

UNIVERSITY OF TORONTO
UNIVERSITY TRIBUNAL
TRIAL DIVISION

Members of the Panel:

Ronald G. Slaght, Q.C., Co-Chair

Daniel R. Brooks, faculty member, Department of Zoology

Karen Iverson, student member, Faculty of Medicine

IN THE MATTER of the *University of Toronto Act, 1971*, S.O. 1971, c. 56, as amended;

AND IN THE MATTER of the *University of Toronto Code of Behaviour on Academic Matters, 1995*;

AND IN THE MATTER of disciplinary charges against D.B.

No one appearing for the student

Lily I. Harmer, for the University of Toronto

Appearances:

Paul Holmes, Judicial Affairs Officer, Governing Council Secretariat

Thomas Legler, Postdoctoral Fellow, Centre for Global Studies, University of Victoria

Liisa North, Faculty member, York University

Miguel Torrens, Reference Librarian, Ibero & Ibero-American Collection, Robarts Library

Susan Bartkiw, Administrative Assistant, Faculty of Arts and Science

BACKGROUND

[1] A hearing of the Trial Division of the University Tribunal was convened at 5:00 p.m. on Monday, April 22, 2002, in the Falconer Room, Simcoe Hall, to consider the following two charges laid against D.B. under the *Code of Behaviour on Academic Matters, 1995*, by the Vice-President and Provost, Professor Adel Sedra:

1. On or about November 30, 1998, you did knowingly represent as your own, an idea or an expression of an idea, and/or a work of another in connection with a form of academic work, namely, in an essay entitled "Poverty and Inequality in Latin America" submitted to fulfill course requirements in POL305Y, contrary to Section B.1.1.(d) of the *Code of Behaviour on Academic Matters, 1995*. Pursuant to Section

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B of the *Code* you are deemed to have acted knowingly if you ought reasonably to have known that you represented as your own, an idea or expression of an idea or work of another.

2. On or about November 30, 1998, you knowingly submitted an academic work containing a purported statement of fact or reference to a source which has been concocted, namely, in the sources set out in the bibliography to the essay entitled "Poverty and Inequality in Latin America" submitted to fulfill course requirements in POL 305Y, contrary to Section B.1.1(f) of the *Code of Behaviour on Academic Matters, 1995*. Pursuant to Section B of the *Code*, you are deemed to have acted knowingly if you ought reasonably to have known that the academic work contained a purported statement of fact or reference to a source which has been concocted.

[2] After several hours of evidence, the matter was adjourned to April 24, 2002. The hearing was concluded on April 24, 2002. An oral ruling as to verdict was delivered at that time, followed by an oral ruling as to sanction.

[3] This matter concerned allegations that D.B. had submitted a paper that was plagiarized and which contained concocted sources. Specifically, it was the University's contention that Mr. B. had submitted a paper that was originally written as an answer to a question on a take-home examination given for a course at York University.

[4] Mr. B. failed to appear for the hearing on April 22, 2002 and April 24, 2002. After hearing the evidence of Paul Holmes, the Panel was satisfied that Mr. B. was given adequate notice of the hearing dates.

[5] Mr. B. was a student registered in the course POL305Y, Politics and Society in Latin America, in the fall of 1998. Professor Thomas Legler, then an adjunct Professor at the University of Toronto, taught the course in question. Professor Legler currently has a position with the University of Victoria in British Columbia. As a graduate student, Professor Legler had studied under, and worked closely with Professor Liisa North of York University, a Latin America scholar.

[6] POL305Y was a full year course. A first term written assignment required the students in the course to choose a topic from amongst a list and write a literature review essay of ten to fourteen pages in length.

[7] Professor Legler provided students in his course with a three-page document prepared by the Department of Political Science entitled "How Not to Plagiarize". This document began by quoting the relevant section from the *Code of Behaviour on Academic Matters, 1995*, and continued:

You've already heard the warnings about plagiarism. Obviously it's against the rules to buy essays or copy chunks from your friend's homework, and it's also plagiarism to borrow passages from books or articles or Web sites without

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identifying them. You know that the purpose of any paper is to show your own thinking, not create a patchwork of borrowed ideas. But you may still be wondering how you're supposed to give proper references to all the reading you've done and all the ideas you've encountered.

The point of documenting sources in academic papers is not just to avoid unpleasant visits to the Dean's office, but to demonstrate that you know what is going on in your field of study. It's also a courtesy to your readers because it helps them consult the material you've found. So mentioning what others have said doesn't lessen the credit you get for your own thinking—in fact, it adds to your credibility.

[8] Professor Liisa North has been a faculty member of York University since 1971 and specializes in Latin American politics. For many years, Professor North has taught a course called Power Relations and Development Policy Choices in Latin America (Political Science 4235.03A/5000T.03). Professor North taught this course in the 1997/1998 academic year, the year preceding the events at issue in this matter. Each year Professor North assembles a “kit” of required readings. The kit consists of a number of photocopied readings from various sources, bound and paginated sequentially.

[9] Professor North's take-home examination in the fall of 1997 consisted of three questions. Students were instructed to:

Identify the sources of quotations in parentheses, noting the author of the work, the year in which the work was published, and the page from which your citation is drawn. For example, (Burns 1980, 37) or (Baloyra 1983, 102) or (Lefebvre 1974, 2).

The page reference referred to the page number in the kit prepared for the course, rather than the page number from the original publication.

[10] Question one from Professor North's fall 1997 take-home examination read as follows:

1. **Analyze all of the readings assigned and the specific countries treated in this course** in the light of Peter Evans' statement that: “Latin Americanists should be careful not to overprivilege industrial class relations when they analyze the exclusionary character of dependent capitalist development, even in the most industrialized NICs. The early work of such Latin American ‘structuralists’ as Celso Furtado strongly emphasized the importance of rural class relations; more recent analyses, my own among them, have tended to stress the industrial sector, neglecting the continuing importance of rural social structures. The gains that accrued to East Asian NICs from early, thorough transformations of the agrarian sector remind use [*sic*] of the extent to which the persistence of traditional class relations in rural Latin America has retarded and distorted the overall development in the region” (p. 221).

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In discussing this quotation, consider not only the degree of landlord power as such but also the extent to which Latin America's large landed interests "fused" with other dominant sectors (industrialists, exporters, bankers) and foreign capital in the course of the 20th century (as discussed by Evans, Zeitlin, Balyora, Larrea and North, and others); the origins of the process of fusion during 19th century export expansion and the ideological implications (as discussed, for example, by Burns with regard to Latin America and by Moore in broader theoretical terms); the impact of the "fusion" and of the degree of landlord power on past and current social and economic conditions and policies (e.g., the contrast between Costa Rica and El Salvador and the issue of "urban bias").

[11] Professor Legler suspected that the paper submitted by Mr. B. was, in fact, originally written by another in response to Professor North's fall 1997 take-home examination. As a result, a meeting was held on January 31, 2000, with Professor Legler, Professor Rae (the Dean's designate), Ms. Bartkiw, and Mr. B. in attendance as required by the *Code of Behaviour on Academic Matters, 1995*. Ms. Bartkiw kept notes of the meeting. Mr. B. denied the allegations at that time.

REASONS FOR DECISION (Delivered Orally)

[12] It was clear to the Panel that Political Science students at the University of Toronto are provided with a document both warning against, and defining, plagiarism. While there was no direct evidence that Mr. B. received this document, on the evidence it is reasonable to infer that it was made available to him, or that he may indeed have received it.

[13] The genesis of inquiry in this case was the continued collegiality between two teachers of Latin American studies. Professor Legler read a submission, subsequently confirmed by D.B. to be his. It was submitted in response to a requirement of POL305Y that the students in that course write a literature review essay. In reading the paper, Professor Legler recognized a series of references, citations and authors common to what he described in his evidence as a unique reading list and course taught by Professor North, his former professor and current friend. Professor Legler described the authors and the references as they appeared in the paper and in the bibliography from his knowledge of the contents of Professor North's course.

[14] Professor Legler, who clearly had detailed knowledge of Professor North's course, was further puzzled in that looking at the bibliography it appeared that familiar papers were said to have been published in unfamiliar sources. These included, for example, books by "Farkin", and "Wilson".

[15] Important evidence from Professor Legler was that this paper, as he reviewed it, was not responsive to the assignment which was to conduct a literature review. He said he did not find the analysis he was looking for in the paper. This paper, he testified, did not examine, for

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example, theories of poverty and attempt to explain them. Upon our own examination of the instructions for Professor Legler's course (Exhibit 9) and review of the paper at issue (Exhibit 10), it was evident to the panel that the paper does not attempt that kind of exercise.

[16] As to the bibliography, particularly troublesome to us was that it appeared that changes were made in references, particularly to dates, in an attempt to conform these references to the requirements of Professor Legler's assignment to conduct a review of recent literature.

[17] Professor North gave evidence and identified the paper as one that would be responsive to her take-home exam in her fourth-year political science course in Latin American studies at York University in 1997. She identified her reading list and described her "kit contents" consisting of readings referenced in the paper at issue complete with typographical mistakes and misdescriptions. For example, the History "of" ... rather than the accurate, History "for ...". She also identified an English translation of a paper she had published in Spanish (Exhibit 16). The English translation of the paper has never been published, however it had been included in her "kit" for her political science course at York. The paper at issue (Exhibit 10) included the citation "(North, 1993, pp 302-303)". Professor North testified that this citation corresponded to pages 302 – 303 of her kit where the English translation of her paper appeared.

[18] The English translation of Professor North's paper was cited in the bibliography of the paper in question.

[19] There were other such examples in the evidence leading the Panel to the finding that the paper that was submitted to Professor Legler was written using the kit contents and was written, on the evidence of Professor North, as a response to her 1997 take-home examination assignment.

[20] Finally, there was evidence that the references in the paper were consistent with Professor North's instructions to cite only the kit pages and not the original source references in the actual articles. For example, the actual page number of an article by Evans (Exhibit 15) in the original source is 221, but the cited number in the paper at issue is 86, which, inferentially, is the page number in the kit.

[21] Professor Legler was committed to finding the unfamiliar sources referenced in the bibliography, e.g. Farkin and Wilson. He attended at the Robarts Library and sought the assistance of Miguel Torrens, an experienced Latin American bibliographer. The Panel heard from Mr. Torrens who confirmed the conclusions he arrived at as set out in Exhibit 11, that after an exhaustive search, the Farkin and Wilson references did not exist. The Panel was satisfied on all the evidence that these two references in the bibliography were concocted. There were other such alterations and clearly fictitious references. For example, the Forest Colbourne article referenced in the bibliography (page 14) as published by Greenwood in *Development Issues in Latin America*, was in fact published in the *Journal of Development Studies*. According to Professor North and Professor Legler, the Colbourne article was only published in the *Journal of Development Studies*. Miguel Torrens could find no evidence of the existence of *Development Issues in Latin America*. There were others.

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[22] Clearly this was a systematic attempt to alter sources from those found in the kit, including as we have said, altering dates to more closely conform to Professor Legler's requirement for recent works. For example, Baloyra's article published in 1983 has been altered in the bibliography to 1993.

[23] The final issue we need to address is whether D.B. in fact submitted the paper at issue. Susan Bartkiw gave evidence, consistent with her notes (Exhibit 24) that Mr. B. in the meeting with Professor Rae, Professor Legler, and Ms. Bartkiw, said that he both wrote the paper and confirmed, "it was his own work". It is also to be noted that his name appears on the face of the paper.

[24] On the basis of all the evidence, admittedly circumstantial in nature, and noting that Mr. B. did not attend at the hearing, the Panel was satisfied that Mr. B. obtained this paper from a third party, and probably also the kit contents index (Exhibit 19); concocted major elements of the bibliography; and knowingly submitted another's work as his own in purported compliance with requirements of Professor Legler in the course POL305Y.

[25] The Panel was therefore satisfied that the two charges were proved on clear and convincing evidence.

REASONS FOR SANCTION (Delivered Orally)

[26] The University submitted that Mr. B. should be suspended for two years; have a notation on his record for a period of three years; receive a grade of zero in the course POL305Y; and that this matter should be reported to the Provost for publication in the University papers with the name of the student withheld.

[27] The Panel imposed the penalty proposed by the University.

[28] The Panel felt that a suspension for two years was consistent with past decisions in like cases. While this is an important principle, the Panel also found, in any case, that a two year suspension was appropriate for this offence on the facts of this case.

[29] One might have been able to infer that this paper was purchased. If that had been the case the penalty would have been greater according to the Provost's guidelines. The Panel did not draw any conclusion that the paper was purchased, and therefore the Panel considered two years to be an appropriate period of suspension.

[30] As Mr. B. did not attend, the Panel was not in a position to consider mitigating evidence, or any evidence, from which it could possibly consider a reduction of this otherwise appropriate sentence.

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[31] The Panel discussed the differential between two years suspension and three years notation and was prepared to accept the three year notation on the basis of the University's submission that it would extend for a period of the year for which the student might come back to complete his degree, but also, it might act as an incentive for the student to return to the University of Toronto and effect some rehabilitation as opposed to his probably not being able to go to some other institution for a third year anyway.

[32] The Panel did not ignore, in considering the sentence, that the student did not admit to the offence in the interview and certainly made half-baked and unconvincing attempts to cover up and deny. While noting this less than admirable behaviour, the Panel nevertheless felt that the two-year suspension and three year notation took into account the Panel's view of those particular matters.

[33] While it is true that there were two offences here, the Panel did not place much emphasis on that fact as opposed to, arguably, being so connected as to in effect constitute one offence. The Panel was not of the opinion that the fact that there were two offences, technically should lead it to impose a more severe sanction.

[34] The Panel therefore imposed the following sanctions upon Mr. B.:

1. Suspension from the University for a period of two years;
2. A grade of zero in POL305Y;
3. A three year notation on his transcript; and,
4. This matter shall be reported to the Vice-President and Provost for publication in the University newspapers with the name of the student withheld.

May 6, 2002

I certify that this is the decision of the Panel

R.G. Slaughter

Ronald G. Slaughter, Q.C.
Co-Chair