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**FORUM SUR LES ENSEIGNANTES ET LES ENSEIGNANTS
UNIVERSITAIRES CONTRACTUELS**

Let's tear down the myths



Since the 1960s, our university system has achieved irrefutable progress and success, but the dangers it is facing today are equally difficult to refute. Once the foundation blocks of social advancement, our universities have now become big businesses run by administrators who care more about marketing their institution than they do about the creation and transmission of knowledge. The contractualization of university teachers is just another example of this corporate-minded decision-making, a culture of “governance” in which the ends justify the means, whatever the cost. In the face of this descent into commoditization, what can we—the thousands of higher education teachers and full partners in the university community—do about it? It is not only our job conditions, but our very workplace that is at stake.

The FNEEQ was given the mandate by the May 2012 congress to organize a forum on the role of course lecturers and tutors in Quebec universities. This forum will give us the opportunity to discuss such issues as professional autonomy, academic freedom, job stabilization, research and creation, the growing place of new technologies and distance education, as well as the importance of academic and institutional integration. It was also be a chance for us to continue our conversation on the need to secure recognition for the 15,000 some course lecturers who contribute, day in and day out, to the quality of university education across the province.

Yes, recognition will be back on the agenda because even though some of our unions are celebrating their 30th, and in some cases their 35th anniversary this year, the role of course lecturers is still all too often misunderstood. Some of that is of our own doing, in that the work we do intersects with that of tenured professors, making any distinction difficult. Indeed, more and more course lecturers are teaching at the graduate levels, engaging in research and creation, publishing, giving conferences, serving as experts in their field in the media and in society, and so on. Practically speaking, the only real difference between contract teachers and tenured professors is their employment status.

So this forum will be about gaining recognition, of course, but it will also be about expressing who we are—loudly, clearly, and in full view of the entire university community, the public, our school administrators, politicians and all other higher education stakeholders. We want to wear our status as contingent workers with pride because the contractualization of teachers in higher education is, in fact, the new norm. We will denounce the job precarity of university contract teachers, but we will also champion the fact that these teachers deliver the majority of undergraduate courses in Quebec and that the undeniable contribution they make to the creation and transmission of knowledge is worthy of a discussion space equal to the role they play in our universities. The Forum on University Contract Teachers will be held November 20 to 22, 2014, at Hôtel des Gouverneurs, Place Dupuis, in Montréal.

Sylvain Marois
 Vice-President
Regroupement université

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ENVIRONMENTAL CONCERNS

The FNEEQ Environment Committee has joined Forces with the Forum Organizing Committee to promote the holding of a sustainable event.



Employment status and quality of teaching: Debunking the myth

“Course lecturers are essential members of the university teaching staff. Their expertise and diverse experience contribute to quality university education. Through their passion for teaching, they transmit knowledge to students and thereby ensure the next generation of torchbearers in all spheres of activity,” stated Quebec Higher Education, Research, Science and Technology Minister Pierre Duchesne in a news release issued for National Course Lecturers Day on November 22, 2013.



Nicole Lavergne - Course lecturer
Université de Montréal



Raymonde Simard - Course lecturer
Université du Québec à Rimouski



Puma Freytag - Course lecturer
Université Laval

Apart from tenure, is there any difference between a permanent teacher and a course lecturer in terms of the work they do? Is the tendency to under-value university contract teachers specific to Quebec universities, or is it the same in other parts of the world?

In this era of the globalized “knowledge economy”, are we not seeing here, as in the United States, the increased contractualization of teaching positions?

Is the prevailing myth that good education can only come from tenured faculty members still relevant today, when the only real difference lies in research? Can this function of research—most of it ultra-specialized—still be seen as an appropriate criterion for differentiating qualifications in undergraduate teaching when recent studies¹ clearly suggest otherwise? Further still, its very basis is predicated on the assumption that course lecturers do no research when, in fact, a good many of them do, even just to keep up with the constant evolution of knowledge.

It should be remembered that course lecturers have been around since the Middle Ages, teaching in Europe’s earliest universities at a period when the concept of permanent “professors” did not yet exist...While the nature of their role has surely changed over time, they do not deserve

today to see that role systematically discredited when they are doing more than half of the undergraduate teaching in Quebec.

To maintain that a real difference exists between the quality of education delivered by a lecturer and a regular professor would mean that we would also have to call into question the qualifications of thousands of Quebec university graduates.

As a society that has made the collective choice to offer universal access to higher education, can we really risk depreciating the teaching value of the 15,000 some course lecturers who are working in our universities in virtually every field of study? What message are we sending to the doctors, lawyers, directors, engineers, actors, accountants, musicians, dentists, journalists, educators, writers, poets, philosophers, and others who are sharing their professional and artistic experiences with students hungry for concrete and practical examples, who bring these students into direct contact with the field and community they will need to know once they graduate? The real-life expertise of these course lecturers and their widely diverse profiles and career paths are essential to the success of the educational mission of universities.



Professional valorization is a “socially responsible good” that must be preserved at all costs. It is the guarantee of Quebec’s ability to achieve the massification of higher education and thereby ensure the greater accessibility of education for adults and students throughout the province. The future of our society and the democratic ascension to education, safe from the clutches of sterile corporatism, hang in the balance of this struggle for due recognition.

“Course lecturers contribute individually and collectively to the academic success of the students they teach. They ensure better access to higher education for all who are willing and able to pursue their studies. It is important that we take the opportunity today to underscore this,” Minister Duchesne added in his release. ■



On the link between teaching and research

An increasing number of course lecturers are doing research and teaching at the graduate levels. In 2012, for example, 35% of the master-level classes and 29% of the doctoral courses at UQAC were given by course lecturers.

Source: *Syndicat des chargées et chargés de cours de l'Université du Québec à Chicoutimi (SCCCUQAC)*

“The role of tenure in American higher education has been reduced dramatically in recent decades. In 1975, 57% of all faculty (excluding graduate students) were in the tenure system; by 2009 that figure had been cut almost in half to 30%. Some observers predict that the share of tenured/tenure track faculty will bottom out at between 15-20%, with tenure being largely limited to the flagship public and private research universities and the wealthiest of the liberal arts colleges.”

Source: <http://www.universityaffairs.ca/the-teaching-only-stream.aspx>

New technologies and distance training



Sylvie Pelletier - Tutor
Télé-université

Today, the classroom-based teaching instituted in the 12th century with the establishment of universities is sharing the academic realm with distance learning, a form of education that has been gaining in popularity since the 1970s. The use of information and communication technologies (ICT) for online training, both on and off campus, is accelerating growth of an “e-learning spectrum”¹ that is transforming the way we teach in digital learning environments. How are these developments changing the face of education? To what extent will they influence our teaching methods?



Vincent Mauger - Course Lecturer
Université Laval

Synchronous learning that connects isolated students or groups of students through various platforms is meshing with asynchronous student-centred correspondence and online teaching to blur the conventional lines between classroom and distance education.² This new flexibility in time and space—one of the undeniable appeals of these courses for many students—has spread to the workplace as well. What does this mean in terms of the technical skills teachers now need to have? How will these impact the quality of their courses and their professional life?

Indeed, the knowledge economy has given rise to a new and burgeoning form of education: Massive Open Online Courses, or MOOCs. Often free and asynchronous, these courses are designed to support a large number of learners in educational networks that, based on the philosophy of Ivan Illich,³ should provide channels containing all of the resources needed for real learning, connect those wanting to teach with those eager to learn, and create an

environment conducive to interaction and the development of skills. These platforms are largely based on open educational resources (OER), full program courses whose materials can be used, modified and re-transmitted with little or no licensing restrictions.

Extending educational access to remote regions and developing countries is, without question, a laudable goal. But the reality is that this approach, as humanistic as it is, also raises the pricklier issues of intellectual property and the commodification of the knowledge capital produced within the university context— issues that have yet to be settled by university administrations and teacher unions. When the diversity of contract teachers and of the educational materials they produce, post online and propagate is thrown into the mix, the situation becomes even more ambiguous. How can we better balance the goal of promoting affordable education through vast networks of information and interactive learning opportunities against the need to protect the

efforts, the creations and the very jobs of teachers and other specialists working in the sector?

The evolving nature of distance learning also prompts a number of other questions: Are the cost of setting up MOOCs and the decision to invest in them over other methods justified? Is this not just another pretense, on a different scale, for universities to engage in outreach by casting a wide net in the hopes of dredging up new student “clienteles”? As private distance learning companies scramble to get in on the action, we run the very real risk of seeing this education turned into a commodity and made uniform by the use of specific platforms. From a social standpoint, what effect will this free form of education—often provided at the expense of quality teaching—have on the overall course offering and on the interest in and recognition of traditional degrees? Buying university credits for such courses may be a marginal activity for the moment, but new opportunities for doing so are emerging all the time.

1 OCDE (2005). *La cyberformation dans l'enseignement supérieur : État des lieux*.

2 Bertrand, Louise (2010). *Renouveler l'université. Pour un rapport au savoir adapté au XXI^e siècle, Québec, Les Presses de l'Université Laval*.

3 Illich, Ivan (1971) *Deschooling Society*. New York, Harper & Row.
Available online: http://ournature.org/~novembre/illich/1970_deschooling.html.



How can we, as higher education professionals, address these new technological, cultural and relational challenges in a way that allows us to meet the growing demand for new and diverse education formulas without relinquishing our academic heritage? All of these are questions we need to reflect on and try to answer. ■



Precurity

An international overview



Yvette Podkhebnik - Course lecturer
Université du Québec à Montréal

The Quebec higher education system is made up of different ranks of teaching personnel: professors, course lecturers, tutors, language teachers, part-time teachers, instructors, teaching assistants, post-doctoral students, etc. The rights of these employees are laid out in collective agreements that set the parameters of their job assignments and afford them a certain protection from contract violations by their employers. The most precarious of these university teaching positions are the course lecturers, tutors and other contract teachers, who find themselves condemned to the uncertainty of variable contract work. So how does this compare to what's going on in other countries?



Stefana Lamasanu - Course lecturer
Université McGill

In France, the system is equally complex, with professors, lecturers, teacher-researchers and contract teachers composing the university teaching body. The most vulnerable to employment precarity are the contract teachers hired directly by the universities for short-term contract cycles that can go on for years. According to the unions, these employees number in the thousands, whereas the French Ministry of Higher Education puts their number at closer to a few hundred.¹

In the United States, figures compiled by the National Center for Education Statistics in 2011 indicate that a third of all teachers in the country's university colleges and universities are contract workers, a proportion some observers say is probably about the same in Canada.»²

1 LE MONDE 05.10.2009 http://www.lemonde.fr/societe/article/2009/10/05/les-soutiers-de-l-universite_1249443_3224.html.

2 Moira MacDonald, January 9, 2013. Sessionals, up close. University Affairs <http://www.universityaffairs.ca/sessionals-up-close.aspx>.



Information from the American Federation of Teachers paints a very different picture: it pegs the number of contract teachers in the U.S. higher education system at 1,212,257, representing a full 73% of the country's postsecondary instructional workforce.³

According to the American Association of University Professors (AAUP) 2012-2013 annual report, the number of part-time teachers in the United States more than tripled between 1975 and 2011. And in Australia, in 2008, only 28% of doctoral graduates were able to secure a permanent teaching position.⁴

India requires that candidates for university lectureship pass a national eligibility test before they can qualify for a position. In 2012, this process came under fire when it was revealed that the qualification requirements had been modified after their publication.⁵ The modifications were subsequently struck down by the Supreme Court of Kerala later that year.⁶

Although the work assignments of these invisible and unrecognized employees of the higher education system vary according to job status, all of these individuals engage in teaching. Despite all of their skills and professionalism, the difficult working conditions they face can have an impact on the quality of teaching. Not only is it difficult to plan and manage classes at the last minute, but constant effort is required, as well, to keep up with the rapid advances in fields like science. These contract teachers are also confronted with the growing demand for student support and guidance: the rise in the number of students with learning difficulties in universities has given rise to an increase in the need for support, which means part-time teachers are often forced to be available at all times to deal with email exchanges, and so on. In short, their working conditions become governed by the learning conditions of students.

The extremely precarious working conditions of lecturers in South Korea were the cause of at least one suicide in 2010⁷ and a total of eight since 1989. Yet the Coalition of Contingent Academic Labor (COCAL) reports that South Korea's Sung Kyun Kwan University still intends to replace all of its tenured teaching staff with contingent faculty by the year 2020.⁸

The internationalization of teaching and the advent of distance learning on a multitude of platforms are contributing to even greater precarity among higher education contract teachers. The splitting of the teaching role and the increase in the number of players (course authors, project heads, academic designers, technology specialists, and so on)⁹ are causing numerous impacts and adding to the plethora of contingent job statuses.

At the EDUCA Fair held in Helsinki from January 23-25, 2014, the Opetusalan Ammattijärjestö (OAJ)—a national affiliate of Education International—reaffirmed that “Strong education unions are crucial to ensure a good status for teachers and to provide quality education for all.”¹⁰

While a good many States are paying lip service to the importance of quality education, few seem inclined to recognize the ones who, at the very base of it all, are making that quality possible. So when will course lecturers get the international recognition they deserve? ■

3 <http://www.aft.org/yourwork/highered/academicstaffing/index.cfm>.
4 <http://lamaracuya.tumblr.com/post/71073631249/the-trend-toward-employing-part-time-contingent>.
5 <http://www.thehindu.com/news/cities/Thiruvananthapuram/ugc-net-results-leave-students-an-angry-lot/article3917202.ece>.
6 <http://www.newindianexpress.com/states/kerala/article1383563.ece#UvkHAM-x7IV>.
7 http://www.koreatimes.co.kr/www/news/nation/2010/05/117_66639.html.
8 http://cocalinternational.org/report_shanks.html.
9 Note the absence of the term “teacher”...
10 Finland: Commitment to education and teachers vital (January 31, 2014) http://www.ei-ie.org/en/news/news_details/2852.



The precarity of university contract teachers

The phenomenon of labour market flexibilization has been growing since the late 1970s, evidence of a shift in the balance of power away from the worker. Nowhere is this more clearly illustrated than in the case of contract teachers, whose situation is a direct product of the ongoing quest to adjust for the rise in demand for education by cutting costs on the supply end.

Marie-Pierre Boucher - Course lecturers
Université du Québec à Montréal

Course lecturers are atypical workers in that their employment status does not conform to the standard or “typical” model of the professor. The difference between the two can be seen as inequitable when both categories of teachers do not benefit from the same conditions to perform the same job—that of transmitting knowledge. Course lecturers tend to accumulate several atypical job statuses. They are considered part-time if they teach three courses or less per semester, and because their contracts are usually for a determined period of one to two semesters,¹ they also automatically fall into the category of temporary employment. Moreover, these teachers are likely to hold several jobs at once and, in some cases, to do freelance work on top of that.

While atypical employment does not automatically mean precarity, it does increase the likelihood of greater job insecurity, lower pay and benefits, less advantageous working conditions, deskilling, reduced access to advancement and proficiency training, poorer integration and

collegiality, a higher degree of stress and psychosocial illness, lower personal productivity, and so on. There are some factors, however, that do foster precarity, and these include job access, salary, legal protection and social benefits.

As contract employees, course lecturers have no control over the assignment of work, which is the key factor contributing to their job insecurity and income variability. The average number of courses a lecturer teaches per year is 2.1, across the university system.² Moreover, Richard Bousquet notes that women are particularly affected by this precarity because female lecturers are more likely to rely on their course load for livelihood and generally teach in departments and faculties that tend to offer lower individual course loads.³

Historically constructed inequality

The casualization of labour goes hand-in-hand with the neoliberal employment policies that have dominated the political landscape



since the 1980s. Let’s look at how this has evolved over the decades.

In the 1970s, the role of the course lecturer expanded within the context of the “university of the masses” brought on by the creation of UQAM and the Université du Québec network, coupled with democratic and demographic pressures. Although professors were being hired, the demands on the system were growing and course lecturers helped fill the gap. The same phenomenon was occurring in the United States and Europe at the time. By 1987-1988, the number of course lecturers in Quebec’s universities had exceeded that of professors—8,942 to

1 Note that efforts are being made to stabilize the job status of course lecturers at Université Laval by offering contracts of a duration of one to five years.
2 FQPPU, *Le financement des fonds de fonctionnement universitaire au Québec. Ensemble des universités québécoises*. Second report of the Committee on University Funding concerning operating budgets, February 2013.
3 Bousquet, Richard, *Portrait de la précarité chez les personnes chargées de cours*, SCCUQ@ctualités, n° 20, 2013: 6-9.



6,651—with lecturers teaching about 40% of the courses.⁴ By 2010, more than 11,300 contract teachers were delivering between 40% and 67% of all undergraduate university courses in the province.⁵

At the end of the 1970s, these casual, part-time contract teachers initiated a unionization process that would take a full decade to achieve, marking the first of many “firsts” they would come to accomplish over the years.

During the 1980s, in the throes of an economic recession that was weighing particularly heavily on young people, the unions representing course lecturers used their collective bargaining power to demand job stability for their members. Although some salary gains were also made—and there was still such a long way to go—wage stagnation would prove to be the rule for the next 20 years.

In 1989, the Quebec Council of Universities released a report on the status of part-time teachers in higher education. The Council noted that, based on their numbers, these teachers could hardly be seen as making a “casual” contribution to education. In identifying the various categories of lecturers, it found a problem with the “fixtures” of the system: neither ad hoc experts nor doctoral students in training, these supernumeraries represented a new phenomenon that was emerging. This category of

teachers, which until then had been used mainly in the newly-instituted universities of the UQ network, was now becoming increasingly popular in other universities as well in response to chronic underfunding in higher education. The Council was clearly concerned by this trend—as well as by unionization—but it was also worried that these casual workers were not enjoying good working conditions. It therefore recommended both the stabilization of employment for casual workers as well as the reduction of their numbers.

It is important to emphasize that the transformation of universities and their longstanding underfunding had a direct impact on the living and working conditions of course lecturers.

The string of federal and provincial cuts to education funding⁶ in the 1990s hit these teachers hard: all recruitment stopped; some lecturers lost their place in the “pool,” and their seniority along with it; the target number of students per class was also raised, bringing about a comparable increase in workload. Bargaining talks on job stabilization and integration were largely to address these issues.

While the number of course lecturers did begin to climb again in the late 1990s, this period was particularly marked by significant improvements in their salary conditions. Still, the question remains as to whether casual

teachers in the higher education system are receiving their fair share of university budgets given the proportion of courses they teach. In 2004-2005, for example, only 8.7% of the university payroll was for course lecturers, versus 40% for professors.⁷

Today, most university contract teachers are unionized and, where they qualify, enjoy access to social benefits, integration programs and skills development opportunities; they provide academic guidance and support at the undergraduate and graduate levels, serve on various committees and perform administrative work. More and more, they have doctoral degrees, are considered experts in their field, publish, innovate and give conferences. Yet despite all of this, these teachers remain precarious employees who are under-recognized, under-integrated, undervalued and underpaid. ■

4 Council of Universities, *Les chargés de cours dans les universités québécoises, Avis au ministre de l'Enseignement supérieur et de la Science*, N° 89.7, Québec, Government of Québec, September 1989, p.31.
5 Rioux, Laval, *Les chargées et chargés de cours dans les universités québécoises*, Montréal, FNEEQ, 2007.
6 See comments on the provincial Acts 102 and 198 of 1993, and on Act 104 of 1997 implementing the zero-deficit policy, in the December 2003 SCCUQ@ctualités, pages 32 and 33.
7 Boucher, Marie-Pierre, *Emploi atypique, précarité et avantages*, SCCUQ@ctualités, N° 20, 2013: 10-17.



The precarity of university contract teachers

A Few data

Evolution of the student enrollment				
Students	1984-1985	1992-1993	1997-1998	2009-2010
	143,977.4	171,893.8	158,076.3	204,549.5
	Rise in enrollment begins ⁸	Rise in enrollment ends	New growth period begins	
Undergraduate	124,389.3	145,907.4	131,796.9	164,858.7

Evolution of the number of professors					
Professors	1987-1988	1992-1993	1997-1998	2009-2010	2011-2012
	6,651 ⁹	8,860	8,152	9,546	9,961
		Increase begins in 1991-92 and continues until 1994-95	Decrease begins in 1994-95 and continues until 1999-2000	Steady growth since 1999	

Evolution of the number of course lecturers and average number of courses taught				
Course lecturers	1987-1988	1992-1993	1997-1998	2008-2009
	9,043	8,815	8,419	11,305
		Decrease begins in 1987-88, continues until 1992-93 and levels off until 1996-97	Steady growth since this period	
Average number of courses taught	46% of cl teach 1 course / year, 22.6%, 2c/yr and 13.8%, 3c/yr ¹⁰	2000-2001 2.3	2003-2004 2.1	2008-2009 2.1

Source: FQPPU, *Le financement des fonds de fonctionnement universitaire au Québec. Ensemble des universités québécoises. Deuxième rapport du Comité sur le financement des universités à propos des fonds de fonctionnement*, February, 2013

8 Periods of economic recession are favourable to university enrollment.

9 This is the figure reported by the Council of Universities, 1989, p.16. For the same year, it recorded a total of 8,942 course lecturers, the highest number of them at *Université de Montréal* (1,421), followed by UQAM (1,365), Concordia University (1,277), *Université Laval* (1,044) and *Université de Sherbrooke* (1,100), seemingly contradicting the Council's assertion that this status is more prevalent in newer universities. However, it is true with regard to the proportion of the university courses taught by contract teachers, which stands at 50% in the newer institutions.

10 Council of Universities, Op. cit., p. 70 and 71.

Academic freedom and university autonomy

The launch of a reflection



Excerpts of an article by
Jonathan Leblanc, union advisor

Beyond the questions of tuition fees and the accessibility of post-secondary education, the events that marked the Quebec student strike in spring 2012 prompted the need for reflection on the role of institutions of higher learning and their academic bodies in our society.

More specifically, the repeated use of court injunctions to force a return to class gave rise to destabilizing incidents that saw the coercive power of the State pitted against the “academic freedom”¹ of teachers. This played out, at its extreme, in forcible attempts by police and private security to strong-arm education, stripped down to its most basic role of transmitting raw knowledge.

It is in this perspective that the FNEEQ launched a collective brainstorming in spring 2012 on the meaning and scope of academic freedom. The article that follows looks at various sources to help better understand and define this concept.

Historical roots

It is interesting to note that the first university strike, involving both students and professors, was over the issue of political and legal autonomy from royal power. Indeed, in the 13th

century—before the notion of nation state and the coercive monopoly of the state came into existence—the University of Paris suspended its activities in protest over the Crown’s use of criminal law powers against students.² Despite a close connection, if not outright overlap with the Church, university was built on the principle of autonomy from the time of the creation of the very first institution in Bologna in 1088. Historically, university and autonomy are not only indissociable; university has been the very essence of autonomy. This has carried over into the definition of modern university and is enshrined in the *Magna Carta Universitatum*³ signed by 755 universities in 1988.

A social, philosophical and political concept

According to professor and philosopher Plinio Prado,⁴ university—more than just a physical place—is an essential principle of modern society.⁵ Identifying with a holistic view of university, where “social” and “natural” sciences must necessarily cohabitate, influence one another and intersect, Prado posits that

universities can only exist and fulfil their political and social role if they have the independence—or “autonomia”—that allows “the mind to set a law of its own, with thinking as its basis, to govern each of its steps.”

To him, this principle is crucial in that it allows thinking to break free from a mind-numbing collusion with conventional facts, giving one the distance and perspective needed to challenge, analyze and judge these facts, to critique them on the basis of one’s own intellectual demands. It therefore enables universities to fully realize their role of cultural creation, in the broadest sense. This also requires that autonomous university thinking be “publicized”, transmitted, to allow universities to become the stronghold of “public” thinking in a space-time continuum of discussion that goes well beyond the physical place.

If all members of the university community are to be able to take the time to “unlearn” and re-educate themselves to judge without preconception, there can be no subordination of this autonomy.

1 Whereas certain distinctions may be made among the terms “academic freedom”, “academic freedoms”, “university freedom”, “freedom of the University”, or “teaching freedom”, the term “academic freedom” is used here without distinction to refer to the sphere of autonomy surrounding teacher actions in a university context.

2 Comments from a conference given by Finn Makela, assistant professor and director of the Common Law and Transnational Law programs at Université de Sherbrooke. See also: Association des juristes progressistes. “La grève étudiante n’est pas un simple boycott : historique et perspective”, <http://ajpquebec.org/?p=135>, viewed May 9, 2012.

3 Magna Carta Universitatum, adopted by European rectors in 1988 on the 900th anniversary of the University of Bologna http://cicic.ca/docs/bologna/Magna_Charta_en.pdf, viewed May 16, 2012.

4 Plinio Walder PRADO Jr., philosopher, State doctor, teaches in the Department of Philosophy of the University of Paris 8.

5 Prado, Plinio. *Le principe d’université*, Nouvelles Éditions Lignes, 2009 http://www.editions-lignes.com/IMG/pdf/PRADO_LePrincipedUniversite_-2.pdf, viewed May 9, 2012.



Thus, research and fundamental education, which can only be assured through autonomy, become driving elements of the university's social mission.

A legal concept

Not surprisingly, the socio-historical importance of institutions of higher learning has secured the inclusion of university autonomy and academic freedom in Quebec legislation and jurisprudence. *The Act respecting the Université du Québec*, for example, stipulates off the top that:

3. *The objects of the University shall be higher education and research, pursued in keeping with the principles of freedom of conscience and academic freedom befitting a university; within the framework of such objects, the University shall, in particular, participate in teacher training. 1968, c. 66, a. 3; 1989, c. 14, a. 2.*

In terms of jurisprudence, the essential nature of universities, characterized by their freedom from religious or political influence, was also upheld by the Supreme Court of Canada, notably in the case of *McKinney v. University of Guelph*,⁶ which clearly established the legal autonomy of university establishments.

While this concept has not been extensively tested by our courts, a review of the body of international legislation—a “persuasive” source for the interpretation of our own

laws⁷—provides a better picture of the scope of the legal concept of academic freedom.

In 1997, the United Nations Educational, Scientific and Cultural Organization (UNESCO) tabled a recommendation⁸ concerning the status of higher-education teaching personnel that broadly reflects the direct links among the fundamental right to education for all,⁹ the social and cultural role of universities, the autonomy of these institutions and the need to ensure working conditions for teachers that are conducive to the exercise of academic freedom.

It goes without saying that such a freedom cannot be elevated to the rank of a social organizing principle without its exercise demanding a certain individual accountability. As a freedom is not a blanket right for individuals to do whatever they want, UNESCO specifies that “Teaching, research and scholarship should be conducted in full accordance with ethical and professional standards and should, where appropriate, respond to contemporary problems facing society as well as preserve the historical and cultural heritage of the world.”¹⁰ With such a primordial and determining social role comes greater social responsibility.

In short, the university academic community must build itself around the principles of collegiality and self-governance and benefit from institutional autonomy to guarantee against interference from outside sources in order to properly fulfil its mission.¹¹

A contracted concept

University, beyond the actual establishment itself, is concretely expressed through the actions of the academic community, teachers and researchers. In Quebec, academic freedom is mentioned in virtually every collective agreement between post-secondary institutions and course lecturers and professors. These clauses ensure an additional guarantee to the indirect protection contained, for example, in the workload description.

When it comes to legal interpretation, the intentions of the parties are determined based on the assumption that undefined terms in an agreement are to be interpreted according to their generally-accepted meaning, or in the case of a specialized field, according to the meaning generally accepted by the members of that field. This highlights the importance of the recommendation by UNESCO that the meaning and scope of the “academic freedom” in our collective agreements be clearly defined.

An applied concept

The legal autonomy of universities is evident in the judicial restraint generally shown by the courts on all matters concerning admission,¹² the granting of degrees,¹³ recognition of equivalence, evaluation and administration.¹⁴ In an often cited decision, the Quebec Court of Appeal ruled that:

It is a constant and well-recognized principle in Canadian and Quebec administrative law that judicial review

6 *McKinney c. Université de Guelph*, 1990 CanLII 60 (CSC), [1990] 3 RCS 229.

7 Despite the dualistic nature of our legislation (i.e. an international treaty only becomes part of federal law once an implementation act has been adopted), the Supreme Court has made reference to a “presumption of compliance” between federal legislation and the ratified treaties.

8 UNESCO. Recommendation concerning the Status of Higher-Education Teaching Personnel, UNESCO General Conference, Paris, October 21 to November 12, 1997, 29th session <http://unesdoc.unesco.org/images/0011/001102/110220e.pdf#page=32>, viewed March 3, 2014. A recommendation in international law is not binding on member States but serves as a strong guideline that States should consider in fulfilling their international commitments.

9 Art. 13 of the *International Covenant on Economic, Social and Cultural Rights*, and Art. 26 of *The Universal Declaration of Human Rights*.

10 *Supra* note 8 aux art. 17 and 33.

11 *Ibid.* art. 18 and 19.



boards do not interfere in academic affairs or the internal functioning of educational establishments, particularly when the matter concerns examinations or the application of evaluation standards, except under extraordinary circumstances such as, for example, when an institution has shown proof of bad faith or has acted in an unreasonable, arbitrary or discriminatory manner [...].¹⁵

In sum, the courts will only intervene in such matters when there has been an abuse of power or denial of justice on the part of the institution.

In labour law, there is insufficient jurisprudence to determine the full scope of the protection offered by the recognition of academic freedom. From the few decisions rendered on the matter in the area of labour law, it can be concluded that teachers and researchers are given considerable latitude in their actions and speech, in keeping with “best practices”.¹⁶ But just as the courts recognize that a denial of justice can arise from an institution not observing its own rules, teachers will surely be bound to respect the profession’s self-determined rules, such as, for example, those pertaining to ethics.

When we look at the issue from a labour relations standpoint, it is clear that the concept of academic freedom slightly muddies the analysis of acceptable conduct. Normally, the rule of thumb when an employee is given an order by an employer is to “obey first before complaining”, unless that order is unreasonable, dangerous or manifestly contrary to the law or the collective agreement. But delimiting what is “manifestly contrary” to academic freedom is not quite so clear-cut. That said, any alleged violation of this freedom can always be the subject of a grievance.¹⁷

Conclusion

Rooted in the very history of university itself, academic freedom is a direct manifestation of the socio-historical role of these institutions of higher learning in modern society. Our society is undergoing profound changes marked by an economic, or econocentric vision that is seeking to weaken its pillars and foundations.

Yet shouldn’t this rise in power of a single social vision be the core argument for a more aggressive defence of these bastions of critical thought, reflection,

teaching, basic research and cultural transmission that are our universities? What role are course lecturers to play in protecting and promoting this principle of higher learning? ■

Exhibitions

During the University Contract Teachers’ Forum, course lecturers will have the opportunity to showcase their talents, with artists exhibiting their works and authors presenting their publications. Keep an eye on your inbox for an invitation from your union.

12 *Laflamme c. Comité d’appel prévu par la politique générale d’admission de l’Université de Sherbrooke*, 2009 QCCS 2698 (CanLII).

13 See, among others: *Vallée c. Université Laval*, 2006 QCCS 5096 (CanLII), *Morin c. Université de Montréal/Faculté des études supérieures* 2008 QCCS 1091 (CanLII).

14 *Ruel et als c. Marois et als*, 2001 CanLII 27967 au para 63.

15 *Barreau du Québec c. Boyer*, 1993 CanLII 4401 (QCCA). Also see: *Friesen et als c. UQAM*, 1996 CanLII 6188. *Université de Montréal c. Fédération des médecins résidents du Québec*, 1997 CanLII 0675. *Université de Montréal c. Zompa*, 2005 QCCA 250 (CanLII).

16 See: *Association of Professors of Bishop’s University c. Bishop’s University*, 2007 CanLII 68089.

17 Arbitration tribunals have full jurisdiction to rule on grievances involving a teacher’s academic freedom. This jurisdiction derives from the agreement between parties through the recognition of academic freedom in collective agreements.

Academic freedom and professional autonomy

A few considerations



In 2014, the issues of academic freedom and professional autonomy are at the very heart of the transformation of university, which is giving rise to many questions that are sure to be the subject of lively debate at the November 2014 forum. Laval Rioux, member of the FNEEQ Federal Bureau, has a few of his own on the relationship between academic freedom and...

Program approval

Are the requirements being imposed by professional orders and the various national and international program accreditation bodies undermining teacher autonomy?

Teaching status

Academic freedom is an age-old conquest of universities, one that safeguards the pluralism of ideas and the quality of debate in higher education. Some view this freedom as the exclusive reserve of tenured professors. But what about the legions of contract teachers occupying an ever growing place in our universities? Should it not be, instead, that academic freedom is an inherent part of the institution of university itself and thus a right guaranteed to all teachers?

Professional autonomy

Academic freedom also means the exercise of professional autonomy in the choice of how to teach and transmit knowledge. Is the increasing use of standard distance learning formulas restricting the freedom and the autonomy of teachers?

Governance

Are the new management practices in our universities having an effect on teaching, academic freedom and professional autonomy?

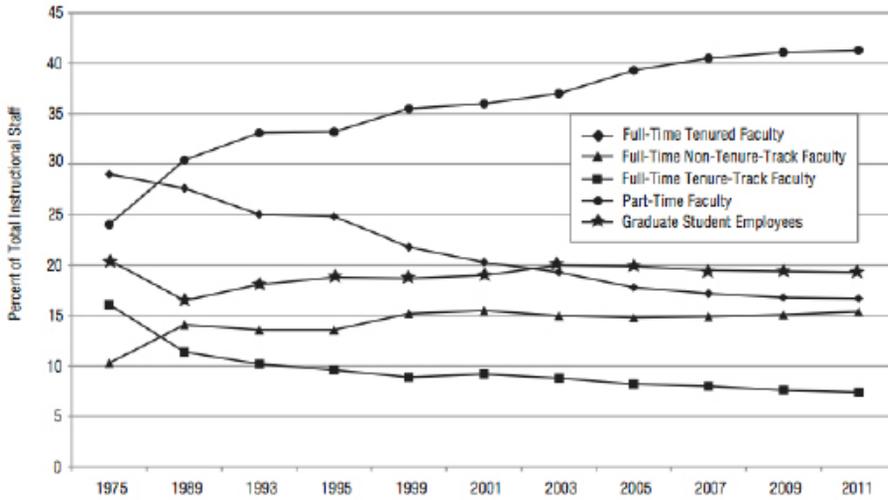
Collective bargaining

Should non-permanent contract teachers be advocating for the formal protection of their professional autonomy under the larger umbrella of academic freedom? Must these guarantees be expressly laid out in our collective agreements? If not, what can we do to ensure their protection?

Commodification

What impact are the commodification of knowledge and the standardization and quality assurance in education having on academic freedom and professional autonomy?

Evolution of job status in the United States



Notes: Figures for 2011 are estimated. Figures from 2005 have been corrected from those published in 2012. Figures are for degree-granting institutions only, but the precise category of institutions included has changed over time. Graduate student employee figure for 1975 is from 1976. Percentages may not add to 100 due to rounding.

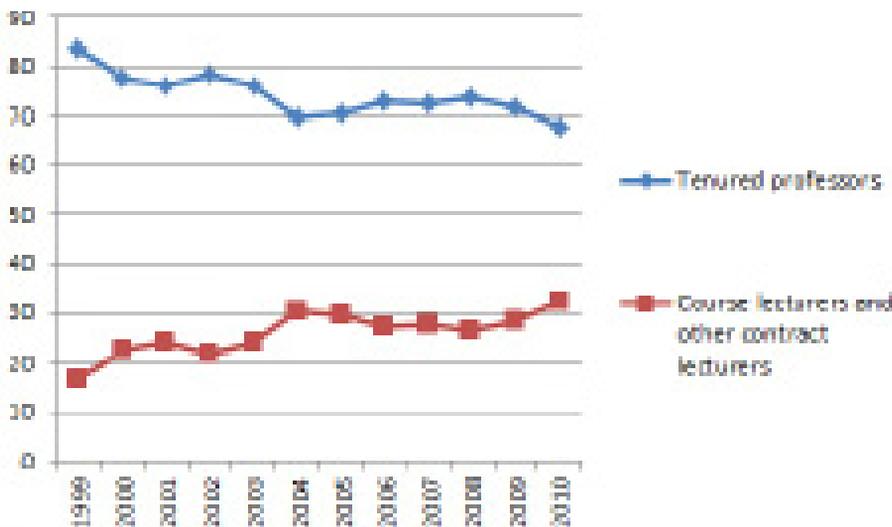
Source: US Department of Education, IPEDS Fall Staff Survey



"The role of tenure in American higher education has been reduced dramatically in recent decades. In 1975, 57% of all faculty (excluding graduate students) were in the tenure system; by 2009 that figure had been cut almost in half to 30%. Some observers predict that the share of tenured/tenure track faculty will bottom out at between 15-20%, with tenure being largely limited to the flagship public and private research universities and the wealthiest of the liberal arts colleges."

Source: *Are tenure track professors better teachers?* de David N. Figlio Morton O. Schapiro Kevin B. Soter, National bureau of economic research, 2013

Evolution of job status in Canada



Source: Canadian Association of University Teachers (CAUT).



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MYTHES



FORUM SUR LES ENSEIGNANTES ET LES ENSEIGNANTS UNIVERSITAIRES CONTRACTUELS

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