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YALE ON TRIAL

Scholarly Life in the Age of Downsizing

"It should not be the function of Yale to reflect American life, but to lead it."

—Dean William Clyde Devane, cited by Yale President Richard Levin, November 1996

This spring, the senior administrators and faculty of Yale University are being called to the witness stand to answer federal charges that they illegally threatened graduate students engaged in a strike for union recognition. The trial, in a courtroom of the National Labor Relations Board (NLRB), caps what has been a period of unprecedented division in the Yale Graduate School. The trial's outcome will have a direct impact on the eight-year-old unionization drive among Yale graduate teachers, and may well set a legal precedent for similar drives at campuses across the country. Beyond this, it poses a critical test for the protection of academic freedom in the downsized academy, particularly for the graduate students, part-timers, and adjunct professors who have come to make up a majority of most schools' teaching staffs. In this sense, the trial may well prove a turning point in the ongoing evolution of the academic profession, already under intense pressure to redefine itself as a leaner and meaner enterprise. When the gavel comes down this spring, it will announce a contest not merely between employer and employees, but also between two competing visions of the academy's future.

Unionization and the 1996 Strike

The events that stand at the center of this trial took place in response to a grade strike called by the members of the Graduate Employees and Students Organization (GESO) in January 1996. Although the strike catapulted GESO into the national spotlight, it actually marked the culmination of efforts that had been building quietly for nearly a decade. The history of this effort reads like the answer to the list of questions posed by most graduate students before joining the union: why isn't it enough simply to talk to faculty? meet with administrators? join committees? undertake studies? write letters? sign petitions? Yale graduate students have pursued all these avenues and more over the past decade, producing five blue-ribbon panels to study the problem and three separate student councils (none of which were empowered to negotiate agreements)—but leaving many of the most pressing problems unsolved. Indeed, given the high rate of turnover in the graduate school population, it is noteworthy that a consistent majority of students have chosen to join GESO in every year since its inception.* This support was put to the test in a nonbinding union election in April 1995, sponsored by the New Haven League of Women Voters. Yale administrators do not contest the fairness of this election; yet despite a vote of nearly four to one in favor of unionization, Yale refused to recognize the outcome. For eight months following this election, GESO tried to initiate a fruitful dialogue with administrators; finally, in December of 1995, graduate teachers voted to withhold fall semester grades for the classes they taught until the administration agreed to enter good-faith negotiations with the teachers' elected representatives.

The GESO drive is part of a larger national

*GESO first issued membership cards in the fall of 1991, when well over a majority of the graduate school signed up. For both legal and organizational reasons, since 1992-1993 the union has been confined to the social science and humanities departments at Yale; from this year forward, all numbers or percentages here refer to those departments.

effort to address what are by now familiar themes in higher education. For the past twenty years, universities across the country have been downsizing, meaning that they have found ways to get by with fewer and fewer full-time faculty, relying instead on a burgeoning army of contingent teachers. At Yale, teaching hours are split in roughly equal thirds between faculty, graduate students, and adjuncts, with graduate students doing slightly more teaching than faculty. Yet for the central role they play in the school's educational mission, graduate teachers are poorly compensated. In 1995-1996, the standard appointment paid just over $10,000 for the full year, or $2,000 less than Yale's own estimate of the cost of living in New Haven. Considering the average $95,000 salary paid to Yale senior professors, it is not surprising that the school makes such extensive use of the Teaching Assistant (TA) program; last year, it saved over $6 million by using teaching assistants rather than regular faculty.* For Ph.D. candidates, this equation is a double-edged sword: while in school they are the cheap labor force for undergraduate instruction, and upon receiving their degrees, they discover that there are very few jobs because every place else is doing the same thing as Yale.

When the strike officially began on January 2, more than two hundred TAs (roughly 60 percent of the total) joined in withholding their grades. By the time it ended, that number had been cut nearly in half. This falloff, and the ultimate decision to end the strike without having won a contract, reflect a number of factors. The decision to strike in the first place—to hold up students' transcripts, disregard faculty demands, and defy the central administration—was a difficult one for all involved; for some, the fears or uncertainties wrapped up in these issues intensified as the confrontation grew more prolonged.[1] Strike participants faced additional hostility on campus; although a thousand undergraduate students signed petitions calling for GESO's recognition, much of the undergraduate population was vociferously anti-union; a masthead editorial in the campus daily urged administrators to "finally eliminate" the union.[2] Far more important than either of these, however, were the open threats to the academic careers of strike participants.

Shortly after the strike vote, the union leadership began receiving reports of threats so extreme that they at first seemed unbelievable. One TA's adviser, for instance, told her that if she participated in the strike he would refuse to read her dissertation, would see that she never again taught at Yale, and would back administration efforts to have her expelled. At first, these were taken to be the actions of rogue faculty gone overboard. We appealed to the administration to issue a clear policy separating union activity from academic relations. Instead, however, Deans Thomas Appelquist and Richard Brodhead issued a memo stating their intent to ban strikers from spring semester jobs and implicitly encouraging the use of strike participation as a criterion for writing negative letters of recommendation for those entering the academic job market. "The failure to perform the tasks of evaluating student work . . . is a serious breach of academic responsibility," wrote the deans. "At the least, such a breach should be expected to bear on the evaluation of the graduate student instructor's performance as a teacher."[3] Expulsion, added university spokesman Gary Fryer, was not out of the question.[4] By late December, the administration had signaled its willingness to carry out this threat, ordering three elected leaders of the union to appear in a disciplinary hearing that might result in their expulsion from the university.

Downsizing and Academic Governance

Though Yale's strong-arm tactics have much in common with those used by employers in other industries, the nature of academic work makes union-bashing at a university unique. And in this sense, the Yale case sheds important light on the choices that scholars face as they confront a changing profession. Beyond its effect on the finances of university administrations and

* In 1994-1995, Yale senior professors averaged $96,500 per year, according to a survey of the American Association of University Professors, reported in the *Chronicle of Higher Education*, April 21, 1995. Savings in the TA system are based on data presented in *True Blue: An Investigation into Teaching at Yale*, Graduate Employees and Students Organization, Fall 1995.

academic job seekers, the national trend toward downsizing is also working major changes in the very definition of scholarly communities. The traditional image of academic life pictures the campus as a refuge from the rat race—a place that truly deserves the term "community," where scholars can engage even controversial issues without the pressure of market forces. Yale's free speech policy celebrates this image as constituting the heart of its academic mission: "Nothing is more conducive to . . . basic human liberties than a community . . . where all shades of opinion can be voiced and all avenues of thought pursued . . . To fulfill this function, a free interchange of ideas is necessary . . . the right to discuss the unmentionable, and challenge the unchallengeable."[5] At its core, this vision rests on creating a space where scholars are freed to think boldly—to follow their convictions and their analysis secure in the knowledge that, as long as their work is rigorous, they needn't worry about offending higher-ups.

Instead, the type of community being shaped by the corporatized university is one that promotes fear and insecurity among its central operating principles. The adjuncts, part-timers, and graduate students who now constitute the preponderance of teaching staff are not only paid less than their tenure-track colleagues; they also occupy positions of institutionalized insecurity. Forever hopeful of getting the break that will afford them entree to a permanent position, perpetually seeking to appear attractive in the eyes of those who might put in a good word for them, the new professoriat is defined not by its boldness of thought but by its desperation to please. Indeed, this desperation is a necessary ingredient in the "flexible production" model of education. The value of the contingent professoriat lies substantially in administrators' ability to use teachers as a "just in time" factor of production: keeping them on hold until enrollments require their presence; shifting them from one class to another without regard for the boundaries of specialization; and assigning them catch-all job descriptions that expand as needed to include the responsibility of thesis advising or the drudgery of photocopying. In other industries, workers accept such conditions out of economic necessity. However, university teachers—even long-term adjuncts—can usually make more money doing something else. They put up with their conditions not for the paycheck, but because life in academia is such a highly valued and increasingly rare commodity.

So teachers stick around in the hope of impressing someone—*anyone*—who can help them up the academic ladder. If hiring and promotion decisions were made by strictly meritocratic criteria—say, the number of articles published in respected journals or the average grade on students' teacher-evaluation reports—the value of this contingent labor force might be substantially diminished. Under such conditions, teachers could object to their terms of employment, or even refuse assignments, without fear of offending a potentially important referee. For the TA/adjunct system to work, then, administrators must ensure that teachers remain subject to a regime of informal, personal, and discretionary authority. But in so doing, they create a generation of scholars whose most enduring characteristic stands in direct contradiction to the ideal of a scholarly community.

With some modifications, this same system governs the lives of faculty at Yale. In a school with no tenure track, junior faculty are largely powerless to challenge objectionable aspects of their work lives. Yet even tenured faculty at Yale are surprisingly vulnerable to administrative pressure. Not only is there no faculty union at Yale, there is not even a faculty senate. When faculty members sit on university committees, they are not elected by their peers, they are handpicked by top administrators. Moreover, the internal economy of the school—salaries, offices, computers, the number of graduate students and research assistants one receives funding for, summer research money, travel grants, even budgets for photocopying and long-distance phone calls—is based on individual deal-making and informal relations. None of these is determined by meritocratic criteria—or indeed by any written code at all. All of them are based on cultivating the personal good favor of central administrators and department chairs. Yale is unusual in the extent to which its faculty lack independent means of institutional power. As

universities go about remaking themselves, however, this more business-like structure may become more commonplace. So the shortcomings of this system that became evident during the strike may serve as a warning for schools already headed down the same path.

Faculty as Agents of Management

In its long history of labor conflict, Yale has taken things one step further than most schools, by using the vulnerabilities of faculty in order to press them into service as agents of a union-busting management. During the 1984 recognition strike of Yale clerical workers, for instance, some faculty were told that they should "expect a loss of pay and may be subject to other penalties" if they observed a union-sponsored moratorium.[6] Similarly, in a 1992 strike, faculty were told that Yale would not extend its insurance coverage to professors who moved their classes off campus to respect picket lines, and that they would be personally liable for any student injured en route to relocated classes. In these ways, Yale administrators have sought to enroll faculty in the bureaucracy of labor repression.

The grade strike saw the most extreme use of faculty as strike breakers and management enforcers in the long history of Yale labor disputes. Faculty were repeatedly warned that they were responsible for doing the work of striking TAs, though this is not, of course, part of their job description.[7] And most fundamentally, faculty were asked to identify strikers in their departments, to carry out mass firings of these teachers, and to uphold the legitimacy of using strike participation as a criterion in letters of recommendation.

One of the notable aspects of the administration's efforts to break the strike was that well-respected liberals among the faculty engaged in what may be illegal acts of coercion and intimidation. Given the faculty's own dependence on administrative prerogative, it is easy to imagine that even those who might have preferred to stay out of the fray found themselves under intense pressure to conform with the university's agenda. There were a significant number who bravely resisted this pressure, including those such as constitutional scholar Rogers Smith, who was not a supporter of TA unionization *per se*, but nevertheless rejected the "bullying, threats and intimidation" tactics of Yale administrators.[8] Those who refused to go along with the reprisal campaign set an inspiring example in an otherwise depressing drama. But for the most part, Yale faculty dutifully carried out—whether reluctantly or with zeal—a series of ugly and possibly illegal actions designed to break the strike.

For many of us who witnessed the strike firsthand, the prospect of self-proclaimed progressives, feminists, and "post-colonialists" acting as strike breakers occasioned a broader crisis of confidence in the academy as a whole. Margaret Homans, a progressive feminist scholar, distributed a letter to the Modern Language Association arguing that "I would see it as a violation of my own academic freedom to be prevented from alluding to the judgment and ethics" of striking graduate students in letters of recommendation for future jobs.[9] Similarly, one of the most explicit threats of blacklisting came in a memo from the French department, whose signatories included Denis Hollier, a theorist of the avant-garde and active participant in the French student revolt of 1968, and Christopher Miller, a scholar renowned for the sensitivity with which he addresses the power relations between postcolonial authors and their Western readers. After reminding students that "teaching assignments are made individually, at the Department's discretion," their memo warned that failure to turn in grades "could legitimately be taken into account in faculty evaluations of a student's aptitude for an eventual academic career, and would jeopardize a student's opportunity to continue teaching in the Department."[10] In addition, theorists such as Peter Brooks and Ian Shapiro, whose works champion liberal humanism and democratic resistance to authority, are among those charged by the NLRB with having threatened strike participants with the loss of future jobs.*

*Ed. Note: Both Peter Brooks and Ian Shapiro, in communication with the editors, strongly deny these allegations.

My point here is not simply that academics, like anyone else, can be hypocrites; in any case, this would hardly be earth-shaking news. Of far greater concern is that, by pressing faculty into the role of management enforcers, Yale has created a structure that systematically encourages—almost forces—this outcome. When a university tells professors that they are free to teach what they like inside the classroom, as long as their external behavior conforms to a narrowly anti-union agenda, it fundamentally undermines the integrity of intellectual life. This contradiction between word and deed is heightened by the fact that so many academics' work now touches on the very issues of power and paternalism, resistance and voice, that were at stake in the strike. For the past twenty years, almost every discipline in the humanities and social sciences has devoted a major part of its energy to plumbing the intricacies of power relations. The project of uncovering subtle forms of everyday power, understanding how debilitating hierarchies may be normalized in the structures of institutions and cultural practices, and championing the efforts of individuals to overcome these constraints has been a central component of nearly every field of study. For scholars whose work addresses these topics, the grade strike marked a crisis of legitimacy. Those who carried out the administration's program of naked threat and ideological justification have, in a sense, thrown into question their own credibility as social critics. In this sense, the corporate project of converting faculty into managers holds yet another danger: the prospect of hollowing out their intellectual work.

Last November, the general counsel of the National Labor Relations Board decided that Yale's campaign of reprisals—the threats to fire strikers, the disciplinary proceedings, the withheld letters of recommendation—constitute violations of federal labor law. To answer these charges, Yale has retained the New York firm of Proskauer, Rose, Goetz and Mendelson, one of the nation's premier anti-union law firms. With Proskauer's assistance, Yale's central defense will be the assertion that its actions should be considered legal because graduate teachers are really students rather than employees, and therefore are not protected by federal labor law. Thus, the administration's central strategy rests on the hope that a legal technicality will allow Yale to engage in actions that in any other setting would be clearly illegal.

It is troubling that, in the absence of any legal requirement, Yale recognizes no *principled* reason to maintain a dividing line between political activity and academic evaluation; and this concern applies to faculty as well as graduate students. There is no legal barrier, for instance, preventing administrators from using union activity as a criterion for denying tenure. The only thing standing in the way of such policies is the widespread conviction that they violate core principles of the academy. In its treatment of striking graduate teachers, however, Yale has already signaled its dissent from this consensus. Although no administrators have yet suggested a similar approach to faculty, the pressures of downsizing have already brought changes that were unimaginable only a decade ago, including the efforts of several schools to eliminate tenure altogether. In this context, it is impossible to dismiss the concern that graduate student blacklisting may spill over into faculty governance as well. If Yale wins its case, then, it will not only imperil Yale TAs. It will also mark a major step toward eroding the moral consensus that stands behind academic freedom for all of us.

What Is To Be Done?

One year after the strike, GESO remains a strong and active organization, continuing to advocate immediate improvements in conditions at Yale and recognition of the broader rights of collective self-representation. As we look to the future, however, there are several obvious questions that need to be answered—most important, how we can win a contract next time, and how the faculty can avoid the role of management enforcer in future campaigns. The primary thing we need to do in the future is simply to do *more*. Even if graduate teachers win a government-sponsored election, Yale's past behavior suggests that the administration may not engage in good-faith negotiations unless confronted with the collective mobilization of graduate students. If there is a hope of winning a contract without having to strike—and certainly if another strike becomes necessary—the key to the future lies in building a bigger and stronger organization: reaching out to more students, doing more careful organizing, and slowly working toward a consensus for action among graduate students across the university. Building a participatory, grassroots organization isn't rocket science. It's a slow process, requiring thousands of patient conversations, but there is no question that this is the central ingredient in any successful union drive.

Although this may seem like an impossible task, the truth is that Yale's history is encouraging. Over the past decade, graduate student unionization has followed a cyclical pattern of organizing, confrontation, and demobilization; but after each round of this cycle the organization has emerged stronger. As long as the Yale administration holds to its practiced path, graduate student activism will continue to be fueled both by the concrete problems of the graduate teaching system and by the arrogance and condescension with which Yale treats its Ph.D. candidates.

It is graduate student activism rather than faculty intervention that provides the key to winning union recognition. Nevertheless, the behavior of faculty members has a dramatic impact on the extent to which graduate teachers feel free to pursue their own demands. For this reason, the issue of what standards faculty will adopt in future union campaigns remains one of the critical open questions.

Some of the faculty who participated in the administration's reprisals have attributed their stance to a distaste with the union's rhetoric or tactics. But this notion rings false as an explanation for actual behavior. It presents a view of politics as marketing, where positions are judged not by the deep principles embodied in each party's agenda, but by the superficial appeal of their presentation. In fact, Yale faculty are not so easily swayed, and it is disingenuous to claim that, if only graduate students had pitched their case in more pleasing terms, those carrying out mass firings would instead have been defending union rights. Indeed, there is not a single known faculty supporter of the union whose allegiance shifted as a result of the strike.

More to the point, the question of whether union rhetoric is appealing or alienating fundamentally mistakes the issue at hand. Faculty are not being asked to serve as union boosters, but simply to defend the right of others to support the union without fear of academic retribution. For faculty committed to uphold this more basic principle, the quality of union communications is essentially irrelevant.

In fact, it is the Labor Board trial itself that is most likely to change faculty behavior in any future union campaign. Like other employers, Yale's anti-union strategy relied heavily on the active participation of those closest to the strikers, whose personal relationships lent the greatest weight to the threats conveyed.[11] Obviously, it is much more intimidating for graduate students to receive threats from their own faculty than from central administrators—even if the faculty are conveying policies they had no hand in developing—because the potential costs of disregarding faculty advice extend far beyond the employment relationship. So long as faculty continue to play this role, students will organize at their own peril. If, however, faculty insist on their independence in conflicts between graduate teachers and administrators, they will accomplish two fundamental changes: they will put a stop to the single most dangerous category of threats; and they will place severe limitations on the administration's strategy of using the faculty-student relationship as a primary site of anti-union reprisals. Given the Yale faculty's own powerlessness within the university, it is naive to imagine that a majority of faculty members will become union supporters. However, if the NLRB proceedings produce a faculty that is effectively neutral in union campaigns—that is, neutral in its actions, regardless of the professors' personal convictions—this will mark a dramatic step forward in the democratization of campus relations.

The strike at Yale drew national attention primarily because it came at a time of crisis in the academy as a whole. As universities increasingly hire graduate students and adjunct instructors, the question of these teachers' status is one

of the central issues that will define the academy for decades to come. The outcome of this trial will play an important role in determining that future, both in setting legal precedent for graduate teachers and in shaping employment policy in one of the nation's leading schools. If universities are staffed with teachers who lack both the security of decently paying jobs and the freedom to challenge their work conditions without fear of reprisal, we will create campuses that are defined by personal bitterness, political cowardice, and intellectual cynicism. On the other hand, if teachers can establish the right to organize at Yale, it will mark at least a small step toward lifting the floor of the academic labor market and guaranteeing that free intellectual inquiry does not become one more casualty of downsizing. Those who remain active in the Yale union can only hope that faculty will come to see that they too have a stake in forging this path. □

Notes

[1] For an excellent, detailed examination of graduate students' own thinking on unionization and strike participation, see Corey Robin and Michelle Stephens, "Against the Grain: Organizing TAs at Yale," *Social Text* 49 (Winter 1996):43-74.

[2] "Yale Should Punish GESO," *Yale Daily News*, December 20, 1995, p. 6.

[3] Memo to Graduate Students with Teaching Responsibilities in Yale College, December 12, 1995.

[4] Reported in Beverly Gage, "Have You No Shame?" *New Haven Advocate*, December 21, 1995.

[5] Yale University, Policy on Freedom of Expression.

[6] Memo from Philosophy Department Chair, cited in Craig Charney, et al., *Organizing Yale: A Historical Sketch of Unions and Labor-Management Relations at the University* (New Haven, 1985).

[7] Deans Brodhead and Appelquist issued a memo to faculty on December 12, 1995, stating that "in the event of a disruption . . . we must ask those of you with lecture courses to assume the burden of providing term grades for your undergraduate students." They also asked faculty to inform on strike participants: "If grades for work already evaluated this semester are being withheld or otherwise mishandled, please report this matter to your chair and to our offices." The English Department took this one step further, mandating that "ladder faculty . . . will form committees to determine grades" for students in courses where graduate students were the sole instructors. Memo from Director of Undergraduate Studies Langdon Hammer, December 17, 1995.

[8] Quoted in *Gage*.

[9] Homans's letter of January 14, 1996 was distributed to the MLA membership as part of a package of background information related to the MLA's motion censuring Yale administrators for academic reprisals.

[10] Memo to graduate students in the Department of French, from departmental faculty, December 15, 1995.

[11] For an instructive explanation of the central role played by personal supervisors in anti-union strategies, see Martin Jay Levitt, *Confessions of a Union Buster* (New York: Crown, 1993), p. 2.