In the light of what Ceci et al.'s study shows, the American tenure-track system still seems quite superior.

Why ask if tenure is necessary?

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Abstract: Although the target article is groundbreaking and creatively conceived, there are troubling questions regarding its methodology and conclusions. The sample in the authors' study was drawn from a popular magazine's lists; there is no recognition of the fact that most faculty are now off the tenure track; and comparisons are made with the British system with no supporting data.

I begin with a disclaimer. I write from my perspective as the most recent past president of the American Association of University Professors (AAUP), the premier defender of tenure in the American academy.

The target article, although ambitious, groundbreaking, and laudable in many respects, raises a number of questions about its methodology and conclusions. Why did the authors choose to select their sample from lists of purportedly superior institutions published in a popular magazine when they might have sampled from a list of all the institutions in the country? The fact that the lists are of questionable validity for judging the quality of an institution is almost irrelevant.

The overwhelming majority of students in the United States attend and receive their degrees from postsecondary institutions that would never come within hailing distance of such lists. Not only are almost two-thirds of faculty members employed in institutions that do not appear on such lists, but they are employed off the tenure track. It would be of great interest to know how at-will employees – which is what most American faculty now are – would respond. Having made the choice to sample as they did, however, the authors might have provided a list of the participating institutions without violating the anonymity of their respondents. That information would be most helpful, not only in judging the instant article, but also in designing future studies.

It is almost always preferable, of course, to employ an experimental rather than a correlational design, and the difficulties attendant on doing so in a study of this type need not be catalogued here. Issues of response bias are also all too familiar. Nonetheless, a more direct measure of faculty behavior would seem to have been preferable, even at the cost of foregoing the advantages of an experiment. What is the relative incidence among tenured, tenure-eligible, and at-will faculty of actual self-censorship in the arenas of teaching and research? What is the incidence of overt and covert threats to academic freedom among those groups? Of course, simply asking the obvious and straightforward questions risks biased responses, but it might yield more potentially useful data.

The suggestion that the tenure system, because of its high reward value, might engender the paradoxical effect of decreasing the exercise of academic freedom must be addressed. It is not simply the denial of a reward, as the target article suggests, but in many instances it is the end of an academic career. One must keep in mind the consequences of a denial of tenure, especially in the current academic job market.

The unexpected finding that rank is a better predictor of hypothetical behavior than tenure status is difficult to explain, and the authors' suggestion that age and experience or differences in professional socialization might account for it is an attractive hypothesis.

Granted that questions regarding confronting sexual and research misconduct are and should be of great concern to the profession, they are not, strictly speaking, issues of academic freedom but, rather, of professional ethics. Nowhere, to my knowledge, does the AAUP (or other associations, for that matter) claim that tenure is either a guarantor or protector of ethical behavior in situations such as those described in the survey instrument. Admittedly, one might reasonably infer that to be the case, but it is not ordinarily put forward as a defense of the tenure system. As the authors opine, the reasons for respondents' reluctance to confront unethical behavior are probably both myriad and complex. The social and diplomatic skills necessary to deal with errant colleagues are not ordinarily taught as part of a graduate program.

The suggestion that tenure might not be necessary to protect academic freedom on the grounds that tenure no longer exists in the United Kingdom, where academic freedom appears to thrive, is startling. That no data are provided in the target article to reinforce the claim is problematic, but the unstated assumption that the two systems are directly comparable is simply wrong. The differences between the British and American university systems are legion. The sheer size of the American academy, coupled with its heterogeneity, is the first and most obvious. Depending on the criteria used to identify them, there are more than 3,000 or more than 4,000 postsecondary institutions in the United States. They can be classified in a bewildering number of ways: by size, purpose, method of control (public, private, for-profit, religious, and so on), degrees granted, and so forth.

Although the AAUP would not suggest that enlightened labor legislation or a well-negotiated collective bargaining agreement could substitute for tenure, it is the case that most British faculty are represented by strong unions and protected by law. The situation in this country is that the vast majority of our faculty members are not unionized – even when unionization would be their preference –because they are either employed in public institutions in states that do not permit public employee collective bargaining, or employed in private institutions whose faculty are effectively barred from unionizing as a result of the 1980 Supreme Court Yeshiva decision. Recall that this decision found, most astonishingly, that the faculty of Yeshiva University are "managers" and, therefore, ineligible to bargain collectively under the protection of the National Labor Relations Act.

Nonetheless, I end on several positive notes. The target article is, indeed, both groundbreaking and innovative. As is often the case, some of the more interesting results were to be found in the interactions rather than the main effects, and these results should have heuristic value. It is gratifying that no support was found for the notion that the granting of tenure turns Dr. Jekyll into Mr. Hyde. And from the standpoint of good reporting, I was delighted to see the distinction drawn between statistical and practical significance – one that is too seldom made.

The economic justification for academic tenure

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Abstract: The ocean of academic knowledge is now so wide and so deep that university administrators must rely on the incumbents in their departments to identify and train new hires. This is in direct contrast to a sports team, where management can readily identify new talent. It follows that aging academics get to enjoy tenure, whereas older athletes do not.

The target article by Ceci, Williams, and Mueller-Johnson (Ceci et al.) makes it clear that academic tenure is not sufficient for academic freedom. Of course, the purely logical case for

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tenure is based on necessity. Tenure is a requirement for academic freedom because, without it, even a full professor at the end of his or her career might be reluctant to speak freely. But if tenured academics are not speaking out then, as Ceci et al. suggest, we need to ask whether there are other justifications for the practice.

Some critics of academic tenure argue that it is unjustified, pointing to the protection it gives unproductive older scholars. These critics seem to think that a university should be run more like a professional sports franchise. Like a sports team, a university department has a fixed number of positions ("slots") that must be filled. In athletics, this means that every season each incumbent athlete is held to the standard of his potential replacements: past glory counts for little once current performance begins to decline.

A good university will also try to hire and retain the very best young talent, but old professors linger on – in some cases long past the time when a fresh new face would have improved overall quality. It is not academic freedom that is wanting, but academic performance. Why should this happen? If the goal of academic tenure is to generate unfettered research and teaching, and if we are not getting much of this (as the target article suggests), then why are universities not organized more like sports teams?

The answer is unlikely to be that the training period of a professor is particularly long, or that it requires exceptional dedication, or that it is undertaken with a low probability of success. Athletes too must assign their youth to focused study for little or no remuneration and with no guarantee that their efforts will ever help them earn a living. Neither is it clear that an academic has more to lose if he or she is forced to give up his or her job late in life. Athletes love their work and often have very few skills to bring to the outside labor market.

Ceci et al. also suggest that academic tenure might be compensation for low pay. Athletic salaries are high, but this was not true before television, and it is still untrue in the less popular sports. Poorly paid athletes do not get tenure – they find other work once their athletic careers are over. And, although it may be true that the productive period of an academic's career is longer than that of an athlete's, this would explain only why the average academic career is relatively long, not why older professors are never fired.

So why is it that academics are anointed with tenure but athletes are doomed to fight (and eventually lose) a battle for positions on the team? The economic explanation does not rely on academic freedom. It depends on the critical importance to the organization of hiring the best talent and the relative difficulty of observing potential performance (Carmichael 1988). Athletic skill is comparatively easy to judge, and management is better than most at identifying the best young players. In a successful university, it is the incumbent professors in a department who choose whom to hire. Given the vast and expanding state of academic knowledge, these are the only university employees in a position to judge the potential of candidates.

With time, of course, the research and teaching productivity of all faculty becomes easier to observe. So, in principle, the dean could fire the weakest faculty member in a department and then accept the advice of those remaining on whom to hire. But suppose you were working at a university that had this policy: you would understand that everyone in academe eventually sees their performance fall as they age, and that, as the knowledge frontier expands, each generation of scholars has a head start on the previous one. So you would know that if you identified the best candidates to hire, there would come a time when your performance would fall below that of the younger people in your department. In this context, would you ever recommend the hiring of someone you expected to be better than yourself? Equally important, perhaps, would you ever pass on to a brilliant young colleague the specialized knowledge you have gained from years of professional experience?

Tenure is not just about academic freedom, which is the hypothesis challenged by the target article. Tenure is also required if incumbent professors are going to identify candidates who might turn out to be better than them, and if they are going to help these young scholars by passing on their accumulated knowledge. Like the academic freedom argument, this claim is based on necessity – tenure on its own may not be sufficient for good hiring. But without it, the university would lose something valuable: the input of its incumbent scholars to the hiring and training process.

This view of tenure is consistent with some other aspects of academic life. Young professors are often hired on "tenure track" appointments, meaning that their tenure decision will depend on their individual performance only, not on their performance relative to that of their colleagues. This fosters collaboration among young scholars and allows them to participate in tenure and hiring decisions. As well, since faculty have no input to personnel procedures in other departments, administrators can provide incentives by letting entire departments compete for resources. Among economists this idea is sometimes expressed as: "Good universities don't support their bad departments. And bad universities don't support their good departments."

The economic justification for academic tenure depends critically on the value of the information provided by incumbent professors. If management can evaluate potential new hires, as it can in high schools, community colleges, and perhaps some teaching universities, then there are no good economic arguments for tenure. In these cases, especially if there is no compelling argument based on protecting freedom of expression, we should let management hire and fire under the same legal constraints as in any other industry.

Scientific psychology and tenure

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Abstract: Ceci et al. draw conclusions that are inaccurate, analyze and report results inappropriately, fail to translate their scale into policy-relevant terms, and draw overly strong conclusions from their single study. They also attribute all the ills of academic appointments to tenure, and ignore problems with other aspects of the system. Their conclusion that tenure is not supported is at best premature.

Ceci et al. contend that the practice of tenure is not supported by its limited impact on judgments by faculty members that their colleagues would intervene in certain academic controversies or ethical violations. But the application of scientific psychology to such policy issues as tenure is valid only if the research adheres to methodological criteria that ensure the legitimacy of the empirical conclusions, and policy implications respect the complexity of the societal system to which scientific findings are applied. Ceci et al. are to be challenged on both grounds.

Ceci et al.'s major conclusions are sometimes inaccurate. In section 9.1 of the target article, they assert that "Untenured assistant professors and tenured associate professors believed their cohort was less likely to insist on academic freedom than the full professors' cohort." This is incorrect for the scenarios that directly concern academic freedom. Figures 1 and 2 demonstrate that the perceived likelihood of professors at their own rank teaching a controversial course as planned is lower for assistant professor judgments ($M = 3.0$) than for associate and full professor judgments ($M = 5.0$ and 5.0, respectively). Figure 5 demonstrates that the perceived likelihood of professors at their own rank submitting unpopular research is much lower for assistant professors ($M = 3.3$) than for associate and full professors ($M = 6.0$ and 6.3, respectively).

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