

Academic Tenure in American Higher Education

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Abstract

While admitting the benefits of tenure among history, increasing debate on today's academic tenure has been raised. On the one hand, supporters strongly advocate tenure. On the other hand, opponents argue tenure is outdated. By exploring the historical trajectory of academic tenure in American higher education, this paper aims to understand the essence of academic tenure and its impacts. After that, through discussion on current arguments from academic and economic perspectives, this paper seeks to examine the rationale for those arguments. Based on history and current debate, this paper suggests that academic tenure, as the production of the modern university, is indispensable to protect academic freedom and shared governance of faculty members.

Keywords: tenure, academic freedom, faculty

Academic Tenure in American Higher Education

Academic tenure in American was born as the protection of faculty members so that they would not be fired due to their political position or speech. In today's American higher education, it is regarded as a safeguard to academic freedom as well as an attraction for new employees. However, over the past decades, due to financial restraints, entrepreneurship of higher education, and increasing focus on efficiency, the value of tenure has been doubted. Academic tenure might be one of the most arguable topics in American higher education. On the one hand, some people strongly support academic tenure and view it as indispensable to protect academic freedom and higher education. On the other hand, others oppose academic tenure and regard it useless and inefficient.

With the heated debate on tenure, American higher education witnesses decreasing tenure positions and increasing contingent faculty members. According to a national survey in 2020, up to around 75% of instructors in the United States are not eligible for tenure (Johnson et al., 2020), while in 2000, only 45% of faculty were part-time employees. Except for the doctoral universities, part-time employees account for the largest component in the master's, baccalaureate, and associate's institutions in 2019 (American Association of University Professors, 2020). Additionally, Iowa and Missouri have tried to abolish tenure at public universities (Williams, 2017; Flaherty, 2019). Such a proposal was approved by an Iowa Senate subcommittee in 2019, which would lead Iowa to become the first state without tenure and might be a beginning for American higher education to eliminate tenure gradually (Flaherty, 2019).

This trend can be attributed to many factors, such as economic crisis, financial restrictions, deficiencies of academic tenure, and university entrepreneurialism. It might be easy to blame the external environment without sufficient resources and be subject to the external pressure, but to solve problems, higher education should have a self-reflection on academic tenure. Before eliminating tenure, colleges and universities should first understand what tenure is and its impacts. And then institutions need to review the deficiencies of academic tenure and the possible solutions to those deficiencies within the tenure system. Unless institutions find tenure is alternative and its deficiencies cannot solve within the system, can they consider terminating or altering it.

Based on those considerations, this paper will be divided into four different parts. The first part will review the history and development of academic tenure. By tracing the origins of tenure and how it was adopted by American higher education, this part examines the conditions of adopting tenure and the essence of it. Then, the second part will present the main arguments on tenure and the rationales of both sides. Based on the rationales of different arguments and the status quo, the final part will discuss whether academic tenure is still appropriate and necessary for today's American higher education. If yes, how can the higher education system reform it to deal with opponents? If not, what are the alternatives colleges and universities can choose and the consequences of those alternatives?

Overall, this paper attempts to answer the question—does American higher education still need tenure? Since the Great Recession, faculty real salaries have just barely kept up with inflation, the job market for new faculty members have become tougher and tougher. The coronavirus presents an unprecedented shock on the American economy, with an even worse estimated impact than the Great Depression.

During this unsettled time, faculty members are burnt out with tremendous additional work without additional compensation. It might be the worst time in recent years, but it also can be the best time to review history and reflect on the really important ones of American higher education.

History of Tenure

The word “tenure” was first used in the 15th century but did not relate to higher education. The original definition of tenure refers to “possession of land under obligation to a superior, the land so held” (Merriam-Webster, n.d.). Whereas, the modern concept of tenure in American higher education, especially, academic tenure means “an indefinite appointment that can be terminated only for cause or under extraordinary circumstances such as financial exigence and program discontinuation” (American Association of University Professors, n.d.). The purpose of academic tenure, according to the American Association of University Professors (AAUP), is to protect academic freedom so that faculty members would not lose their jobs because of their teaching or research which could prevent faculty members from advancing and spreading knowledge.

Origins of Academic Tenure

Two important issues related to the modern concept of academic tenure—job security and academic freedom. Both of them can be traced back to Medieval universities. In the Holy Roman Empire, job security, as “Authentica Habita” was provides to scholars to protect them travel freely across the empire and educate students (Hertzog, 2017, p.24). This job security promised long-term employment and rewards when scholars move to other regions to teach, but it did not protect scholars from external influence and guarantee self-governance. Till thirteen century,

due to the urging of scholars, the development of sovereign states, and the rise of Christianity, the instructors had the autonomy and freedom of teaching as the original form of academic freedom, (Hertzog, 2017). Although academic freedom did not include freedom of research in the thirteenth century, it established a philosophy that scholars should self-govern and free from external forces.

In the nineteenth century, Wilhelm von Humboldt led tremendous reforms in German universities, which were the foundation of modern universities. His reforms expanded the definition of academic freedom by including the freedom of research as research became one of the core functions of higher education. On campus, professors were free to express their opinions and research. However, it did not include the protection of expression outside of campus and issues related to politics (Altbach, 2001).

History of Tenure in American Higher Education

The first American universities—Harvard University (Harvard College) was established in the colonial period. Following Harvard, eight colleges were built to cultivate clergies and lettered people (Rudolph & Thelin, 1990). Those colleges appointed tutors for instruction. In Harvard, the president, a treasurer, and five fellows consisted the Harvard Corporation which took charge of management, including “manage the College’s finances, properties, and donations”, “select officers and servants” (*Harvard presidential insignia*, n.d., "History of the charter of 1650"). Tutors could be fellows in the Corporation to share governance of the college. However, they did not have an explicit term of employment in the colonial period. Because of the unexplicit term of employment, tutorships were actually temporary jobs and then transferred to ministers (Burton, 1995). Similarly, other colonial

colleges did not define the term of employment for tutors. On the one hand, undefined employment limited tutors' power on governance since this job was viewed as a transitional step to ministers (Burton, 1995). On the other hand, the board would view them have the right to layoff tutors when they saw fit (Hertzog, 2017).

Until the eighteenth century, Harvard president—Increase Mather proposed 7-year terms for tutors. However, his proposal was not approved (Hertzog, 2017). In 1716, the Corporation passed an act—the Triennial Act, regulated three-year terms for tutors with a choice of renewal. Moreover, new professionalism was established in the 1720s (Burton, 1995). The Corporation added a specific length (no more than eight years) of a specific academic rank in the Charter in 1760 (Hertzog, 2017). Unlike defined appointment terms of tutors, the professors actually had life tenure. Although the conception of “tenure” was not used at that time, contractual agreements were established between faculty and institutions. Also, a new hierarchy of faculty was introduced in those colleges. This new hierarchical rank included tutors, instructors, assistant professors, associate professors and professors. Tutors became second-class faculty in that system. Non-promoted tutors needed to renew their employment every three years and were excluded from governance, while the discipline-based professors were first-class faculty enjoying job security (Burton, 1995; Hertzog, 2017). However, on paper, the contracts of faculty and colleges usually had only a 1-year term and were renewed automatically.

Professional rank was established in the eighteenth century, but the mission of American colleges during that time was only instruction, either by classic curriculum or practical courses. It was not until the nineteenth century, many American students received education from Germanic universities and introduced the Germanic Ideal to American higher education. The Germanic Ideal stressed “independent search after

truth, irrespective of its application” (Lucas as cited in Dorn, 2017, p.127). Under its impact, research became the main function of universities and the central work of faculty. American universities adopted *Lernfreit* which refers to freedom for students to choose courses, and *Lehrfreiheit* which means freedom for faculty to teach and expression to protect scholars pursue pure research. These help American higher education to develop “a coherent and professionalized professoriate” (Dorn, 2017, p.127) with professors becoming more discipline-based experts. Universities also benefited from publications and patents from those professors. With the formation of a hierarchical academic system through professional titles and terms of employment, scholars began to seek their professional identity and developed their “collective interest of profession” (Dorn, 2017, p.128).

Furthermore, under the support of the federal government, the among of institutions increased rapidly and existing institutions kept expanding. These trends required more faculty members which provided feasibility for faculty members among different institutions to collaborate and formed an association to protect their rights and interests. As increasing faculty members collectively protecting their interests and concerning academic freedom, the written contracts only offered 1-year term employment. Thus, even universities actually had a tenure system, no written provisions were made to guarantee job security. The administration had the right to dismiss a professor even the faculty enjoyed life tenure and no protection for faculty from an unreasonable layoff. A famous case related to academic freedom happened at Stanford University in 1900. Edward R. Ross was dismissed by the university president due to his political opinions and publicly supporting eugenics. His case received wide attention and protests at Stanford University. This case is notable because it showed the arbitrary power of the president over the university—Jane

Stanford during the formative period of academic freedom. It also generated arguments around conflicts between science and religious orthodoxy (Dorn, 2017).

Under these circumstances, the 1915 Declaration of Principles on Academic Freedom and Academic Tenure presented through investing violation of academic freedom at the University of Utah. This document becomes the foundation of AAUP, a nonprofit association dedicating to advance academic freedom and shared governance. It released 1940 Statement of Principles on Academic Freedom and Tenure, defining “faculty rights and responsibilities concerning speech in the classroom, extramural speech, and research and establishes a maximum seven-year probationary period for tenure” and linking tenure with academic freedom (*Timeline of the first 100 years*, n.d., "1940" section). Although there were still cases related to violation of academic freedom, this document and foundation of AAUP formally introduced “tenure” into the American higher education system and used tenure as an essential approach to protecting academic freedom. The massive expansion of American higher education after World War II led to a great demand for faculty. For that reason, tenure was used by administrators to attract faculty members which led to the growth of tenure among American higher education.

Reviewing the history of tenure, the modern conception of it in American higher education has a relatively short history, but tenure positions have declined sharply during recent years. More than half of all faculty members in both public institutions and private nonprofit institutions are non-tenure-track employees in the 2018-2019 academic year. Associate and baccalaureate/associate institutions have 78.9% non-tenure-track faculty (The Chronicle of Higher Education, 2020) . Whereas around 60% are either tenured or on tenure-track faculty in 1975. Other than declining

in numbers of tenure-track faculty, increasing arguments on reforming or terminating academic tenure appears among American higher education.

Contemporary Arguments

Current arguments related to academic tenure are from two perspectives—academic perspective and economic perspective. Discussions of tenure from the academic perspective mainly focus on the relationship between tenure and academic freedom, while arguments on the economic aspect debate on efficiency and performance.

Academic Perspective

Since tenure is viewed as a safeguard for academic freedom, debate from the academic perspective explores two questions: whether tenure protects academic freedom and whether tenure is necessary to protect academic tenure.

For the first question, proponents held views that no tenure, no academic freedom, while opponents believed tenure does not ensure academic freedom (Bruce, 2019). Supporters say that tenure protects academic freedom by providing job security that faculty members do not need to worry about dismissal due to their teaching, research, or speech. Others argued that no greater intellectual diversity in the academy due to tenure, thus tenure does not protect academic freedom (Bruce, 2019). Moreover, without tenure, scholars still have freedom in teaching and researching (Bruce, 2019). Furthermore, although AAUP holds that all full-time faculty should be eligible for tenure and calls for institutions to provide tenure for part-time faculty (American Association of University Professors, n.d.), the reality is the tenure position is declining. Instead of eligible for tenure, part-time faculty members in some institutions cannot even be eligible for job security and benefits (Lassiter & Carolina,

2010). Differences in tenure status exist among gender and race. White males account for the majority of tenure-track professors (Lassiter & Carolina, 2010). The argument against tenure claimed that since not every professor can enjoy tenure and declining faculty members have such privilege, tenure for fewer faculty cannot protect academic freedom. On the contrary, scholars argued that the process of tenure may be discriminatory or unequal, but other than only benefits individual professors, the existence of tenure is “a commitment to democratic principles” (Tierney & Lechuga, 2010). Tenure creates the academic climate which supports academic freedom (Brown & Kurland, 1990).

When it comes to the necessity of tenure, opponents stated that the First Amendment and the Fourteenth Amendment of the US Constitution have already protected academic freedom (Hertzog, 2017). According to the First Amendment, “Congress shall make no law...abridging the freedom of speech, or of the press” (*First Amendment*, n.d.). It protects free speech for all citizens as long as their topic is related to a matter of public concern, no matter their tenure status. The Fourteenth Amendment regulates the due process clause applying to the dismissal process. Therefore, Hertzog (2017) claimed that the Constitution has already provided all necessary protection for faculty members’ academic freedom. Even though a faculty member does not on tenure-track, that employees’ rights are protected by the US Constitution.

Whereas, proponents pointed out that protections from the law of faculty’s rights have restrictions (Chemerinsky, 1998; Ginsberg, 2011). When it comes to the protection of the First Amendment, it only protects the matter of public concerns and public employees (Chemerinsky, 1998). As for private colleges, constitutional protections may not apply. Usually, the academic freedom cases happened inside of

higher education, while the law can only provide protection from outside. The majority of cases are related to conflicts between administrators and faculty. Facing those cases, the courts would be hesitant to intervene (Ginsberg, 2011). Even though tenure does not mean lifetime employment, the due process of termination brings high institutional costs so that institutions could not lay off faculty employees easily. The dismissal should be approved by the faculty committee and the governing board (American Association of University Professors, 1940). Moreover, “termination of a continuous appointment because of financial exigency should be demonstrably bona fide” (American Association of University Professors, 1940, p.16). With those regulations, procedurally, it is the institutions’ responsibility to prove the termination is justified and reasonable. However, without tenure, if a faculty is fired and does not want to accept, that faculty would have to prove that dismissal is irrational. Compared with institutions, faculty members have few powers, especially for individual faculty (Roepnack & Lewis, 2007).

Declining tenure positions does not mean it is useless since it has social and cultural impacts and protection from the Constitution does not enough for academic freedom, thus tenure is still practical and necessary. However, due to the salary of tenured professors and the institutional cost of dismissing them are higher, another argument is related to cost-effectiveness.

Economic Perspective

Critique of tenure from the economic perspective focuses on efficiency. Critics of tenure argued that it eliminates competition, thus once being tenured, scholars could lack motivation for research. Impatient scholars would use their finite resource to be tenured and then be unproductive after tenured (Faria & McAdam,

2015). Opponents held the view that once professors receive their tenure position, they would be inefficiency, while institutions still have to pay higher salary and afford the high institutional cost to lay off incomplete professors. Thus, instead of offering many tenure positions, the institution would rather that hiring more non-tenure-track or part-time faculty members with a lower salary to save costs.

However, scholars argued that hiring non-tenure-track or part-time faculty actually increases institutional costs by requiring more support administrators (Lin, 2016). Worse, due to lack of attention and support of the school, more contingency faculty on campus means lower educational quality and research performance (Puillias Center for Higher Education, 2020). Moreover, tenure has a high monetary value by compensating a relatively lower salary of professors than other professional jobs. With job security and high job status, universities and colleges use tenure to attract and retain faculty with lower prices and appeal to more potential students apply for Ph.D. and academia (Craft et al., 2016). As for the performance of post-tenure professors, Faria and Monteiro (2008) stated that through the tenure process, scholars develop the academic habits which keep motivating them after receiving tenure and impact their productivity. Also, both expectations of increasing influence, academic habits and job satisfaction caused by tenure encourage tenured faculty members to be more productive than non-tenured faculty (Nikolioudakis et al., 2016).

Although tenure is relatively expensive, it is a trade-off for institutions to have it for enhancing teaching quality and developing a positive climate for research. Tenure also helps institutions in hiring and retaining quality faculty with a lower salary. More importantly, post-tenure professors do not necessarily become unproductivity and lack motivation.

Conclusion

The modern concept of tenure as a safeguard for academic freedom can be traced back to the twentieth century. As American institutions have witnessed the benefits of tenure, they are also experiencing the fall of it. Under the impact of new public management, accountability and measurable performance are priorities of institutions. Inflating tuitions do not guarantee a sufficient budget. High-paid tenure-track professors become the target to criticize for high institutional costs, while oversupplied Ph.D. students allow institutions to replace those professors with contingency faculty. Contingency faculty could be recruited and paid course-by-course and dismissed at the end of the course if that course is not fit the administration's plan. Cheap and disposable employees seem more appropriate for effect-oriented higher education and fulfill the educational market's requirements. Meanwhile, expensive and inflexible tenured professors are deadwood which needs to be abandoned.

However, higher education should not only keep up with societal development but should also go ahead of time. When reformers consider abandoning tenure, they need to consider consequences. Looking back at history, tutors without job security were viewed as second-class among campuses, so as the adjuncts in today's higher education. More adjuncts and fewer tenure-track professors could erode the shared governance of faculty members, which would further limit the faculty's rights of discourse. Meanwhile, the existing law is not enough to protect academic freedom. Consequently, without tenure, intellectuals would suffer from external and administrative forces, academic freedom can hardly be protected.

The problem that institutions need to emphasize is not whether to eliminate tenure or not, but how to motivate scholars within the tenure system. As the Coronavirus brings more financial and safety challenges to American universities, many institutions choose to layoff or freeze hiring which could make faculty lives tougher. Fewer enrollments do not necessarily mean fewer faculty, especially tenure-track faculty. In addition, to reduce expenditure, institutions need to think about the core functions of universities and how to fulfill. The faculty is the person who is responsible for teaching and research. It has been a long time that institutions stress too much on students' needs rather than support faculty members. It is a time for higher education to refocus on faculty members.

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