

friendly to blacks in the South). The university president opened the interview with a broad smile and the words, "Now, of course you have never been granted tenure." Even he, a former highway commissioner whose highest ambition was to become governor, was aware of a traditional restraint on his behavior.

In my opinion, despite what exists on paper, universities in the United Kingdom in fact protect tenure more effectively than universities in the United States do. I know of no cases at leading universities in the U.K. where academics of long standing have been let go, except under circumstances that would have equally applied to tenured U.S. academics. However, even if the U.K. is embarking on an experiment of academic freedom without tenure, let us wait a generation to assess the results. In theory, of course, you can give academic freedom all sorts of institutional safeguards other than tenure – the right to go to an ombudsman if you feel your politics were a factor; the right to representation by an attorney; complex procedures of due process – but none of these protections can match tenure in terms of being hallowed by tradition. Traditions, of course, can be slowly undermined by the erosion of the depth of feeling that sustains them. One would expect that the erosion would affect academics last. Ceci et al.'s study is a wake-up call: Rights unappreciated are an endangered species.

In sum, tenure may not motivate, but that does not render palatable the consequences of its demise. Questionnaires cannot substitute for what can be known only by analysis of the historical record. Academic freedom and tenure need each other, and both need academics who are immersed in the tradition that sustains them.

The preservation of academic freedom: Tenure is not enough

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Abstract: The original purpose of tenure has become clouded by the process by which it is granted. In New Zealand, tenure and academic freedom are separate, with academic freedom protected by legislation. Clearly, tenure is neither necessary nor sufficient to protect academic freedom. Individuals and universities must do more to guard academic freedom in order to encourage, nurture, and protect it.

Our initial objective was to provide an international perspective on the concept of tenure and to evaluate the extent to which the issues surrounding it are academically universal. But in reading the target article by Ceci et al., we discovered a need to re-evaluate the importance of the freedoms that tenure was originally designed to protect. In our view, the original intention of tenure has become clouded by issues related to the process by which it is achieved, and in attempting to gain tenure, many academics may have forfeited the very privilege that tenure was designed to protect.

In providing our "international perspective" on the issue of tenure and academic freedom, we should first come clean. Although our first (and only) academic positions have been in New Zealand, we were both brought up in the United States, and we received our doctoral and postdoctoral training at American universities. Furthermore, we both maintain strong research links with colleagues in the United States, and we have watched members of our cohort (and now our own students) undergo the probationary period that sometimes leads to tenure in the U.S.

There are some major differences in the university systems in the United States and New Zealand. For example, in contrast to

the U.S. where universities can be public or private, all universities in New Zealand are institutions that are owned by the Crown. Funding for New Zealand universities is provided by a combination of government funds and tuition. Academic appointments in New Zealand begin with a probationary period that lasts 3 to 6 years. At our university, the tasks that must be satisfied during the probationary period are clearly outlined in writing at the time of hiring, and the candidate is evaluated annually on progress toward those goals. Furthermore, the candidate is provided with support designed to maximize the chances of success, including access to mentorship and to special research funds. He or she is also encouraged to attend special seminars designed specifically for tenure track staff on issues related to teaching, research, graduate supervision, grant writing, and all of the other tasks that an academic is expected to perform. In New Zealand, the probationary period is looked upon not only as a test period for the candidate but also as a period during which the university helps the candidate master the skills necessary for a successful academic career; by the end of the probationary period, no one is surprised by the outcome.

In contrast to tenure in the United States, the job security that comes with confirmation in New Zealand is somewhat limited. The Individual Employment Agreement for academic staff at our university states that:

The employment of any employee whose appointment has been confirmed may be terminated by either party upon 6 months' notice. A confirmed appointment shall be considered permanent subject to satisfactory performance until the employee's normal retirement date unless the employer finds it necessary to terminate the appointment for reasonable cause.

(<http://www.otago.ac.nz/humanresources/payscales/index.html>)

Thus, confirmation in New Zealand does not necessarily lead to permanent job security, nor does it confer any special protection of academic freedom.

How then, is academic freedom protected in New Zealand? It turns out that, here, academic freedom is enshrined in legislation. The Education Act of 1989 specifies that universities accept the role of critic and conscience of society and that academic freedom is to be preserved and enhanced. As defined in the act, academic freedom includes the freedom to question and test popular wisdom, put forward new ideas and state controversial or unpopular opinions, and regulate the subject matter that is taught (<http://educationcounts.edcentre.govt.nz/publications/downloads/oecd-thematic-annexes.pdf>). Thus, in New Zealand, tenure and academic freedom are separate, and academic freedom is protected by a different mechanism.

Let us now return to the issue from Ceci et al. that we found most disturbing. We were struck by academics' answers to question 4: Willingness to publish unpopular research. Although rank was potentially a better predictor than tenure, at all ranks individuals reported that they would sometimes fail to exercise their fundamental academic freedom to publish unpopular research. This finding raises a fundamental question: Although tenure was originally designed to protect academic freedom, is it a necessary or sufficient condition?

The New Zealand situation illustrates that tenure is not always necessary to protect academic freedom; but we would argue that legislation in New Zealand, like tenure in the United States, is also not sufficient. The results of Ceci et al. clearly show that other pressures from within the university, such as relative rank and risk for subsequent promotion, are strong forces that sometimes silence academics. Unfortunately, these forces are not restricted to the university. Pressures from outside can also alter the probability that academics will exercise their privilege to challenge conventional wisdom. In a series of articles published in the *New England Journal of Medicine*, some academics have raised concerns that data or opinions that are contrary to existing beliefs or that do not support particular financial inter-

ests often face legal, administrative, and political attacks from outside the university (e.g., Drazen 2002; Nathan & Weatherall 2002). The authors of those articles noted a worldwide trend in which legitimate public debate has been stymied by administrative or legal adjudication. The end result has been to keep investigators tied up with a range of tasks that ultimately silence academic discourse. Furthermore, harassment of some academics in this manner makes other academics think twice before tackling controversial topics. Unfortunately, even full professors with tenure are not immune to these effects (Loftus & Guyer 2002; Tavris 2006).

In conclusion, we believe that universities must jealously guard academic freedom; but to do this, they will need to go beyond tenure as the only protective mechanism. In addition to protecting academic freedom, universities must also actively foster debate and nurture (rather than punish) those individuals who take part in the process. Universities must send a clear message to academics of all ranks and tenure status that challenging conventional wisdom is not only acceptable, but it is encouraged. In our view, academic freedom is not only a right, it is a responsibility.

American ambivalence toward academic freedom

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Abstract: Why are U.S. academics, even after tenure and promotion, so timid in their exercise of academic freedom? Part of the problem is institutional – academics are subject to a long probationary period under tight collegial control – but part of the problem is ideological. A hybrid of seventeenth-century British and nineteenth-century German ideals, U.S. academia – and the nation more generally – remains ambivalent toward the value of academic freedom, ultimately inhibiting an unequivocal endorsement.

What is perhaps most surprising about Ceci et al.'s study of the relationship between academic rank and attitudes toward "academic freedom" is not its findings but the apparently primitive state of empirical research examining the matter. Moreover, contrary to the authors' suggestion, the United States, although perhaps the nation most ideologically committed to tenure as a vehicle for promoting academic freedom, does not have an especially coherent normative justification for the practice. As in so many other matters, the United States filters aspects of the British and German experience through its own distinctive history. The result is a lively *mélange* of competing notions that render the concept of academic freedom "essentially contested."

Ceci et al.'s findings themselves are predictable: Tenured full professors are more comfortable challenging the words and deeds of their colleagues than are academics who have yet to complete either the tenure or the promotion process, with all ranks turning out to be more timidly disposed than any of them had imagined. Surprisingly, Ceci et al. do not draw the most obvious conclusion to explain this result; namely, that in American universities, tenure and promotion are subject to relatively strong collegial oversight for a relatively long period. The pressure to conform to local norms is thus unusually strong, especially in the run-up to a tenure decision, and it has lasting effects on the candidates. (This policy also affects the examination of doctoral dissertations, the fate of which is almost always determined in-house.)

From a European standpoint, the United States is striking in the weight accorded to a candidate's local public relations. The

good will of tenured and promoted members of a candidate's department is essential for success, as higher levels of academic administration tend to respect the judgments issued at lower levels, unless circumstances clearly indicate otherwise. The hiring of even full professors in the United States is treated as primarily a departmental, rather than a university, appointment. Issues captured by the phrase "team player" can easily eclipse whatever merits a candidate brings as an individual. Moreover, a consequence of the relative autonomy enjoyed by U.S. academic departments is that their members are more preoccupied with boundary maintenance. Thus, every prospective tenure candidate raises the spectre of opportunity costs; namely, the other possible candidates one might hire – and who might be a better fit – if this one is denied tenure.

The solution would seem to be simple: Refer tenure and promotion decisions to a higher level of the university, and over a shorter period of time, to remove local prejudice and inhibit the formation of conformist attitudes. For example, the probationary period for regular academic staff in the United Kingdom has been traditionally only 3 years, not 6 or 7. The several levels of promotion are still based on inter-departmental competitions, where the frame of reference is the overall contribution to the university and the candidate's discipline, not specifically the well-being of his or her department. To be sure, the United Kingdom has drifted over the past two decades toward a more U.S.-style system, but this has happened for reasons unrelated to academic freedom.

On the one hand, longer probationary periods allow more discretion for administrators to reconstitute academic units to fit changing market conditions. On the other hand, a stress on departmental cohesion is more likely to generate a distinctive "research culture," which is a key indicator in national academic performance measures.

The large question that looms behind Ceci et al.'s findings is whether academics are themselves the best guarantors of academic freedom. Given the self-organizing origins of the American Association of University Professors, the answer may appear to be obviously yes. However, Germany under the Second Reich provides an alternative precedent. Academic freedom in this context was not simply a specialised version of free speech but a guild privilege of a certain profession not enjoyed by society at large. Corresponding to such privileges were obligations, not least of which was to publicize one's research in the classroom and the wider society. Moreover, academics could legally criticize state policy by invoking the spirit of the "nation" that may have temporarily eluded the politicians. But could academics be trusted to administer their own delicate position? The answer was no, as academics were as self-serving as anyone else. Here the higher-education minister, Friedrich Althoff, did all he could to control the hiring and promotion of professors, typically by preventing the formation of local academic dynasties through nationwide competitions. The "Althoff system," although irritating the likes of Max Weber, is largely credited with having propelled Germany to scientific preeminence in the years leading up to the First World War (Spinner 1993). The mere reinforcement of local norms was insufficient for academic advancement: Ambitious academics had to strike out in innovative ways that appeared to promote the national interest.

America's constitutionally devolved educational authority renders a homegrown version of Althoff highly unlikely, except perhaps at the level of state university systems. However, Althoff indirectly throws light on a fundamental ambivalence about the U.S. commitment to academic freedom. As Ceci et al. rightly observe, attacks on academic freedom from both the political right and left have often centred on the anticipated consequences of taking seriously what academics have said. In the German context, this would be a problem only if a professor threatened national security or, more immediately, abrogated students' freedom to learn. (David Horowitz's campaign to have U.S. universities adopt an "academic bill of