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Should Academic Unions Get Involved in Governance?

THE STEADY CORPORATIZATION of American higher education has threatened to relegate faculty governance, never strong, to the historical archive. In the twentieth century, many scholars—notably Thorstein Veblen, Robert S. Lynd, C. Wright Mills, and Richard Hofstadter—deplored the tendency for boards of trustees

and high-level administrators to concentrate power in their own hands and for corporations and corporate foundations to play a more prominent role in governance of some institutions of higher learning. Nonetheless, this has already come to pass. The past quarter century has witnessed a powerful trend toward the disenfranchisement of faculty. The introduction of online degrees in public and private colleges and universities, the reshaping of curricula to meet particular corporate needs, the systematic starving of the liberal and fine arts amid the expansion of technical and business programs, and the increasing importance of competitive sports are just some of the elements of the vast transformation that has spared few institutions. Added to these are the openly sanctioned comparison between college presidents and corporate CEOs and the unembarrassed justification of paying academic presidents high six-figure salaries.

Where are the forces that are prepared to defend true higher learning? Who will address the new challenges to academic autonomy posed by proposals for periodic tenure review,

the signs that some administrators are prepared to use political and ideological criteria in tenure cases, and the thorny question of who owns the intellectual property generated by faculty innovations? In short, how can we defend the fragile institutions of academic freedom? The conventional answer is faculty senates and councils, of course. Didn't the Harvard faculty succeed in driving its sitting president from office? Haven't faculty assemblies and representative bodies voted "no confidence" in errant and arrogant administrators who, when the pressure has been unbearable, occasionally have chosen retirement or resignation rather than risking a costly and embarrassing struggle to keep their jobs?

A close examination of these relatively rare instances of the exercise of faculty prerogatives through the senates' collective action would show that most of these occurred in research universities and elite private colleges. But of the more than four thousand institutions of higher education in the United States, only about three hundred fall into these categories. The rest are public colleges and universities controlled directly by the state legislatures that appropriate budgets and must approve the appointment of all top administrators; community colleges that often are subsumed under county legislatures, and sometimes are accountable to the state as well; and second- and third-tier private institutions that, in some parts of the country, operate as fiefdoms often subject to the will of their respective boards of trustees and presidents. In these schools, academic freedom is sometimes a state of being devoutly to be wished.

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At the overwhelming majority of schools, the problem of faculty governance is rooted in the institutional, quasi-judicial limits of the powers of faculty senates. At best, they have a degree of moral authority stemming from endangered tradition. On the whole, faculty councils and senates are advisory bodies to the administration; they possess no formal institutional power and, in many cases, are controlled by administrators who sit on their executive bodies on the fiction that they are faculty on leave to perform the necessary tasks of administration, but intend to return to the ranks. That senates and councils are elected and appoint committees that review curricula and tenure and promotion decisions barely disguises the reality that the president and her or his administrations have final authority. Where once this authority was regarded as little more than a “rubber stamp” of decisions made by faculty, it is no longer uncommon for the president to overturn the decision of a professional and budget committee, sometimes in behalf of an aggrieved candidate, but most

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often against departmental and campus-wide committees that recommend tenure and promotion of the candidate, or seek to implement program innovations.

Underlying these conflicts is the fact that in the private academic sector boards of trustees and top administrators have absolute control of the budget. But there is another factor influencing the decline of faculty governance: so-called executive pay plans set middle and top administrators’ pay and perks at levels significantly above those of faculty, creating an unbridgeable gulf between faculty and administration. Although it is still true that most institutions recruit their top and middle administrators from the ranks of faculty, once in positions such as dean, provost, and president, few top administrators return to the ranks of the professoriate after their term(s) of office. Instead, when their term is over, in preference to resuming their duties as a professor they enter the executive job market and trust their futures to headhunting firms. Administration becomes for most, if not all, a career that



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brings with it substantial financial rewards compared to faculty salaries. Broadly speaking it may be argued that, in keeping with the corporate nature of the institution, academic administrators have become a part of the professional/managerial class. While it is still convenient to pay lip service to what is now termed “shared governance,” since the boundary between faculty and administration has continued to harden, it is no longer in their interest to empower faculty.

In public institutions, faculty disempowerment has been codified by law; legislatures, the governor or county executive and their staffs, or state boards of higher education reserve all rights, except those that have been wrested by academic unions that, alone in the academic community, still possess formal if not substantive autonomy. The relative powerlessness of most faculty senates and the independence of unions suggest that the time may be propitious to raise the possibility that, if unions choose on behalf of their members to become involved in governance issues, there is a chance to reverse the long-term trend toward faculty disempowerment. It is a long shot for a number of reasons, not the least of which is that private-sector faculty remain largely outside unions.

The growth and consolidation of academic unionism

It is a little known fact that, since the 1970s, academic unions have been among the few sectors of the labor movement that have experienced significant growth. As large sections of the unionized manufacturing workplaces disappeared, academic labor began to stir and to unionize. In the past thirty-five years, the three major academic unions—the National Education Association (NEA), the American Federation of Teachers (AFT), and the American Association of University Professors (AAUP)—have added more than 200,000 members among the professoriate. Thousands of university and college clerical and maintenance employees have won union representation as well. Today, in terms of density—the proportion of union members to the overall labor force—academic labor is among the highest in the union movement. A third of the total non-managerial academic labor force is represented by unions—most, but not all, in public institutions. Missing from the unionized are

professors in most of the leading private and public research universities, and private four-year liberal arts colleges, although clerical, professional, and graduate student employees have significant union density in these institutions.

Prior to the 1980 *Yeshiva* decision of the Supreme Court, which ruled that college professors in private institutions were managers because they participated in the governance of the university or college and, for this reason, were ineligible to receive the protections under Labor Relations Act, union growth in the private academic sector was quite healthy. In the 1960s and 1970s, faculty at Long Island University, St. John’s, Hofstra, Adelphi, and other large universities won union recognition and continue to maintain their contracts. Until 2005, the National Labor Relations Board (NLRB) had ruled that graduate assistants at private institutions of higher education were not managers and that, in research and teaching tasks, they were employees, not students. Graduate assistants at Columbia, University of Pennsylvania, Brown, Yale, and New York University (NYU) joined thousands of graduate student employees in leading public universities such as the Universities of California and Michigan to secure union organization.

Except for NYU, which initially recognized and bargained with the union, the other university administrations have declined to recognize the graduate assistant unions, and have successfully resisted several strikes. But graduate teaching and research assistant unionization suffered a blow in 2005 when the NLRB ruled that they were students and not employees, even though they taught a fairly sizeable portion of the undergraduate courses and were paid. In 2005–6, graduate assistants at NYU conducted a losing strike when the administration took advantage of the NLRB ruling and refused to recognize the union unless it forfeited most of the assistants’ rights.

During the period of growth and consolidation, academic unionism faced a series of constraints dictated by state law and by its acceptance of traditional trade union culture. During the struggles for union recognition, academic employees were obliged to accept a deal written into the law of public labor relations according to which they forfeited their right to strike in return for the right to bargain over the terms and conditions of employment. One of the most onerous, New York’s Taylor

Law, construes any concerted action that results in the withdrawal of labor, even if not sanctioned by the union, as a violation punishable by heavy fines and possible imprisonment if union leaders fail to order their members to cease and desist. Moreover, the law specifies the mandatory and non-mandatory subjects of bargaining. New York State and California have the highest concentration of unionized academics, accounting for about a quarter of the national total. Management must bargain with their employees over salaries, benefits, and other terms and conditions of employment except those conditions not considered mandatory.

Governance

Among the non-mandatory subjects is governance. While all of the unions frequently invoke the traditional AAUP principle of “shared governance,” itself a compromise from the premodern concept that higher education was constituted as a community of scholars that shared administrative as well as instructional duties, the reality is that almost nowhere in the public sector do faculty have a legal or institutionally sanctioned right to negotiate over issues of governance, whether through unions or faculty senates. In the case of the latter, the senate has, at best, advisory status, but unions are barred from addressing this question at the bargaining table. In the case of the prohibitions of the Taylor Law, the question of what constitutes “terms and conditions of employment” is becoming a hot topic.

Unions may be in the best position to take a stand when administrations devise protocols regarding intellectual property; close down a program, such as library science and geography at Columbia in the 1990s; institute an online bachelor’s degree, as the City University of New York (CUNY) has done; raise “academic standards” for admission that result in declining enrollments of blacks and individuals from underrepresented ethnic groups; institute a five-year tenure review for all faculty over the objections of faculty organizations, a “reform” that is already in effect on dozens of campuses in the private and public sectors; or undertake dismissal proceedings for dissenting professors or those suspected of cooperating with “terrorists”

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without proffering charges or observing other due process protections for the accused. Even those unions that are not recognized by administrations for the purpose of collective bargaining can publicize the effects of these actions—which are typically unilateral or done in consultation with essentially powerless faculty senates dominated by administrators—and wage a campaign in the community, on the media, and among students to reverse them. Where unions do have bargaining rights, they should consider broadening their demands to include governance issues.

Impediments

Beyond the inevitable resistance of administrations, boards of trustees, and legislatures to this admittedly novel redefinition of the role of academic unions, there are practical impediments. Coded as a “non-economic” demand, expanding the right to bargain over issues that are reserved for administrations will encounter membership concern that economic issues might be sacrificed in the bargain. Moreover, even more than salary and benefit gains, the demand for power in the governance of the institution is likely to become a strike issue, especially if the other side takes the position that they will “never agree” to such an impudent demand. It would take a serious education campaign among faculty, union as well as non-union, who either retain confidence in the faculty senate to address these issues or have been habituated to considering the union as they consider an insurance company: the bargaining committee and the leadership are responsible for “delivering the goods,” principally salaries, health, and pension benefits. And there will be problems with those in the union leadership who share the members’ predispositions or, if they grasp what is at stake in making these radical demands, lack confidence that the members will go to the barricades to win genuine participation in governance.

In public institutions, the fight would by necessity have to be waged on several fronts, including state legislatures that are unlikely to receive the request for broadening faculty powers with sympathy. In order to achieve this goal, unions of professional staff, clericals, graduate students, and maintenance employees would

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have to be recruited to the fight. But these unions and their members might actually believe that shared governance is none of their business. To convince them, faculty would be required to alter their own attitudes and hierarchical values. Why should a registrar, a program assistant, an adjunct, or a maintenance mechanic be interested in governance? One reply is that, in this era of relentless cost cutting and budget shortfalls, the entire community is affected by planned downsizing, by weakening faculty and staff power, and by the structural changes that occur more frequently. Another is that, if working in the university is not just a job but a career choice for most employees, being concerned with broader policy issues may be a vital matter, not just for faculty but for all.

Prior to accepting an appointment at CUNY's Graduate Center, I worked at two major research universities—the University of California–Irvine (UCI) and Columbia. UCI has a very weak faculty union with no bargaining rights, but graduate assistants, clerical workers, and some administrative employees are unionized. Similarly, Columbia underwent a fierce struggle to organize maintenance workers in the 1940s and, twenty years later, clerical employees joined the ranks of organized labor. But, in the main, faculty remain convinced that their interests are best served by relying on their individual merit. They sincerely believe that collective action may be appropriate for manual and white-collar workers, but as members of the informal academic elite, they are well advised to stay away from unions.

In the past twenty years, however, faculty at UCI, a public university, have been subject to several budget crises that have affected their salaries, but more to the point, occasionally restricted access to research resources. Their senate seems powerless to address these issues effectively. As a private institution, faculty at Columbia have few levers to restrain administrative decisions to shut down, alter, or differentially support various programs or to impose their own tenure recommendations on an administration whose major goal is to restrict tenure to senior scholars recruited from the outside. Like other Ivy League schools, Columbia regularly denies tenure to accomplished junior faculty on the theory that they should prove themselves elsewhere and come back as mature scholars.



I have no illusions that the most privileged among the professoriate are prepared as yet to recognize that they are really employees whose powers within the institution are limited. Yet if academic unions were to raise the ante on the terms and conditions of academic employment to include questions of governance, more than salaries and benefits, they might begin to persuade even the most individualistic of the faculty that there is a chance for faculty and staff empowerment. In any case, in public colleges and universities, pursuing this perspective is more than desirable: it is imperative. □

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