

Relations industrielles Industrial Relations



Collective Bargaining and Academic Freedom : Are they Compatible? Négociation collective et liberté académique : comptabilité?

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Volume 30, Number 4, 1975

URI: <https://id.erudit.org/iderudit/028656ar>

DOI: <https://doi.org/10.7202/028656ar>

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Article abstract

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Publisher(s)

Département des relations industrielles de l'Université Laval

ISSN

0034-379X (print)

1703-8138 (digital)

[Explore this journal](#)

Cite this article

Woods, H. D. (1975). Collective Bargaining and Academic Freedom : Are they Compatible? *Relations industrielles / Industrial Relations*, 30(4), 643–661. <https://doi.org/10.7202/028656ar>

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Collective Bargaining and Academic Freedom

Are they Compatible?

H. D. Woods

In this paper, the author supports the idea that collective bargaining presents some real dangers to academic freedom on the campuses of Canadian Universities.

The theme of this paper is that collective bargaining and academic freedom are incompatible, or at least that collective bargaining presents some real dangers to academic freedom on the campuses of Canadian universities — dangers which should be recognized by the academic community particularly at a time when there is a strong movement toward formalized collective bargaining on a number of campuses, a malaise which is communicable and possibly malignant.

It is necessary to make a distinction between a conventional faculty association and a unionized faculty. While the two overlap in function to some extent, and while they may appear to be different only in degree they are, in fact different in kind. Those who seek to convert a faculty association into a genuine union of faculty members bent on certification, collective bargaining, signed collective agreements, all in the context of the adversary system of industrial relations as it exists in private industry, should recognize that they are not merely speeding up a process of natural evolution from something like a company dominated association to genuine unionism. What they do if they succeed will be to convert the university into an authoritarian managerial hierarchy on the one hand, and a managed employee group of academic staff on the other. When this happens the chief casualty will be academic freedom.

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* Paper presented at the Canadian Industrial Relations Research Institute annual meeting, Edmonton, Alberta, June 1975.

Faculty association developed rapidly on all Canadian campuses after the second world war. Most of them engaged in campaigns to shift the locus of power in their respective universities in the direction of the academic staff. There was a shift in authority away from boards of governors and executive officers toward the teaching and research staff. This was not a revolution, but a rather rapid evolution. The universities had, indeed, long been governed on a shared authority basis. What transpired was a change in the mix with the gains in power accruing to the academic staff. The major credit for this shift must go to the individual staff associations aided somewhat by the Canadian Association of University Teachers. I shall return to the meaning of this shift of power later. Meanwhile it is important to recognize that these associations were not unions in the conventional sense. They did not conform to union models in a number of important ways, including legitimacy, structure, objectives, methods, and results.

They derived their legitimacy from the nature of the university itself — a conglomeration of activities carried on in educational milieu by a heterogeneous collection of scientists, scholars, teachers, researchers — call them what you will, who function in response to a multiplicity of conflicting and confusing demands from a complex and increasingly restless society. Because of a vastly broadened public interest in both the training and research capacities of universities, and because of the demands on public revenue, officials of state are inclined to assume a right to intervene in the internal affairs of the universities, and to demand of university administrators a public accounting of their stewardship. Staff associations emerged in this context to come to grips with the problem of staff members as employees, but equally significantly to act as the instrument by which the administration could be transformed by a shift in the power of decision-making toward the academic community on the campus.

It is this second goal of staff associations which marks them off from the conventional industrial unions. The latter have traditionally been concerned with bargaining with employers with the object of establishing the terms and conditions of work. The most important product of that interaction is the collective agreement which may be looked upon as a code or set of private laws which establish rights and obligations applicable to employees and managers. They also establish problem-solving devices such as grievance procedures and arbitration to ensure that management respects the rights of the employees and the union under

the collective agreement. It is important to note that the union does not take over the managerial role, except that in the important area of « legislating » the terms and conditions of employment it confronts the inherent authoritarianism of management and converts it into a constitutional order. The result is a joint, but antagonistic system of agreement or contract writing. Once an agreement is signed in industry the management continues to operate the business as before, except that it must respect the rights and obligations set forth in the agreement itself. The union participates in the legislating of the rules ; it does not manage.

Staff associations, by contrast, are engaged in a much more fundamental and perhaps more revolutionary exercise than the unions in industry. They have in fact invaded all areas of the managerial prerogative. They have not confined themselves to transforming absolutism to constitutionalism as have the unions in industry ; they have been engaged in blurring the distinction between academic staff and management in the universities. They have done so not by transferring functions from the administration to the staff associations themselves, but rather by bringing about a transformation of the hierarchical structure of departmental chairmen, deans, presidents and their respective vices, and associates, and assistants and boards. In the process the universities have become perhaps the most democratic institutions in western society.

This process has gone much farther in some universities than in others. I suspect that it has been easier for the staff associations in private institutions to bring about the transformation than in the provincial universities. This is so because the statutes of the former are amended within the universities themselves, whereas the constitutions of the state universities require action by provincial governments and legislatures. Nevertheless, within that constraint, the provincial universities have also moved a long way toward democratization of the internal system of government and administration.

In summary on this point I suggest that the major function of the staff associations has been to assist in the democratization of the universities by shifting both *de jure* and *de facto* power of initiation, decision-making, and administration from governors to academic senates, from senates to faculties, and from faculties to departments which are the basic academic units built on specific disciplines. This has been the legitimate role of the staff associations. And it means that to a very large degree universities represent self-governing communities of scholars and scientists.

A word about structures. Universities are organized around disciplines or areas of study. The most important administrative unit is the department, or in some cases the faculty where the body is relatively small. Membership in a department is usually open to all members of the teaching staff of a particular discipline. This is all familiar stuff, as is the nature of a faculty. But it is important to emphasize that the structure of the university reflects the preoccupation with areas of study rather than with functional integration for more efficient use of productive resources, on the industrial model. The *raison d'être* of departments and faculties is the logic of areas of study, not economic of production. We are grouped together as chemists or physicists or historians or political scientists because we are chemists or physicists or historians or political scientists. Hence our departments. And in a wider sense we group departments into faculties because of a common orientation of the departments so grouped. And again the outward resemblance to a business organizations is on the surface, or superficial. Business departments are established for purposes of productive efficiency and the exercise of authority within the structures. The members do not vote on issues, they respond to orders from foremen and superintendents. University departments and staff do not.

Consequently, it is understandable that associations of university teachers would be vitally concerned with increasing the authority of departments and of limiting the authority of higher levels of administration.

By contrast the administrative structure in business is designed in accordance with the ideas and interests of those in authority, and ultimately at the level of top executives. Workers in business departments have no say and precious little influence on the organizational structures within which they function. Individuals may be transferred, sections, departments, and divisions, may be split up, or amalgamated or closed up or transferred to another plant of the same company or altered in some other respect purely on the decision of the management. Indeed even with the signing of collective agreements there are usually clauses which reserve large areas of decision-making to management.

This is not so in universities. The establishment of new departments in universities is usually the product of academic entrepreneurship. I am sure this is the case in all but a few institutions which have been emasculated by the intrusion of public control of internal programs. I am not suggesting that universities do not have to introduce programs flowing

from changing public demand. They do, and I believe this is a menacing aspect of increased reliance on public funding. Nevertheless, we still possess a remarkable degree of freedom to innovate, and we have been able to reject the worst features of demand by the public and public authorities for a voice in the determination of programs and methods. Certainly splitting the universities horizontally by unionization and collective bargaining is not going to help preserve this freedom. More than likely it will reduce academic freedom.

In spite of Clark Kerr's use of the term « multiversity » to convey the notion of the many demands made on modern universities and the wide range of more or less unrelated programs which reveal the uses to which universities are being put, there exist certain broadly conceived common purposes which reflect themselves specifically in individual activities. The role of the universities from medieval times has been the transmission of knowledge and the discovery of new knowledge. Principal Corry would add the word « wisdom » — the transmission of the wisdom of the ages, and adding wisdom of the present to the accumulation. So learning and discovery are our justification.

These functions require freedom to a degree not usually tolerated anywhere else in society. And universities have been struggling from their inception against the establishment, whether it be ecclesiastical, private and secular, or governmental, to maintain and extend their freedom. If they fail in this endeavour society will pay the price in the loss of a search for truth, and in the transmission of error as revealed as unassailable truth.

It is difficult to decide what we mean by academic freedom. Perhaps if we review the areas where universities have traditionally exercised freedom we may by inference begin to recognize academic freedom itself. I identify five areas of decision-making which, taken together indicate the *sine qua non* of academic freedom. These are :

1. Freedom to select teachers
2. Freedom to determine curriculum
3. Freedom to decide on teaching method
4. Freedom to select and promote students
5. Independent selection of research projects and the pursuit of knowledge

Two aspects of this list of freedoms require attention. First, the freedoms collectively are a mean to the common ends of the transmission and enlargement of knowledge. Secondly these ends are primary in that they are not sought as secondary objectives to specific goals. In other words they are not commercial activities operated to produce income. The truth of this assertion is borne out by the fact that some of the best universities, judged in terms of the transmission and enlargement of knowledge, are frequently in financial difficulties while some of the worst are showing surpluses. Let us examine the five freedoms suggested above to see wherein lies the right of exercise in each case.

WHO SELECTS THE TEACHERS ?

When I first joined my present university, I recall being told by a psychologist who was retiring from military service that a powerful member of the Board of Governors told him he could obtain an academic appointment for him. From what I later learned I have reason to believe that was the case. The governors and their influential friends did govern. While it is true that all appointments are still approved by the governing boards, staff members are actually chosen by their peers in their own respective disciplines. Even the academic hierarchy beyond the level of department head has little or no influence or actual authority in such matters. I believe we can safely conclude that in most Canadian universities staff control over appointments in their respective disciplines has come a long way since 1950. I know there are exceptions, but I suggest that it is a matter of time until staff decision-making in selection will be more or less general.

I believe the record will show that the same is true of promotions. While the formality of endorsement by deans and final approval by governors are preserved, the real decisions are made within departments by those most competent to do so, the « professionals » in the discipline concerned. On the whole this freedom rests with the academic staff with little or no constraint from higher levels in the academic echelons, from governors, or from political authorities. We need no union aid for this function.

WHO DETERMINES THE CURRICULUM ?

Here the matter is not quite so straight-forward. Undoubtedly community demands play an important part in determining what the general

program will be. This is so because of the dependence for a very large portion of its revenues on governments or on private donors. Whatever the source, control of the flow of funds gives the power to allocate and direct financial aid. Secondly the contributions of the university to the whole community has become crucial to the functioning of industry, government, and a large number of services. Whatever may be our individual views as members of a community of scholars, the multipurpose university has arrived and will continue. And it is naive to believe that universities will be able, independently of community interests and the state, to exercise a free hand in deciding what programs of study shall be designed for the student body and the community. Public pressure works to force universities to develop certain programs, and it also exercises constraints by refusing funds for projects members of the university may wish to undertake.

The situation is clearer with regard to the actual course design and content. Usually each discipline controls its own courses, and indeed there is a remarkable degree of control by the individual staff member. It is, of course, true that professional schools may find that their program is strongly influenced by, and to some degree even designed by, the recognized or accredited professional body.

We cannot demand complete independence in these matters. Our hope is to achieve reasonable protection by dialogue and negotiation with departments of education or university affairs, and by the insertion between the universities and government departments of new intermediary bodies which will develop a considerable degree of independence from political pressures and influence. In any case, dividing the individual universities themselves into management and employee groups would not strengthen, and indeed probably would weaken the universities in their efforts to retain control.

WHO DECIDES TEACHING METHODS ?

Nowhere is the freedom of the academician more clearly demonstrated than in teaching procedure. Lectures, laboratories, conferences, groups, modules, task forces, tutorials, essays, research projects, true and false tests, open book examination, take-home examinations, orals, comprehensives, and many other devices are used, largely on the decision of the individual instructor, with almost no interference from even his departmental colleagues or his chairman, let alone from the hierarchy of the university. No faculty union has any role in this area.

FREEDOM TO SELECT AND PROMOTE STUDENTS

The universities have lost much ground in this respect. More and more both the state institutions and those that are formally private, but which receive large financial support from public revenues, find themselves required to accept admission standards imposed by governments. Either they are required to do so, or they are induced to do so because of the link between student numbers and public financial support.

As long as universities can maintain their own standards of performance required of students to advance through academic programs the open door policy of admission is manageable. Weeding out is possible. But it must be faced that this is hard to do in the face of the kind of populist sentiment now influencing public education policy. No one can challenge this right to public authority to have some influence on these matters. But it is in the interest of society and therefore of government to recognize that universities which are, for political reasons, converted into massive institutions of watered-down higher learning cannot hope to retain any satisfactory level of excellence ; something which can prevail only if the essential freedoms are respected. I see little reason to expect that the introduction of unionism and collective bargaining into the universities will help in this respect.

WHO DETERMINES RESEARCH PROGRAMS ?

There is some cause for concern in this area of academic activity, and again it is money that is the root of the evil. The temptation to select research projects to fit the prevailing predispositions of personnel in the granting agencies is strong. Since governments have become the principal source of research funds it is government which presents the greatest threat to free choice of research activities. I personally have had experience with this problem, and realize its seriousness. But again there appears to be no solution through the unionization of staff and the resort to collective bargaining in the conventional sense.

Thus, in all these areas where academic freedom must be preserved if the university is to carry out its proper role of accumulating and transmitting knowledge there is some cause for worry. In some the danger is greater than in others. In my view the integrity of the universities is threatened most with regard to curriculum determination and in the selection and promotion of students. But there is no solution through collective bargaining. We must look in other directions for our defences.

My theme is that collective bargaining is an appropriate procedure in situations where there is a rather clear demarcation line between the managers and the managed, and where there exists an authority system which places employees in some jeopardy, or at least where their personal fortunes can be seriously influenced by decisions beyond their control. Their only recourse, if they wish to continue in their jobs, is to unionize and bargain collectively. That is, to force upon the employers or managers a system of rules and standards which establish rights and obligations and, within these agreed rights and obligation, accountability for managerial actions and decisions.

The basis of this system is the inherent conflict of interest between workers and employers represented by managers. This conflict has three important components. First there is the wage issue. The employee's income is the employer's cost, and the parties of interest have strong motives to move in opposite directions. Secondly there is the fact that the worker who accepts a job places himself under the authority of a boss who legitimately can and does exercise the authority daily in a variety of ways. This is the second basis of conflict. Thirdly, a worker is subject to decisions regarding upgrading, promotion, transfer, lay-off, dismissal, and many other aspects of his working life, which can vitally affect his welfare and his career aspirations. It is the function of the union through collective bargaining to negotiate rules which establish constraints on management and establish some degree of rights and certainties in these matters, as well as accountability for decisions taken. Collective bargaining does not challenge the right of management to manage, but it does impose rules, standards, and rights which managers as decision-makers must respect.

The university situation is different. As pointed out, the major thrust of the staff associations was not so much establishing rules and constraints on management, but rather the reallocation of authority to make decisions, all in the direction of the teaching and research staff. In this they have had a large measure of success. Most universities are « managed » by their academic employees. Under the procedures evolved over the last quarter century departmental chairmen are in effect chosen by the academic members of the respective departments. Deans are usually the product of faculty committees, or joint faculty and senate committees. Presidents and vice-presidents are frequently also selected from short lists produced by similar joint committees. Boards of governors have had to accept as colleagues representatives of the academic staff, and sometimes student representative as well.

In the rhetoric of unionism there is frequent mention of industrial democracy. I suggest that the universities are, in this respect, far ahead of unionized industry. Indeed, in industry it might be better to substitute the somewhat contradictory expression « constitutional authoritarianism » for industrial democracy. Furthermore, most unions do not relish the thought of accepting the responsibilities associated with the kind of functioning democracy we have on the campuses of our universities, and the reason is the fundamental one of conflict of interest.

There is no essential conflict of interest between a department head and a dean or a president on the one hand and the academic staff on the other, so long as we do not lose sight of the fundamental differences between a university and a business organization. A union organizes the discontents of those it represents, confronts the employer in a power context, and attempts to win concessions about the rules of the work place. But the conflict and confrontation are never terminated because with each change in markets, introduction of a new technology, or advancement in organizational theory, the employees are threatened. The product market drives the employer on in the endless search to reduce costs or increase productivity and the measuring rod is the profit position of the firm.

In the university the line between worker and boss is blurred almost out of sight because of the control by the academic staff, the limited term of service in administrative posts, and the democratization of the process of selection.

It is for these reasons that the staff association working in the interest of the academic staff is the appropriate agency of transformation of the university. And for the same reason a union whose objective is to negotiate collective agreements with management is inappropriate. Indeed there is a grave danger that the collective bargaining process would encourage a development which would be detrimental to the universities and the academic staff later on. Herein lies a real menace to academic freedom. This bears further elaboration.

Faculty unionism has succeeded in gaining support on a number of campuses. Some of these unions have been certified by the respective labour relations boards. Some interesting developments have accompanied this trend. The most important is that the academic staff on any given campus has been split horizontally. In some cases all persons in

« positions of authority » have been expelled from membership or have been required, in conformity with the law to withdraw from the unionized faculty association. In other words collective bargaining has re-established the distinction between staff members as employees and as administrators. The very process which has for two decades been increasing the power and influence of the academic staff and weakening the authority of higher echelons has been arrested through the short-sighted actions of those engaged in the unseemly rush to join the march toward collective action against the bosses. The status of managers which was being eroded has been given support because some staff members wanted the collective bargaining model rather than the authority sharing model for the academic staff.

This represents a serious rupture. Also important is the vertical split which has occurred in some instances. Some faculties have contested the establishment of a campus-wide bargaining unit. Thus, another divisive factor has been introduced by faculty unionism. Not only have those of our fellow members of the academic community who have accepted administrative posts been ghettoized by certification into « the administration, » but some whole faculties are confronted with the dilemma of either fighting for a separate bargaining unit, or accepting membership in a campus-wide unit because of the principle in the legislation that grants to the successful union the sole bargaining rights for a whole unit.

It is one of the virtues of the staff association model that it is flexible and can, because it does not engage in conventional contract writing, include members from all segments of the academic staff without forcing any group to face the dilemma of distasteful choices outlined above.

It would be wrong to conclude, as I suspect the supporters of the union model will, that the staff associations have been ineffective. As I have suggested they have been remarkably effective in the most important task they undertook, vis, the transformation of the university from a semi-authoritarian institution to a decidedly democratic one. And in doing so they have avoided the splitting of the faculty as is inevitable with faculty unionism.

Nor will the allegation stick that the staff association is fashioned on a company union model. In the latter the management shores up its power by establishing a management dominated association. In the real

faculty association the reverse is true since the association is the instrument through which power is moved down in the hierarchy.

It is necessary to deal further with two important issues. The first is the fact, already mentioned, that academic freedom is in some jeopardy because of the emerging relationship of the universities with the community and governments. The second is the problem of rights of staff members as employees.

With regard to the first issue, the danger that public authority, for political reasons, will intervene in the internal affairs of the universities, the danger is very real and it will take great skill and patience on the part of university representatives dealing with public agencies to protect our basic freedoms. But it is precisely on this issue that unionism and collective bargaining stand to do the greatest harm. By emphasizing the split of the academic staff into managers and employees and by resorting to collective bargaining unionism will play into the hands of governments in two ways. First, the split will tend to make university administrative officers agents of provincial governments rather than spokesmen for the universities. The alternative to this will be direct bargaining between university unions and governments either union by union or collectively by all the federated university unions. In either case university staff will approximate civil servants and their employee status will be confirmed and emphasized. If this happens the academic hierarchy will be by-passed and rendered useless to the academic community. Secondly, it will politicize budget-making and invite public scrutiny as well as debate in the legislatures on all money items and the activities supported by such money. Nothing could be more threatening to the freedom of the universities than this.

I have left for the last the problem of staff rights. I suggest that much of the impetus to unionization has come from the fear, generated in recent years, that with a levelling-off registration, the decline in public support for further expansion of universities, and a partial collapse of the belief in university education as the door to material success, jobs in universities have become insecure in a less favourable labour market. There is evidence of a rise of job-consciousness and a desire to achieve tenure by shortening the « probationary » time until tenure becomes automatic. It is unfortunate that the Canadian Association of University Teachers gradually lost sight of the nature of a university and moved in the direction of job-conscious unionism and the protection of medio-

crity. One may sympathize with the younger staff member who faces an uncertain future because of the softening of the market for his skills, but it would be unfortunate indeed if the undesirable effects on academic freedom of unionization and collective bargaining should come about because of the problems of insecurity of junior staff members.

There is another way of looking on this problem of security. To the extent that a university is able to present a common front of the academic staff, including those holding administrative positions, to the government, they may be able to withstand the pressures toward becoming *de facto*, or even *de jure* civil servants. If they do the determination of non-renewal and tenure issues will rest largely with the peer colleagues of those who are terminated or retained or given tenure. Surely this is where it should be. Surely also the university, if it is to deserve the freedom it wants to preserve, must be prepared to make difficult decisions in the interest of academic excellence. Prior to the democratization of the universities described earlier, and with the power of decision concentrated in the hands of presidents and boards of governors, staff members were exposed to the vicissitudes and political and social pressures of the establishment. Injustices were not uncommon and some worthy scholars were either excluded from appointment or were not renewed at termination. With the increase in power of departments this danger has been largely overcome, and if colleagues can be trusted the emphasis could, and largely is, on scholarly merit. But if the trade union sentiment of job-protection should come to predominate, the university will suffer, as will the student body and the community itself. I can make a strong case for job-consciousness in industry : I cannot in the university context. « Good enough » is not good enough as a criterion for university academic staffing. If this leans in the direction of some form of publish or perish, so be it. That is to be preferred over the dangers of replacing peer decisions by bureaucratic rules. Staff selection, termination, and promotion involves perhaps the most important element in the question of academic freedom. Staffing decisions must be retained in the hands of the academic staff. Better to put up with the inevitable conflicts over criteria, the intrusion of irrelevancies such as the political slant of the individual under review, and even the possibility of factional vendetta than allow job consciousness and what flows therefrom to dominate. This is why I believe that the period of terminal appointments should be long and that tenure should be achieved only after the candidate has clearly demonstrated his quality.

It is going to be very difficult in a demanding society for universities to retain the academic freedom they hope to preserve. In the nature of things, only the academic staff has the direct interest in doing so. In the quarter century following the Second World War most universities underwent a fundamental transformation in which a centralized and largely autocratic system of university government was replaced by decentralization into a much more democratic form, and there is no doubt that academic freedom increased in considerable measure. These advances are threatened from without and within. Changing public attitudes toward university training, the much greater « usefulness » of the university to society, and the enormous increase in public funding has encouraged governments to call for much greater accountability from the universities and to intervene in development and programming and in many other ways. At this juncture the advent of faculty unionism, certification, collective bargaining, collective agreements, and the implication of the residual rights of management doctrine are splitting the academic staffs both vertically and horizontally, re-establishing university administrators' rights to manage and emphasizing the employee status of staff member. Government bureaucrats appear to be happy with this trend. Meanwhile the constructive work of the academic staff associations may be largely undone by the intrusion of industrial model unionism which will bring back in even more rigid form the very conditions which set limits to academic freedom prior to the « revolution » of the fifties and sixties.

In the short space of a few pages it is difficult to avoid the danger of oversimplification. I do not wish to leave the impression that the developments in Canadian universities which took place in the fifties and sixties have given us a model for university government and administration which functions in perfection. It does not. Anyone familiar with any university will know of the factional or ideological battles within departments and faculties ; and those heroes who have served as members of senate may be pardoned if at times their faith in the democratic process has been shaken by the interminable and seemingly futile debates which make decision-making almost impossible. As one who has served on such an academic senate at three different times I found it difficult to avoid the sobering conclusion that perhaps democracy and literacy are incompatible. Yet the universities have become just that — highly literate democracies. The frustrations of debate and political manoeuvre are part of the price we must pay for the freedom we must possess.

Academic freedom, as mentioned earlier, is threatened from within and from without ; from within by those who would reverse the trend toward academic influence and control by splitting the university horizontally through unionization ; from without by the natural tendency of government bureaucracy, backed by the power of the budget, to force its own image of what is good in the public interest on the one institution in society for which there is no answer to the question of what is good, other than the continued struggle to be free.

It is for this reason that there is no way of guaranteeing « business » efficiency in the university. And it is also for this reason that there must be an alliance on the campus among those who engage in teaching and research, including those who reduce these activities and assume academic administrative posts. Whatever may be their multitude of conflicting interests it is crucial for the survival of freedom on the campus that they recognize the dangers from an intolerant society and an aggressive bureaucracy and that they do not encourage a structured and artificial employer-employee conflict within the halls of academy.

Négociation collective et liberté académique : sont-elles compatibles ?

La négociation collective présente certains risques pour la liberté académique dans les universités canadiennes. Mais, au préalable, il est nécessaire d'y aller de quelques distinctions de manière à ne pas verser dans la confusion. Il faut distinguer, entre autres choses, l'association de professeurs du syndicat conventionnel.

Depuis la deuxième guerre, les associations de professeurs ont connu un grand développement, ce qui a conduit à un glissement de l'autorité du bureau des gouverneurs vers le personnel d'enseignement et de recherches. Ce ne fut pas une révolution mais une évolution rapide. Les principaux responsables de cette transformation ont été les associations de professeurs qui ne sont pas des syndicats dans le sens ordinaire du terme.

Leur bien-fondé, leur structure, leurs méthodes, leurs objectifs, leurs œuvres leur étaient propres.

Leur bien-fondé découlait de la nature même de l'université, conglomérat d'activités scolaires exercées par un ensemble de savants, d'humanistes, de professeurs et de chercheurs visant à répondre aux besoins d'une société en effervescence. Aussi, à cause de l'intérêt que lui manifeste un public de plus en plus vaste et à cause de la pression qui s'exerce sur les budgets publics, les dirigeants politiques sont enclins à intervenir dans les affaires internes des universités et à exiger que leurs administrateurs rendent compte de leur gérance.

Les associations de professeurs surgirent dans ce contexte pour affronter les problèmes des professeurs en tant qu'employés mais aussi pour être un instrument apte à déplacer une partie du pouvoir décisionnel des administrateurs aux enseignants.

C'est ce deuxième objectif qui distingue les associations des syndicats ordinaires dont le but est de déterminer avec les employeurs les conditions d'emploi et de salaires qui se fixent par la convention collective, où l'on trouve aussi les mécanismes de règlement des réclamations et le départage des droits et des obligations des employeurs et des salariés. Aussi est-il important de souligner que le syndicat ne détruit pas le rôle et l'autorité de l'employeur mais les insère dans un cadre juridique, ce qui donne lieu à la mise en place d'un contrat écrit. La convention conclue, la direction gère l'entreprise comme auparavant, sauf qu'elle doit respecter les droits et les obligations convenus. Le syndicat participe à la fixation de la réglementation, mais il ne dirige pas.

Au contraire, les associations de professeurs sont engagées dans une activité plus fondamentale, voire plus révolutionnaire. Elles ont en quelque sorte envahi tout le domaine des prérogatives de l'employeur en ne confinant pas leur rôle à la transformation de l'*absolutisme* en *constitutionalisme* comme les syndicats industriels mais en jetant un voile sur la distinction entre le corps professoral et l'administration des universités. Elles n'y sont pas arrivées en assumant les fonctions de l'administration mais en transformant la structure hiérarchique de l'université. En réalité, les universités sont peut-être devenues les institutions les plus démocratiques de la société occidentale. Ce processus est beaucoup plus marqué dans certaines universités que dans d'autres et il ne semble pas faire de doute que la transformation est plus apparente dans les institutions privées que dans les universités d'État. La raison en est que les statuts des premières sont modifiés de l'intérieur, tandis que la révision des secondes exige l'intervention des gouvernements provinciaux, quoiqu'il faille noter que ces dernières ont aussi passablement évolué dans la voie d'une démocratisation accrue. Bref, ne faut-il pas convenir que le rôle primordial des associations de professeurs a été de pousser à la démocratisation de la vie universitaire.

On ne peut pas oublier non plus l'aspect des structures de l'université dont la principale unité administrative est le département ou, en certains cas, la faculté. L'accès au département est ouvert à tous les membres du personnel enseignant.

La structure de l'université réfléchit les distinctions entre les diverses disciplines académiques et non les besoins de la production d'un complexe industriel ou commercial. Les chimistes, les physiciens, les historiens ou les politologues sont groupés parce qu'ils sont chimistes, physiciens, historiens ou politologues, ce qui est bien différent de l'entreprise ordinaire où tous concourent à la production et subissent l'autorité centrale, n'ayant aucune voix au chapitre et obéissant aux ordres des contremaîtres. Dans les circonstances, il n'y a pas lieu de s'étonner que les associations de professeurs se soient tellement intéressées à l'accroissement de l'autorité des facultés. Ce n'est pas le cas dans l'entreprise privée où les prérogatives patronales demeurent généralement indemnes.

Dans l'ensemble, il importe de retenir que les universités gardent à un degré remarquable la liberté d'innover, de rejeter certaines suggestions du public et du gouvernement, de dire leur mot dans l'établissement des programmes et des méthodes. La négociation collective permettra-t-elle de conserver cette liberté d'action ?

Depuis l'époque médiévale, le rôle de l'université n'a-t-il pas été la transmission des connaissances et la découverte de nouvelles connaissances, la transmission de la sagesse des âges et l'ajout de la sagesse du présent. Enseigner et découvrir, telles sont les raisons d'être de l'université, fonctions qui exigent une liberté d'expression qu'on ne retrouve nulle part ailleurs dans la société.

Certes, il est difficile de décider ce que signifie la liberté d'enseignement. On peut en identifier cinq éléments : la liberté de choix des professeurs, la liberté d'établir les programmes d'études, la liberté de décider des méthodes d'enseignement, la liberté de sélectionner et de promouvoir les étudiants et la liberté de choisir les projets de recherches.

Deux aspects de ces éléments retiennent l'attention. Prises collectivement, ces libertés doivent concourir à la transmission et à l'accroissement du savoir. En second lieu, elles ne sont pas des objectifs accessoires. En d'autres mots, il ne s'agit pas d'activités commerciales visant à fabriquer un produit. La preuve en est que quelque-unes des meilleures universités, jugées en fonction de la transmission et de l'accroissement de la connaissance, sont souvent en difficulté financière alors que les plus mauvaises présentent des surplus.

L'auteur examine ces cinq libertés en rapport avec le droit de les exercer.

D'abord, qui choisit les professeurs ? Autrefois, cette responsabilité revenait à la direction ; aujourd'hui, les professeurs sont choisis par leurs pairs sujets à l'approbation du bureau des gouverneurs. La même règle s'applique aux promotions. Fondamentalement, l'exercice de cette liberté reste entre les mains du corps enseignant et il n'est pas besoin de l'appui d'un syndicat pour protéger cette liberté.

Qui établit les programmes ? Sans doute la société joue-t-elle un certain rôle dans la fixation des programmes, parce que la majeure partie des revenus des universités proviennent des gouvernements ou de fonds privés. De plus, la participation de l'université à la vie collective est devenue essentielle au fonctionnement de l'industrie, de l'État et de nombreux services. Aussi serait-il naïf de penser que les universités seraient capables, sans tenir compte des besoins de la société et de l'État, d'avoir les mains absolument libres dans le choix des programmes. Mais, d'autre part, sauf en ce qui a trait aux programmes des écoles professionnelles qui peuvent être influencées par leur corporation respective, le personnel enseignant jouit d'un degré de contrôle remarquable sur l'organisation des cours.

Qui décide des méthodes d'enseignement ? On peut dire sur ce point que la liberté est à peu près totale, d'où il ressort qu'aucun syndicat n'a de rôle à jouer en ce domaine.

Qui choisit les étudiants ? Les universités ont perdu beaucoup de terrain sous ce rapport. De plus en plus, les institutions d'État et les institutions privées doivent accepter les normes établies par les pouvoirs publics. Personne aujourd'hui ne peut s'opposer au droit de regard de l'autorité publique dans ces choix. Il est cependant dans l'intérêt de l'État et du public de reconnaître que les universités doivent conserver cette liberté si l'on veut que leur enseignement garde un certain niveau d'excellence. Mais l'introduction de la négociation collective peut-elle être sous ce rapport d'un certain support ?

Qui détermine les programmes de recherches ? Il y a motif à inquiétude de ce côté, et encore une fois c'est l'argent qui est l'origine du mal. Étant donné que

les gouvernements sont devenus les principaux pourvoyeurs des fonds de recherche, ce sont eux qui constituent la première menace. Mais, ici encore, la formation de syndicats et la négociation collective traditionnelle ne peuvent pas aider.

En résumé, toutes ces libertés doivent être protégées, surtout en ce qui concerne l'élaboration des programmes ainsi que la sélection et la promotion des étudiants. Toutefois, la négociation collective n'offre pas de solution valable. Il faut regarder dans d'autres directions.

Selon l'auteur, la négociation collective est un excellent instrument là où il y a une ligne de démarcation bien nette entre les administrateurs et les administrés, là où le régime d'autorité met les employés en danger et là où du moins leur situation personnelle peut être sérieusement touchée par des décisions prises hors de leur contrôle. Le seul recours alors, s'ils veulent protéger leur emploi, est de s'associer et de négocier collectivement. La raison d'être de ce système, c'est le conflit d'intérêts entre travailleurs et employeurs qui comprend trois éléments : le salaire, l'état de subordination juridique et l'instabilité de l'emploi, qui peuvent influencer sur le bien-être et les aspirations personnelles.

La situation du professeur d'université diffère. La raison d'être principale des associations n'est pas de régler les conditions de travail, mais de placer le processus décisionnel entre les mains du personnel enseignant ; et elles ont jusqu'ici obtenu beaucoup de succès en ce sens. Ainsi, est-on amené à conclure que les universités sont bien en avant de l'industrie. Il n'existe pas de conflit d'intérêts entre une faculté et son doyen.

Un syndicat groupe les mécontents qu'il représente, combat l'employeur et essaie d'obtenir des concessions. Le conflit et l'affrontement n'ont jamais de fin. À l'université, la ligne de combat entre le dirigeant et le dirigé est peu visible à cause du contrôle exercé par le personnel enseignant et la démocratisation du processus de décision. Voilà les motifs pour lesquels l'association de professeurs est l'organisme tout désigné pour assurer la transformation de l'université.

Le syndicalisme conventionnel a obtenu l'appui des professeurs dans beaucoup d'universités et il faut convenir que, dans bien des cas, les personnes détenant l'autorité ont été mises à l'écart des unités de négociation. Il y a là une coupure, une rupture des liens. On assiste aussi à la lutte pour l'obtention d'unités de négociations distinctes pour chacune des écoles et des facultés.

À l'heure actuelle, deux questions majeures se posent aux universités : la menace qui pèse sur la liberté d'enseignement et la défense des droits des professeurs en tant qu'employés.

Quant à la première, on peut se demander si la négociation collective ne présente pas un grand danger en divisant le corps professoral en dirigeants et en employés, ce qui aura tendance à faire des premiers des agents des gouvernements provinciaux plutôt que des porte-parole des universités. On sera ainsi amené à la négociation directe de syndicats de professeurs regroupés avec les gouvernements. Les professeurs deviendront alors des fonctionnaires, ce qui, pour ainsi dire, en ferait encore davantage des salariés. Si cela se produit, on aura réussi à éluder l'autorité proprement scolaire devenue inutile. De plus, la préparation des budgets se trouvera politisée, ce qui est une invitation aux hommes politiques à scruter toutes les activités universitaires par le truchement des postes budgétaires. Est-il quelque chose qui puisse être plus dangereux pour la liberté de l'université ?

Un mot finalement du problème des droits des professeurs. C'est la crainte de voir se produire un déclin de l'appui de la population pour l'expansion des universités et l'effondrement partiel de la confiance dans l'enseignement universitaire, causes d'insécurité d'emploi, qui a poussé les professeurs à la syndicalisation. N'y a-t-il pas une autre façon d'envisager le problème ? Dans la mesure où l'université pourra présenter un front commun du personnel enseignant, il y aura moyen de résister aux pressions des gouvernements pour transmuter les professeurs en fonctionnaires. De son côté, l'université, pour préserver la liberté, doit prendre des décisions difficiles en matière de qualité de l'enseignement. Lorsque le pouvoir de décision était concentré entre les mains des recteurs et des bureaux de direction, il arrivait que des injustices étaient commises. Avec l'accroissement de l'autorité des facultés, ce malaise a été passablement éliminé. Toutefois, si l'idée syndicale de la protection des emplois venait à l'emporter, l'université en souffrirait. La note passable n'est pas un critère suffisant pour l'enseignement universitaire. Le choix, la promotion et le renvoi des professeurs sont les bases même de la liberté d'enseignement.

L'auteur conclut qu'il devient de plus en plus difficile pour les universités dans une société contestataire de conserver sa liberté d'action. De par la nature des choses, seul le personnel enseignant y est directement intéressé. Depuis un quart de siècle, la plupart des universités ont subi une transformation fondamentale au cours de laquelle un système fort autocratique a fait place à une grande décentralisation démocratique, et il ne fait pas de doute que la liberté d'enseignement y a beaucoup gagné. Ces progrès sont menacés du dedans et du dehors. À ce stade, l'avènement du syndicalisme industriel à l'université, l'accréditation, la négociation collective sont de nature à diviser les corps professoraux, à restaurer les droits des bureaux de direction et à mettre l'accent sur le caractère de salarié des professeurs. Les bureaucrates des gouvernements se réjouissent de cette tendance alors que le travail constructif des associations de professeurs est sapé par l'établissement d'un type de syndicalisme industriel qui rétablira d'une façon plus rigide encore les conditions qui prévalaient avant la « révolution » des années '50 et '60.

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