

# The Report

June 2021

Université   
de Montréal

The University of Montreal  
and of the world.

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# 1

## Mandate recap

On February 1, 2021, Daniel Jutras, Rector of University of Montreal, mandated a 10-member Task Force, composed of members from across the university's community (hereinafter the "Task Force"), to draft a Statement of Principles and Recommendations on freedom of expression in the university setting, based on the institution's lived reality. The Task Force was created in the wake of the report by Jean-François Gaudreault-Desbiens and Léa Boutrouille, *Les libertés universitaires dans une université inclusive*, submitted to Rector Guy Breton in March 2020, of which a summary (*Hypothèses soumises à l'examen de la Mission du recteur sur la liberté d'expression*) was tabled at the University Assembly on December 7, 2020. The development of a Statement of Principles was among the report's main recommendations, in the section on the University of Montreal's institutional positioning. In addition to these two texts, the Task Force worked within the framework of the University's documents, regulations and policies.

To collect as much input as possible, the members of the Task Force agreed that the focus of the mandate should not be confined to the issue of university freedoms (also called academic freedom)<sup>1</sup> but should extend more broadly to the various forms they take and to possible impediments to free expression for all members of the university community. Several sources concur that in Quebec, academic freedom is "an integral part" of freedom of expression<sup>2</sup>, and figures among "the interests that are protected by the concept of freedom of expression."<sup>3</sup> The wide range of comments heard during the consultation process confirms that, by and large, the Task Force achieved its aim of connecting with many members of the university community, without, however, sidelining the crucial question of the scope of the specific freedoms of teaching staff.

1 In its 1997 *Recommendation concerning the Status of Higher-education Teaching Personnel* (art. 27), UNESCO defines them as "the right, without constriction by prescribed doctrine, to freedom of teaching and discussion, freedom in carrying out research and disseminating and publishing the results thereof, freedom to express freely their opinion about the institution or system in which they work, freedom from institutional censorship and freedom to participate in professional or representative academic bodies." Online: [https://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/ILO\\_UNESCO\\_Recommendation\\_Concerning\\_the\\_Status\\_of\\_Teachers\\_1966\\_En.pdf](https://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/ILO_UNESCO_Recommendation_Concerning_the_Status_of_Teachers_1966_En.pdf)

2 See Andrée Lajoie and Michelle Gamache, *Droit de l'enseignement supérieur*, Montreal, Les Éditions Thémis, 1990, p. 343. According to these authors, "it is not so easy to draw a dividing line between the freedom of expression enjoyed by individual professors and their academic freedom in the stricter sense, related to their professional role." They add, however, that it is not really necessary to draw that line because "not including certain aspects of personal freedom of expression in the definition of academic freedom does not negate the constitutional protection afforded them." (*Ibid.*, p. 460, translation).

3 Elvio Buono, "Constitutional principles of academic freedom of university professors in Canadian and United States law", in *Service of Permanent Education of the Quebec Bar* (S.F.P.B.Q, vol. 117, *Recent developments in education law*, Cowansville, Yvon Blais publications, 1999, no. 139, p. 234. At the end of his analysis, Buono concludes that "freedom of expression [...] contains the notion of academic freedom" (*ibid.*, p. 266).

Section 2 of the report describes the methodology and the type of data collected. Section 3 sets out the four key findings that emerged from the consultation. Section 4 contains the Statement of Principles. Section 5, the Task Force's recommendations to the Rector, conclude the report.

## 2 Methodology and data

The Task Force received a total of 128 individual contributions (67 written and 61 oral) from members of the university community, including 9 lecturers, 50 students, 13 members of administrative and support staff, and 56 professors, 9 of whom have administrative responsibilities in their respective faculties or the Rector's office. In addition to these individual contributions, there were seven contributions from associations and unions.

The Task Force received 71 written submissions (67 individual contributions and four briefs from associations and unions), ranging from brief comments to a 20-page document. The nature of the contributions varied considerably, from first-person accounts to op-ed pieces in the media, lecture notes, published material, articles submitted for publication and joint briefs. In all, 18 texts were submitted by professors, 7 by lecturers, 7 by administrative and support staff, and 35 by students, in addition to 4 briefs submitted by the Association des cadres et professionnels de l'Université de Montréal (ACPUM), the Association des diplômés de l'Université de Montréal (ADUM), the Fédération des associations étudiantes du campus de l'Université de Montréal (FAÉCUM), and the Advisory Committee on the responsible conduct of research.

The consultation hearings took place from March 12 to May 14, 2021. Of the 71 individuals and groups who initially expressed a desire to meet with the Task Force, 66 participated (61 individuals and 5 delegations from groups, associations and unions). All the meetings were held by videoconference. In all, they lasted just over 30 hours. There was a quorum at every meeting, which is to say there was always representation from students, teachers and the administration.

The 61 individual participants included 2 lecturers, 15 students, 6 administrative and support staff (including 6 administrators), 38 professors (including 9 with administrative duties in their respective faculties or the Rector's office). The five associations and unions were FAÉCUM, ADUM, the Syndicat des chargées et chargés de cours de l'UdeM (SCCCUM), the Syndicat général des professeurs et professeures de l'UdeM (SGPUM) and the Association étudiante du Département des littératures de langue française (AÉLLFUM).

On April 27, the Task Force began a thematic analysis of the written and oral contributions to identify the main issues raised by members of the university community, while continuing the hearings. The following descriptions are based on the ideas conveyed to the Task Force as well as on the ensuing discussions. Where participants are quoted or their remarks reported, only their position and department are mentioned, if relevant. Positions taken by unions or associations are identified as such.

### 3

#### The lived experience of freedom of expression at UdeM: key findings

**First**, the Task Force found that the members of the university community have had a variety of experiences with freedom of expression. Their discussion of the subject was not confined to experience in the classroom, which is typically the focus of public debate on freedom of expression in the university setting. The comments touched on departmental life, social media, lectures on campus, interviews with scholars in the media and academic publications, activism, community partnerships, ties to professional associations, relationships between colleagues and between students, as well as access to research funding and the existence of safe spaces on campus.

The views expressed were notably nuanced, far from the polarized debate one might have expected from media coverage of the issue in Quebec. Few members of the student body actively call for a complete ban on uttering specific words. No one came before the Task Force to argue that certain books should be stricken

from the curriculum. Very few teachers refuse to place controversial works in context and to warn students of potentially upsetting content in order to enhance the learning experience. Many of the testimonies made the Task Force aware of educational initiatives, individual or collective ones, to support this observation.

**Second**, a current of concern did emerge. While the situation at the University of Montreal does not appear alarming or dramatic enough to be deemed a crisis or indicative of acute tensions over freedom of expression that would threaten the cohesiveness of the university community or the teaching atmosphere, we cannot disregard the possibility of such discord arising in the future. Some members of the teaching staff, and some representatives of unions and associations, expressed worries, fears and feelings of vulnerability. Others said that although they hadn't necessarily experienced any difficult situations themselves, they felt personally affected by the issue.

Concerns were also evident within the student body and among several members of the teaching staff, who told the Task Force about impediments to freedom of expression for students, both in and out of the classroom. Some members of the community said they do not feel heard or supported when they are subjected to insults, prejudice, hate speech or discriminatory remarks. Some said that issues of racism are not treated with the same degree of care and concern as the academic freedom of teaching staff. It also emerged from the hearings that there is a lack of spaces where community members can report problems in confidence, particularly experiences with sexism or racism. The lack of designated spaces to address these matters can undermine the relationship of trust among members of the university community and can lead to some people not participating or expressing themselves within the institution, or in some cases to stop expressing themselves completely. Several members of the university community took the opportunity to testify to offensive or hateful comments and behaviour as well as to instances of racism at the University. Upon completing its mandate, the Task Force concluded that a great deal remains to be said on these questions.

The Task Force welcomed the news that a Working Group on Racism had been formed, under the auspices of the General Secretariat and reporting to the Associate Secretary General responsible for equity, diversity, inclusion and relations with First Peoples. The Task Force also took note of the Equity, Diversity and Inclusion (EDI) Action Plan and the Action Plan for Relations with First Peoples, which contain references to academic freedom and freedom of expression. However, the Task Force and the EDI Action Plan have different mandates, despite some inevitable overlap. While the members of the Task Force are aware of this overlap, they want to underscore that the main objective of the Task Force is to set forth the principles of freedom of expression in a university setting to which the University of Montreal subscribes.

**Third**, the accounts of situations of conflicts revealed that most of these cases were resolved "locally" (that is, within the particular academic unit concerned, on the basis of interpersonal relationships based on trust). However, it also emerged

from the hearings that the university community as a whole is ill acquainted with the University's internal resources, such as the bodies that can intervene if necessary (for example, in cases of broken student-teacher relationships). Moreover, despite the existence of a clear legal and regulatory framework, it too is little-known within the university community. The Task Force found that this information is not widely shared.

**Fourth**, the diversity of opinions and perspectives notwithstanding, there is a very clear consensus that it is the institution's responsibility to help resolve tensions, and not the province of an outside authority. According to the accounts we heard, the University is already doing just that, both within the faculties and the General Secretariat, although these cases are not always made public. The people we heard were adamant that the defence of freedom of expression hinges on protecting the University's institutional independence against external pressures, whether from government, institutional, or corporate actors.

## 4 Statement of Principles<sup>1</sup>

The University of Montreal is an independent institution dedicated to the creation and dissemination of knowledge. As such, it is a vehicle for change and a place for academic discussion, debate and controversy. It supports the development of critical perspectives and ensures the transfer of knowledge within society. This mission rests on a commitment by all parties to free academic discussion.

The University of Montreal reaffirms and protects its institutional independence from funding agencies, government authorities, political entities, economic actors and philanthropic organizations.

The University of Montreal upholds and protects the freedom of expression of all members of the university community, subject to institutional regulations and policies and the laws of Quebec and Canada.

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<sup>1</sup> On June 14, 2021, this Statement of Principles was unanimously adopted by the University Assembly of the University of Montreal at its 629<sup>th</sup> special session.



The University of Montreal upholds and defends faculty members' academic freedom, pedagogical choices and avenues of research. Therefore, no word, no concept, no image and no work can be categorically excluded from debate and critical examination in the course of university teaching and research.

The University of Montreal upholds and protects the freedom of expression of the members of its student body by fostering an environment conducive to student expression and learning, including in their research approaches.

The University of Montreal is a community embedded in a constantly evolving social environment. It is a space of interaction among individuals who occupy a variety of roles and positions in the institution. As such, it ensures that all university activities—on or off campus or online—encourage free discussion among participants, while being sensitive to the context in which they are speaking and the diverse nature of the university community.

The University of Montreal is committed to promoting respectful discussion among its members and with guests invited to give lectures, deliver papers or speak at other academic events. It ensures that all members of the university community can report any incident in confidence and receive appropriate support to resolve any problematic situation.

The University of Montreal condemns all hate speech and all discriminatory or racist remarks and insults. In no event may principles of academic freedom or, more generally, freedom of expression be invoked to protect such speech.

## **5** **Recommendations**

Based on these findings, the Task Force submits the following recommendations to the Rector for preventive and supportive measures to ensure the implementation of the Statement of Principles, in keeping with its mandate. The Task Force is aware that the possibility for all members of the university community to exercise their freedom of expression, including academic freedom, demands a commitment by all parties to maintaining an atmosphere of openness and inclusion conducive to discussion.

# 5.1

## Rights and access to rights

The Task Force recommends:

that the University of Montreal ensures that the Statement of Principles is widely disseminated, especially to newcomers to the community and visitors to the University;

that the University of Montreal protects its independence, in all circumstances, from professional associations, government agencies, political entities and economic and philanthropic organizations;

that the University of Montreal continues to uphold and protect freedom of expression by the members of its community in the performance of their academic duties and activities, and that any actions it takes to this end be brought to the attention of the individuals concerned, subject to confidentiality rules;

that the University of Montreal undertakes, without delay, the centralization of all documents, regulations and institutional resources related to the exercise of freedom of expression in the university setting and provide the members of the community with easy access to these materials;

that the University of Montreal reminds administrators of their role and responsibilities in protecting freedom of expression, and of their duty to act to ensure its exercise while respecting all members of the university community;

that the academic units (departments, schools or faculties without departments) be asked to create and disseminate a guide or complementary materials to clarify the specifics of the exercise of freedom of expression, taking into account the characteristics of each discipline.

## 5.2

### University pedagogy

The Task Force recommends:

that the University of Montreal support rapid university-wide implementation of mechanisms for sharing educational resources, such as “communities of practice” that reflect the diversity of proven approaches used by the teaching staff to tackle sensitive subjects and readings.

These resources will make it possible for anyone who so wishes to consult testimonies, advice, training and best practices. They will also help resolve ethical dilemmas in tackling certain subjects and overcome pedagogical challenges related to freedom of expression.

## 5.3

### Social media

The Task Force recommends:

that the University of Montreal ensures that social media be mentioned explicitly as sites of university activity in the relevant regulations and standards;

that the University of Montreal adopts a regulation aimed at prohibiting cyber-bullying

## 5.4

### Mediation and intervention

The Task Force notes that the existing resources—the Bureau d'intervention en matière de harcèlement (centre for harassment intervention), the Ombudsman, the platform for reporting misconduct—do not fully meet the needs of the university community with respect to freedom of expression. The Task Force takes the view that maintaining the conditions for the exercise of freedom of expression at the university demands an atmosphere conducive to free expression by all members of the community. It believes, moreover, that combatting hate-motivated comments and incidents and confronting systemic racism are necessary steps in a culture shift that is essential if the University is to fulfill its duty of inclusion and allow all the members of its community to exercise freedom of expression.

Accordingly, the Task Force recommends: that the faculties and services set up a resource for all their members (the specifics of which are up to them to decide) for the purposes of hearing testimony from any individuals or groups who may wish to report a problem concerning the exercise of freedom of expression in the university setting. This resource would serve as a space for mediation between the parties;

that the Rector's office acts quickly to create systems and procedures at different levels for dealing with hate-motivated incidents and racism, which will be available to the entire university community. One of them should have responsibility for training, support and intervention in these two areas, with clear jurisdiction and investigative powers.

Having concluded its work, the Task Force calls on the Rector to monitor the implementation of the recommendations within the suggested time frame. A status report should be presented to the University Assembly no later than May 2022.

Montreal, June 4, 2021