

We should hope for some amount of controversial, risk-taking scholarship. In fact, we have too little of it, despite the tenure density on American campuses. Does risk-taking scholarship need tenure to support it? Having spent a career studying risk-taking, I am struck by how major risk-takers in many areas do not take their risks from comfortable, secure platforms but are often functioning in uncertainty, in situations of change, growth, and challenge. Tenure can work against such conditions.

Systematic research on pre-tenure versus post-tenure innovation and scholarly risk-taking is needed. The protections of tenure fall mostly on political or values issues, which arise rarely on most campuses. Is an expensive system like tenure appropriate for such rare events? Most university scholarship does not rise as far or even come close on the scale of controversy to what one finds by running one's remote through television talk shows or on the Internet in a society cathected on controversy and extreme behavior.

So what does tenure achieve that is positive, other than provide some job security and occasionally protect a professor from his or her critics or bosses?

Ceci et al. have opened the closet door on the justifications for tenure. All sides of the debate need a full airing and even more data. A much wider range of institutions needs to be studied. For their study Ceci et al. used "top-ranked institutions," but tenure is probably less important there than in lesser schools, where excellence and independence may be less valued and where there is a weaker history of free expression. These would be the type of schools frequently seen on the American Association of University Professors (AAUP) censored list. In the elite schools, it could be argued the faculty are more widely employable and mobile and are thus less concerned over tenure and job security. Perhaps assistant/associate professors in such elite schools regard the ultimate achievers there, the full professors, as great individuals, with their independence not achieved by mere tenure alone, which might be in accord with some of Ceci et al.'s results.

If hypothetical scenarios were to be used in any future research, I would argue for a wider range of examples and for asking respondents whether they have actually seen a comparable situation. However, we cannot justify or condemn tenure on the basis of hypothetical scenarios. Ceci et al. have brilliantly placed the debate over tenure under scientific scrutiny, yielding provocative results that we can build on. But we must now move toward an equally thorough approach based on real cases – actual records of tenure protection, or lack thereof, in academic freedom or ethics deliberations – examining such factors emphasized by Ceci et al. as rank, tenure status, gender, academic discipline, as well as type of institution. This should involve the analysis of costs and benefits of tenure, hypostatizing the ideas from Ceci et al. in concrete cases.

Some attempts have been made at examining actual cases, but most are limited to specific disciplines, or are dated or not extensive or sufficiently detailed. Such research on actual cases would be difficult, probably requiring substantial access to university records, which could be protected, and with non-disclosure agreements between parties. Most universities have grant auditors, as do most funding agencies. If such records could be reviewed where whistle-blowing had occurred, some real cases of rank and tenure effects could be examined. Court records might also be helpful, as might face-to-face interviews with parties. Detailed case studies might be undertaken of similar departments (e.g., psychology) from dissimilar universities (e.g., Ivy League universities vs. small, religious colleges). Detailed data-based comparisons could be done of academic freedom issues and examples found from both before and after the 1940 AAUP Statement of Principles, expanding Slaughter (1980) (see target article, sect. 1).

In conclusion, Ceci et al.'s study should now be followed up with systematic studies of real cases bearing on tenure protections, examining the costs as well as benefits of tenure wherever possible.

## Academic freedom: History trumps questionnaire

DOI: 10.1017/S0140525X06009204

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**Abstract:** The fact that a right is unlikely to be exercised by most members of a group does not mean it has lost its social and justice-defending utility. Current attitudes can be revealed by a questionnaire, but the value of a tradition must be assessed in the light of history. Historically, academic freedom and tenure are inseparable and mutually reinforcing.

Ceci et al. provide a model of what a questionnaire can reveal, and what it reveals is disturbing and important. However, I believe they are mistaken in thinking that they have tested the traditional case for tenure and found it wanting, and therefore, that a reappraisal is necessary. The authors provide an excellent historical review of cases in which academics have been menaced for unpopular views and then, without any analysis of that historical record, assume that it is trumped by a survey of current attitudes. Their strongest point is made in passing and it is an appeal to history; namely, that the United Kingdom has shown that academic freedom can be separated from tenure. That statement requires careful scrutiny.

The following are some fundamentals about what things safeguard a right. The exercise of a right is most secure if (1) it is explicitly acknowledged (preferably in law) and has an institutional protection, and (2) that institution is entrenched in a long-held and deeply internalized tradition. I assume that we value people speaking out on issues of moment, even if what they say is deeply unpopular, and that we believe justice requires that they not be punished for doing so.

The fact that academic freedom/tenure gives academics special protection in providing this public good may outrage equity (whistle-blowers ought to have the same protection and so forth), but this does not make the tradition of tenure any less valuable. Better that some can speak out without penalty than none.

Thanks to Ceci et al., we know that many current academics do not appreciate the role of tenure in safeguarding the right of dissent, and by implication, most of them are unlikely to exercise that right. But a questionnaire provides only a snapshot of the present. Has the situation ever been different? Perhaps only a small minority of academics has ever had the intellectual independence and courage to say unpopular things that they felt needed saying. Nonetheless, people like Jensen and Rushton and Levine and Brand have spoken out. That they needed some kind of protection is self-evident: Brand lost his post, Rushton had to ward off a call for his dismissal by the prime minister of Canada, Levin effectively lost his first-year logic course; and how safe would Jensen have been had not academic freedom/tenure been alive at Berkeley? What have the current views of academics to do with what we see here? Even if tenure does not motivate most current academics to speak out, it may be essential to those who do.

Ceci et al. point to the United Kingdom as a case in which tenure is not guaranteed but academic freedom is, and that raises a fundamental question: Does the combination of the two (tenure and academic freedom) provide a protection that a guarantee of academic freedom alone does not? My reading of the historical record is that the U.S. academic community knows very well that it is subject to temptation and, therefore, has self-imposed a restraint: tenure virtually forecloses the option of discharging an academic who makes his or her university unpopular. That institutional restraint is deeply grounded in a historical tradition of respect, thank heaven, because traditions are priceless things that can not be created by fiat. I vividly recall the first time I was discharged because of my politics (I was deemed to be too

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

DOI: 10.1017/S0140525X06009216

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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-