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December 29, 2019

Attention:

Rhonda L. Lenton, President & Vice Chancellor (*president@yorku.ca*)
Lucy Fromowitz, Vice-Provost, Students (*vpstudents@yorku.ca*)
Carol McAulay, VP, Finance & Administration (*cmcaulay@yorku.ca*)
Ross McMillan, Director, Student Community/Leadership Development (*rossm@yorku.ca*)

York University
4700 Keele Street
Toronto, Ontario M3J 1P3

Dear Sirs/Mesdames:

Re: Reinstatement of Herut Zionism's Rights and Privileges at York University

We have been retained by Lauren Isaacs, Director of Herut Zionism (“**Herut**”) at York University (“**York**”), in relation to the aggressive disruption of Herut’s November 20, 2019 campus event. Please direct all future correspondence to the undersigned.

As detailed below, our immediate concern is York’s arbitrary and misguided withdrawal of Herut’s rights and privileges as a campus group, and we write to you seeking the immediate, unconditional reinstatement of same.

BACKGROUND

Herut is an official campus organization registered with York’s Centre for Student Community & Leadership Development (“**SCLD**”). Herut is a pro-Israel student group dedicated to educating students on Judaism, Zionism, and the State of Israel.

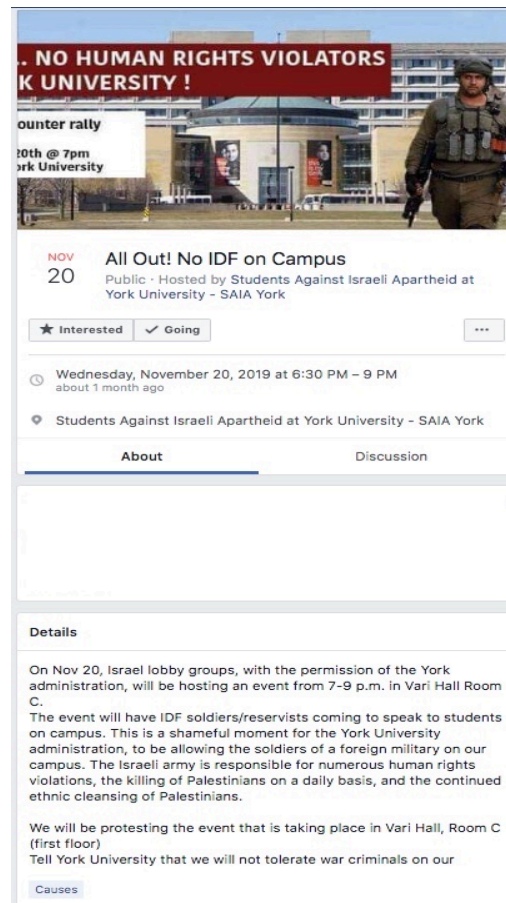
As you know, Herut organized the campus event “Herut Zionism Club Presents: Reservists on Duty” (the “**Herut Event**”) for November 20, 2019 in full compliance with SCLD protocol and procedure. The objective of the Herut Event was to educate the York community on Zionism and the Arab-Israeli conflict from the perspective of Israeli reservists.

In the lead up to the Herut Event, Students Against Israeli Apartheid at York University (“**SAIA**”) organized and promoted the following Facebook “event” mobilizing its followers to attend York’s

Keele campus, protest the Herut Event by means of a “counter rally”, and “[t]ell York University that we will not tolerate war criminals on our [campus]” (the “SAIA Disruption”):



[SAIA Facebook event image purporting to show an armed Israeli soldier claspng a child on York campus]



[SAIA Facebook event]

In a November 19, 2019 tweet, SAIA urged as follows: “Join us tomorrow in protesting @yorkuniversity’s shameful decision to allow IDF soldiers on our campus! War criminals responsible for the continual dispossession of Palestinian land & violations of Palestinian rights shouldn’t be anywhere near our place of education.”

The following inflammatory flyers were posted in prominent York locations bearing SAIA’s logo, with an image purporting to show an Israeli soldier placing a child in a headlock.

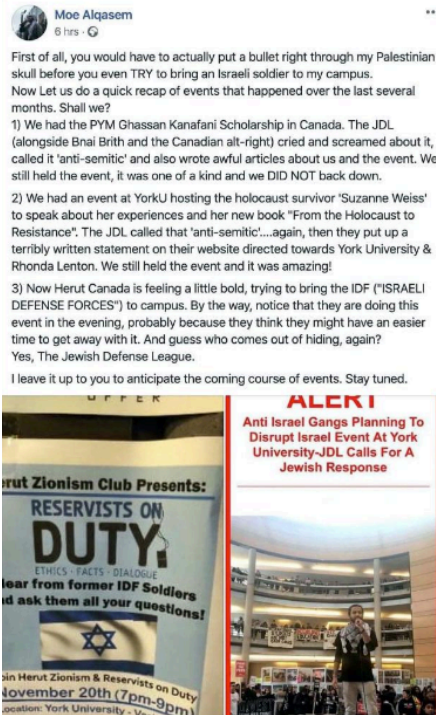


[SAIA Disruption poster]



[SAIA Disruption poster posted in York's Vari Hall]

Prior to the event, SAIA associate, Moe Alqasem, wrote on Facebook, “First of all, you would have to actually put a bullet right through my Palestinian skull before you even TRY to bring an Israeli soldier to my campus... I leave it up to you to anticipate the coming course of events. Stay tuned.”



[Moe Alqasem Facebook post]

THE DISRUPTION OF THE HERUT EVENT

The Herut Event proceeded as planned on the evening of November 20, 2019. Despite loud interruptions by protestors inside the hall, the Herut Event was a respectful, productive discourse on Zionism and the Arab-Israeli conflict from the perspective of Herut's guest speakers. However, an angry mob raged outside the lecture hall.

Reports surrounding the SAIA Disruption made international headlines as a shocking display of aggressive intimidation. On November 21, 2019, CP24 reported as follows:

Large numbers of protesters, including non-university groups, showed up to the venue, chanting loudly and threatening physical confrontations.

Video of the event posted online showed crowds chanting "viva, viva intefadeh!," a reference to armed uprisings in the Palestinian territories that have included suicide bombings targeting civilians.

A November 28, 2019 Jerusalem Post report detailed the events as follows:

"Intifada, Intifada, go back to the ovens," was what several protesters told Jewish and pro-Israel students on Wednesday night during a pro-Palestinian demonstration against a Reservist's on Duty event at York University.

[...]

This comes as 600 protesters violently tried to storm and disrupt the event being held on campus.

[...]

Some of the Jewish students were escorted off campus by police for their protection.

Throughout the Herut Event, the mob shouted and banged in an apparent effort to disrupt the Herut Event. The SAIA Disruption was marked by intimidation and harassment to the point where attendees had to be escorted out of the Herut Event and past the mob with police assistance. We have serious concerns about York's ability to maintain a safe and secure campus, and its commitment to preventing discrimination, aggression, and threats of intimidation and harassment, against Jewish and pro-Israel students as required under human rights legislation.

YORK CONDEMNS DISRUPTION OF THE HERUT EVENT, THEN PUNISHES HERUT

In her November 21, 2019 Statement, "*York University Denounces Acts of Violence at Campus Event*", President & Vice Chancellor, Rhona L. Lenton, recounted the previous night's events as follows:

Last night a York University student group held a scheduled event in a lecture room in Vari Hall that resulted in an organized protest by other groups. A large number of community and non-community members were on site, each expressing their views. The tension was high at times and the groups were in close proximity to one another, resulting in some verbal and physical confrontations. As a result of significant safety planning ahead of the event, York University security services, together with our partners at the Toronto Police Service, were able to manage the situation and ensure the event continued as planned...

[Emphasis added]

Commendably, Ms. Lenton went on to express her concerns regarding the aggressive disruptions staged outside of the Herut Event, as follows:

I want to emphasize in the strongest possible terms that acts of violence are not tolerated on our campuses and York University has zero tolerance for hate. There is simply no place for it in our community. Together with York's faculty, staff and students, **I am deeply disappointed by the behavior that was on display last night.** In democratic societies, universities play a central role in facilitating debate on difficult issues. **Shouting, threats of violence and attempts to intimidate community members are not consistent with the responsibilities we all share...**

[Emphasis added]

Ms. Lenton's swift condemnation of the protests surrounding the Herut Event were clearly directed at groups like SAIA. This condemnation inspired rare hope among the Jewish community at York (and at-large) that York's administration was *finally* taking a strong stance against the sort of intimidation and harassment felt by Jewish students for decades on York's campus.

This hope was all too short-lived — in a familiar, misguided attempt to appear even-handed, York punished the victim, and pegged the victim’s hopes of restoring its rights and privileges on facing the perpetrator — in a “facilitated mediation” with SAIA.

By letter dated December 3, 2019, Vice-Provost, Students, Lucy Fromowitz and Vice-President, Finance & Administration, Carol McAulay advised Herut that its rights and privileges were being withdrawn effective immediately, as follows (the “**Suspension Letter**”):

... the preliminary internal review has led us to conclude that a more immediate intervention is needed with both Herut Zionism and Students Against Israeli Apartheid (SAIA). We will be reaching out to you shortly to discuss and schedule dates. **Until then, please note that your privileges including reserving space, tabling and posting at York University have been withdrawn.** This temporary withdrawal involves all buildings including those who have usage agreements with the University.

Further, **any student organization that serves as a proxy and reserves space, tabling or posters on behalf of Herut or SAIA will have their privileges suspended as well.**

[...]

[Emphasis added]

THE ARBITRARY SUSPENSION OF HERUT’S RIGHTS AND PRIVILEGES

The Suspension Letter lacks discernable rationality and logic. No clear, understandable basis for the decision to suspend Herut is given, and the decision is neither justified nor intelligible.

There is simply no basis for penalizing Herut — it has not breached York policy, nor engaged in any wrongdoing. The only justification for suspending Herut that we can fathom, is an attempt to appear even-handed or to avoid the appearance of bias, which is clearly not a reasonable basis for punishing Herut in this manner. Further, York’s proposed mandatory mediation further victimizes Herut by requiring it to face (and reach agreement with) its abuser. This is wrong — Herut will not participate in this futile and ill-conceived process and it has no obligation to do so. However, as it has demonstrated since the Herut Event, Herut is eager to meet directly with York administration to discuss these matters and share its concerns.

The decision also offends York’s own stated values and principles. We refer to you to York’s Statement of Policy on Free Speech (approved by York’s Board of Governors and Senate), with particular attention to the following passage:

3. York’s Policy on Free Speech

3. **A range of York policies reflect the right of all community members and invited guests to express their views within the law without fear of intimidation or harassment.** To guarantee this right, it is recognized that community members may be exposed to ideas or opinions they find disagreeable or offensive. Freedom of speech is not absolute and does not protect expression that constitutes hate speech, harassment, threats, discrimination or otherwise violates the law. Consequently, **the**

University will not tolerate members of our community or guests engaging in threatening speech or actions which violates York's commitments to ensure the safety of community members, as noted in various policies such as Disruptive and/or Harassing Behaviour in Academic Situations, Racism, Sexual Violence which address the priority of community safety and the harm that can arise from some forms of expression. These policies also provide recourse for those affected by such speech.

[...]

[Emphasis added]

CONCLUSION: RESTORE HERUT'S RIGHTS AND PRIVILEGES

A university cannot serve as a true forum for the free exchange of ideas without an earnest commitment to campus safety. Threats of intimidation and harassment are not aligned with York's values and conflict with its own policies. Campus groups should be at liberty to organize events without fear of intimidation or harassment. The protests surrounding the Herut Event were a shocking display entirely incompatible with these values. Punishing Herut in this manner is also incompatible with these values.

Accordingly, Herut is calling upon York to reverse this unfortunate decision — restore Herut's rights and privileges as a campus group immediately and without condition. As set out above, Herut is prepared to meet with York administration directly (without SAIA's presence) to discuss this matter further by no later than **Wednesday, January 15, 2020**, failing which, we anticipate obtaining instructions to commence formal proceedings forthwith and without further notice.

Yours very truly,

RE-LAW LLP



per: Aaron Rosenberg
David Elmaleh
Guidy Mamann (of counsel)