i> How come UBC spins this relationship around?</li> </ul>
<p>In all of this we share a collective responsibility. Each and every one of us has the responsibility to support, safeguard and preserve this central freedom of expression. Tuum est – it’s up to you!</p>	<ul style="list-style-type: none"> <li>• “In all of this we share a collective responsibility.” Does this mean from now on we all have to follow the definition of freedom of expression articulated in the “UBC Freedom of Expression Statement 2017”?</li> </ul>