

## Report of the Ad Hoc Committee on the “Gilley Controversy” and Academic Freedom

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### Our Charge

The immediate impetus for the appointment of this ad hoc committee was reaction to some of Professor Bruce Gilley’s extramural activities in Fall 2019. By “extramural” we mean activities, primarily oral and written expression, that take place off-campus and outside the setting of an academic conference or workshop. Two in particular came to the attention of faculty in the department and elsewhere on campus: “[Was it Good Fortune to be Enslaved by the British Empire?](#),” a blog post on the website of the *National Association of Scholars*, and “[The Case for German Colonialism](#),” a talk given at the *Bundestag*. The negative reaction on and off-campus, including among students, alumni, donors, and others with no connection to PSU, some of it expressed on social media, was judged by some political science faculty as warranting some sort of departmental response.

The Department Chair, Professor Melody Valdini, after giving the faculty an opportunity to exchange views on the matter and consider possible responses, decided to appoint this committee to examine the matter more thoroughly, to weigh the competing principles that need to be balanced when fashioning a departmental response (if any) to a situation like this, and to make recommendations, including practices that might be adopted by the political science faculty as departmental policy.

The expectation of a departmental response—among students, other faculty on campus, some administrators, alumni, as well as media outlets and others far and wide—is partly what makes this matter unique in our experience. But we suspect that concerns related to Professor Gilley’s activities will be a fact of departmental life for the foreseeable future. As a general matter, we attribute this, in part, to the ease with which controversial scholars and scholarship receive notoriety in the social media age. In the particular case of Professor Gilley, controversy attaches to his ongoing research agenda and activism (e.g., with the *National Association of Scholars*), so outside attention directed to him, and thus to us as his academic home, is unlikely to subside anytime soon.

This last point is worth emphasizing. The negative attention that the department must contend with is not the result of ill-considered Tweets or tirades. Rather, it is the result of the scholarship he has produced on particularly inflammatory topics, like colonialism and slavery,

and now his critique of progressivism in academia, which he finds particularly unwelcoming to his viewpoints. Professor Gilley’s doubling-down on this agenda in the aftermath of “[The Case for Colonialism](#)” tumult in 2017 and his activism ever since is a tricky issue for PSU. The progressivism in Professor Gilley’s critical crosshairs—see, for example, his “[Taking Power in the Academy](#)”—is broadly and proudly embraced on this campus, so naturally many on campus have not only been put off by the substance of his scholarly agenda on colonialism, but also by his increasingly strident reaction to the reaction. While many old-school academics might long for their ivory towers, PSU encourages community engagement by its faculty on matters of public interest and indeed rewards it in various ways, not least when we evaluate our peers for tenure and promotion in rank.

For these reasons, this Committee believes that the Department, and especially the Department Chair, will continue to be called upon to respond to perceived extramural outrages by Professor Gilley—and by any other faculty member who courts controversy, whatever their research agenda or ideological motivations may be. Some of this, of course, is part of the Department Chair’s job description, but at some point the expectations become excessive and the burden on the Department unreasonable.

While deliberating over appropriate departmental responses in cases like this, this Committee has tried to remain attentive to some principles of utmost importance to the university community, especially academic freedom, faculty governance, and fairness. We cannot avoid a particular focus on Professor Gilley in this report, but our recommendations are offered in the hope that they are generally applicable to faculty who have become controversial figures on campus or off.

### Academic Freedom

In the exchange of views among political science faculty when this matter came to a head in December, no one questioned the notion that Professor Gilley’s research agenda and the extramural activities stemming from it are protected by academic freedom. In referring to the latter as extramural, we are not suggesting that they are unconnected to his academic research or teaching. Opportunities to engage with non-academic communities commonly arise because of one’s research or teaching expertise, so in most cases they will be connected. The separation between academic research and teaching, on the one hand, and extramural activities, on the other, can be especially blurry online (e.g., in the case of academic blogging).

In its authoritative [1940 Statement of Principles on Academic Freedom and Tenure](#), the AAUP highlighted the following three freedoms:

- (1) Teachers are entitled to full freedom in research and in the publication of the results, subject to the adequate performance of their other academic duties....

- (2) Teachers are entitled to freedom in the classroom in discussing their subject, but they should be careful not to introduce into their teaching controversial matter which has no relation to their subject....
- (3) College and university teachers are citizens, members of a learned profession, and officers of an educational institution. When they speak or write as citizens, they should be free from institutional censorship or discipline.... (p. 14)

These academic freedoms are faithfully reflected in the Portland State University Standard on Academic Freedom ([580-022](#)) and the Faculty Conduct Code ([577-041](#)).

Although Professor Gilley has made clear that he feels victimized by forces of the left academy, whether on social media or on occasion of his extramural speaking engagements, as far as this Committee is aware, he has not complained that his academic freedom has ever been constrained by the Department or others at PSU. Indeed, his heterodox views have not slowed a rapid rise to the rank of full professor with tenure, have not throttled his administrative appointments, and have not been obstacles to a wide-ranging teaching portfolio in political science and public policy. That is as it should be.

The AAUP's third freedom above continues with a statement of a teacher's responsibilities:

[T]heir special position in the community imposes special obligations. As scholars and educational officers, they should remember that the public may judge their profession and their institution by their utterances. Hence they should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that they are not speaking for the institution.

To be sure, critics of Professor Gilley's scholarship on colonialism have challenged the accuracy of the evidence he musters and the reasoning he employs to arrive at conclusions, but all of this seems to us within the bounds of scholarly practice, even when designed to provoke controversy. And if there has been a lack of restraint, and perhaps even disrespect for others, we can lament that but would be remiss if we failed to acknowledge the vitriol on display among Professor Gilley's many critics, including many who have similar responsibilities by virtue of their own academic freedoms.

Like the AAUP's 1940 Statement, the PSU Standard on academic freedom states that faculty members "should make every effort to indicate that they do not speak on behalf of the Department or institution." Few of us ever bother with this, simply because we have traditionally taken for granted that both academic and non-academic audiences know it. It may be time to revise this assumption.

The fact is that the Department and PSU are being "judged"—if not *per se* by Professor Gilley's research and extramural speech, then by our disinclination to take action when called upon to do so by students, other faculty, alumni, and members of the community who take offense at his arguments. It was at the time of "The Case for Colonialism" controversy that the

Department first confronted such demands, and we chose (via Facebook, 22 Sep 2017) to do no more than endorse this statement by the PSU Provost affirming Professor Gilley's academic freedom but emphasizing that the views put forward in the article were his and not ours:

The "viewpoint" piece in the Third World Quarterly written by Portland State University political science professor Bruce Gilley, entitled "The Case for Colonialism," has generated a robust conversation and significant public and scholarly reaction. The ideas and perspectives offered by Professor Gilley are his own and do not represent Portland State University or our Department of Political Science.

While Portland State does not endorse the views expressed by Professor Gilley, as an institution of higher education, we are committed to academic freedom. As such, we acknowledge the right of all our faculty to explore scholarship and to speak, write and publish a variety of viewpoints and conclusions. When our faculty engage in scholarly inquiry, they represent only themselves, and the university supports only their right to do so, not the specific content of their work.

Lastly, the university acknowledges the amount of counter arguments generated by Professor Gilley's work. We respect the rights of everyone to express their opinions, counterviews and to engage in vigorous and constructive debate on this topic and all of our faculty's work.

This remains the Department's view, of course. Yet expectations persist on campus and off that the Department should comment or otherwise react to Professor Gilley's ongoing scholarship and extramural activities—including, in the extreme, that he be removed from his position as a tenured member of our faculty. It may be too much to hope that the Department will ever be free from such demands, given the politicization of higher education and the manner in which social media functions as an accelerant. Nevertheless, this is our first recommendation:

*(1) Faculty whose scholarship or community engagement generates controversy should, upon request from the Department Chair, begin explicitly stating that their views are not those of the Department or PSU when they write or speak in extramural settings.*

We are under no illusion that this will ever fully contain inquiries and demands for action in circumstances like those the Department has faced with the ongoing Gilley controversy. The Committee nonetheless makes this second recommendation:

*(2) When faculty are aware that particular extramural speeches or writing are likely to generate negative reactions, and certainly when they court such reactions, they should inform the Department Chair.*

The intention here is that the Department Chair not be blind-sided by protests or other demands for attention, especially when this may hamper pending departmental business.

### *“Official Duties” Exception*

Professor Gilley’s academic freedom is most compelling when he engages in extramural speech and writing on matters pertaining to his scholarship, like colonialism, condemnable though its content may be to a community of progressive faculty and students. As noted above, his “Taking Power in the Academy” represents a different, more activist agenda for promoting “viewpoint diversity” on campus, that is, a more welcoming environment for heterodox scholarship and instruction. Where Professor Gilley’s extramural speech becomes criticism of university policy and composition, university administrators may be tempted to interpret such speech as unprotected by academic freedom and subject to sanction. Since [Garcetti v. Ceballos](#) in 2006, when the Supreme Court ruled that public employees may not enjoy free speech protections when they speak “pursuant to their official duties,” universities have had some success in pushing back against academic-freedom claims when disciplining faculty for public criticism of institutional decisions, as distinct from what they express in the course of their research or classroom instruction (e.g., [Hong v. Grant](#), C.D. Cal. 2007; [Renken v. Gregory](#), 7th Cir. 2008; [Sadid v. Idaho State University](#), D. Idaho 2009).

“Taking Power in the Academy” is surely a commentary on a matter of “public concern” and therefore protected by the First Amendment. And the Committee has no reason to believe that Professor Gilley will be subject to disciplinary action by PSU for his viewpoint-diversity and related advocacy, even if it becomes more focused on PSU as an institution. However, should it come to that, we would encourage the faculty to oppose any such action by administrators. Again, while we may not subscribe to Professor Gilley’s diagnosis of campus ills or his proposed remedies, he does have some claim to expertise in this area, by virtue of both his research and teaching, and is entitled to academic freedom. He is not speaking merely as an employee of a public institution on matters pursuant to official duties.

### Departmental Action

Professor Gilley is, of course, a full professor with tenure. The circumstances under which he would be dismissed from the faculty for infractions short of gross misconduct are hard to imagine. In its 1971 report, *Faculty Tenure*, The AAUP’s Commission on Academic Tenure in Higher Education examined the following [sanctions short of dismissal](#):

- (1) oral reprimand, (2) written reprimand, (3) a recorded reprimand, (4) restitution (for instance, payment for damage due to individuals or to the institution), (5) loss of prospective benefits for a stated period (for instance, suspension of “regular” or “merit” increase in salary or suspension of promotion eligibility), (6) a fine, (7) reduction in salary for a stated period, (8) suspension from service for a stated period, without other prejudice. (pp. 75-77)

Because the Committee believes that the extramural speech and writings that have generated so much negative reaction on and off campus fall within the scope of Professor Gilley's academic freedom, we have not contemplated any of these milder disciplinary actions either. But in the faculty exchanges leading up to the appointment of this committee, two departmental actions were the subject of discussion: (i) a departmental repudiation of Professor Gilley's views, and (ii) measures to minimize any negative impact on our students' learning environment.

### *Departmental Censure*

Obviously, any departmental statement repudiating Professor Gilley's views would go well beyond the fairly anodyne disavowal that the Provost released, and the Department affirmed, in response to storm surrounding "The Case for Colonialism" piece. A *departmental* statement, we should emphasize, is a statement made on behalf of the *entire faculty* (apart from the subject) unless qualified by reference to full-time faculty, tenure-line faculty, etc. Our third recommendation is:

*(3) The Department should reserve public censure for cases of clear misconduct in research or teaching. It is not appropriate in cases where the only concern is the content of a faculty member's writings or speech. In exceptional cases of misconduct, such a statement should require genuinely unanimous support from the faculty, and in ascertaining the degree of support, the Chair should exercise the utmost discretion.*

By "clear misconduct," we mean research or teaching that unambiguously violates the Faculty Conduct Code, which almost certainly will have been subject to separate administrative procedures at the University. For research misconduct that comes to light after publication, an editor or publisher is likely to have taken separate action as well, like retraction—as happens in cases of plagiarism, falsified data, etc. We note that during the controversy surrounding Professor Gilley's "The Case for Colonialism," many called on *Third World Quarterly* to retract the article, which the editor and publisher refused to do, having concluded that no professional standards had been transgressed. When the article was withdrawn, with Professor Gilley's consent, it was in response to personal threats directed at the editor from quarters objecting to the article's publication.

Suppose, in a case like this, that the Department elected to lean into the controversy and embrace public repudiation. Now there are additional considerations. For a particular piece of research, presentation, or blog post that the department finds objectionable, how much scrutiny (which equals faculty time and energy) should we devote to it before formulating and adopting the statement? Do we scrutinize the theory contained in the piece (if any), the evidence (if any), or the logical reasoning to conclusions (if any)? In the case of a blog post or

public talk, which may draw upon the faculty member's research but does not include the sort of detailed explication one finds in, say, a journal article, how much further does the Department want to investigate before taking a stand? And, importantly, will we be creating, for ourselves or others on campus and off, an expectation of repudiation after each and every provocative utterance, or on some less reactive but nevertheless continuing basis? Provocation is, after all, part of Professor Gilley's viewpoint-diversity agenda. If we are concerned about the demand on the department's time and energy that has followed in the wake of his notoriety, resort to public censure, if adopted as departmental practice and not simply as a shot across the bow, could become counterproductive indeed.

This is not to say that Professor Gilley's research and community engagement is completely free of scrutiny by the Department. When elevating him to the rank of professor with tenure, the Department and the University judged his scholarly accomplishments and contributions to the educational mission of the institution to be meritorious. His research on colonialism, which became part of his scholarly agenda after his promotion to full professor, is among the work subject to periodic post-tenure review at PSU. So is his viewpoint-diversity activism—to the extent that he regards it as falling within the category of community engagement, which the University expressly values as a form of scholarship. True, a post-tenure review does not involve especially rigorous evaluation of scholarly accomplishment, nor should it, but this Committee believes that PTR provides a reasonably good mechanism for peer review even when a faculty member is no longer subject to review for tenure and promotion in rank.

In those rare instances when departmental repudiation may be appropriate, the Chair's discretion in determining the degree of support among the faculty is essential. A faculty member who is ambivalent about the content or tone of a repudiation, or about the advisability of making any statement at all, may nevertheless be reluctant to veto a collective response, even when they can express their preference anonymously. Furthermore, a junior faculty member who may fully endorse censure of a senior faculty member may be concerned about their vulnerability to retaliation, not least during subsequent promotion and tenure reviews. No one remains anonymous behind a *departmental* repudiation.

Needless to say, any and all departmental faculty have the academic freedom to repudiate Professor Gilley's views, or to agree with them, from any number of platforms, including their PSU-hosted personal websites.

### *Learning Environment*

The Department Chair and other faculty have relayed that some students at both the undergraduate and graduate levels have felt uneasy about taking classes taught by Professor Gilley, given the views expressed in his scholarly research, his extramural writings and speeches, or in the classroom. To be clear, at issue for this Committee is not alleged *misconduct*

in the classroom. There are well-established procedures at PSU for reporting and investigating possible discrimination and harassment prohibited by state and federal law, and they are not matters for faculty review or departmental action unless prescribed by the Office of Global Diversity and Inclusion. The question is whether Professor Gilley's views as expressed in the classroom, or outside the classroom to the extent that students are aware of them, can be judged to negatively affect the learning environment of some students and, if so, what action might be appropriate.

University administrations have suspended or adjusted faculty teaching duties in response to statements that fall short of misconduct but that may nevertheless make it difficult for students to learn when they perceive those statements as racist, sexist, homophobic, or otherwise offensive. In 2018, a law professor at the University of Pennsylvania, for example, was [removed from first-year courses](#) after commenting in an interview on poor academic performance by African-American students, although the Dean seemed to suggest that the sanction was in response to her disclosure of student grades and rankings rather than her racially insensitive extramural comments. In 2019, after a professor in the business school at Indiana University created a firestorm with social media posts that the Provost regarded as clearly racist, sexist, and homophobic, [students were permitted to opt-out](#) of his required courses.

How might this type of response apply to the case of Professor Gilley? While his research and extramural writings and presentations on colonialism and slavery have sparked outrage among critics who regard his arguments as racist, if indeed they are (or are perceived by students to be), they differ from the more blatant social media statements that have given rise to this latest form of administrative sanction in the academy. They are, rather, very much grounded in Professor Gilley's research agenda, which none of the political science faculty have denied he has the academic freedom to pursue.

This does not mean that students are wrong if they conclude that his views adversely impact their learning environment. The Committee believes that this possibility needs to be taken seriously by the Department. But if the Department is to take action to mitigate the impact for affected students, it should be based on our students' concerns and the solicited and unsolicited information they provide—information that the Department has taken the time to examine while balancing the various factors that contribute to or detract from the learning environment. In cases where faculty members' teaching assignments have been modified, it is often university administrators who have determined the appropriate response to a public outcry, and they often seem to be responding to a multitude of forces on and off campus and not merely (or even primarily) to students whose learning choices should be our main concern as faculty.

Even in a faculty-led process not distracted by external pressures, we need to be attentive to unintended consequences. Suppose that the Department Chair concludes, after considering the relevant information, that there would be a net positive effect on our students' learning

environment if Professor Gilley no longer taught courses required for their degree program, or if students were permitted to opt-out of those courses and substitute others. If that decision is publicized, either by the Department or simply because of the publicity that invariably surrounds a controversial faculty member, it may have a secondary impact as well. That is, it could appear to delegitimize the learning choices of those who want to take Professor Gilley's courses—because they are not offended by his views, because they disagree with them but want the challenge, or because they don't find them relevant to the subject matter of a particular course. There is even the possibility (hopefully remote) that some students will become ostracized among their peers as "Gilley students."

These cautionary observations notwithstanding, the Committee thinks it proper that the Department Chair has the authority to make final determinations about a faculty member's course assignments, and that in doing so s/he take into account the faculty member's scholarly competence, teaching record, and the learning environment of students in those courses. Our fourth recommendation concerns the exercise of this authority in cases of controversial faculty:

*(4) When the Department Chair believes that course reassignment or blanket student opt-out permissions are warranted, s/he should consult with the chair of the Curriculum Committee and/or the chair of the Graduate Committee prior to making a final determination. These decisions generally should not be treated as matters for public consumption on or off campus. Opportunities to opt-out of required courses can be communicated to students through their academic advisors.*

The intention is to keep the focus on our students and resist the temptation to make such decisions for the purpose of quieting demands from others who do not have a direct stake in the learning environment for which faculty have primary responsibility. Course reassignment may be especially susceptible to the appearance of censorship and therefore warrants a very careful consideration of the costs to academic freedom.

### *Grievance and Collegiality*

The Committee's recommendations in this report certainly err on the side of caution in regard to any departmental action that would give the appearance of (i) limiting a colleague's academic freedom in research, teaching, or extramural expression, or (ii) delegitimizing students' learning choices. On those rare occasions in which departmental action may be appropriate, especially to address a demonstrably negative impact of a faculty member's controversial views on the learning environment of at least some students, we think that a deliberate faculty-led process of evaluation and decision, resistant to outside pressure, can reasonably balance competing equities.

We also think that a faculty member subject to the rare departmental censure or teaching reassignment may feel aggrieved. Of the recommendations we have made in this report, we suspect that the first two—that the faculty member make clear that s/he does not speak for the department or PSU, and that the faculty member inform the Chair when controversial extramural expression may blow back on the department—will be least objectionable. The other two actions that the Committee has contemplated—departmental repudiation and teaching reassignment—are much less likely to be quietly accepted, especially by faculty who court controversy and may well endeavor to provoke sanction by the department or university as a tactic in pursuit of a cause.

Procedures for attempting to resolve grievances involving faculty members at PSU are well established and are documented in the PSU Standard on Faculty Grievance Procedure ([577-042](#)) and, for a narrower set of contractual issues, in the Collective Bargaining Agreement (see [Article 28](#)). As stated in the former:

The emphasis is on solving problems in a collegial manner with members of the University community confronting each other directly as peers seeking to resolve conflicts in a way that embodies mutual respect and fairness. The procedure encourages settlement of disputes at the lowest possible level by direct communications between the conflicting parties.

If, following our *Recommendation 4*, the Department Chair ultimately decides to, say, alter a faculty member's course roster to exclude particular required courses, a grievance by the faculty member would be presented to the Chair, per the PSU Standard. If the grievance cannot be resolved at the departmental level, and it probably would not be, then the subsequent steps detailed in the Faculty Grievance Procedure provide a good roadmap for dispute resolution.

In regard to *Recommendation 3*, Departmental action in the form of a public censure presents a much greater challenge for the maintenance of collegiality, transparency, and direct communication. It does seem unreasonable to expect that a faculty member whose conduct or extramural expression is potentially subject to repudiation ought to participate in deliberations that lead to a draft statement. And it is certainly inappropriate for that faculty member to be involved in a vote or other mechanism for ascertaining whether such a draft statement has unanimous support among the other members of the Department. This means that the process leading to a departmental censure will unfold without the subject's knowledge, which should make us uneasy.

Again, the Committee believes that departmental censure is inappropriate in response to extramural expression protected by academic freedom. Specifically, we do not believe that it is the right response to the "Gilley controversy," or to any of the elements comprising it so far, setting aside the question of whether other faculty would unanimously support such a response. However, supposing that the Department has adopted such a statement in response to a case of misconduct in research or teaching, our fifth and final recommendation is:

*(5) In cases of censure, the Department Chair should give the faculty member an opportunity to commence a Faculty Grievance Procedure and allow that procedure to run its course before making the statement public.*

Because the PSU Standard stipulates that a grievance procedure begins at the departmental level, and should include all parties involved, that will mandate open and direct communication if it had been absent to that point. This Committee is mindful that it is a stretch to call anything about the process we envision here “collegial,” but we do regard it as fair—and perhaps this is the best we can do when a situation has deteriorated to such an extent.