

Academia Would Be Worse without Tenure

A Response to James E. Bruce

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James Bruce claims that academic tenure does not promote the common good and argues that it fails to deliver on its promise to secure academic freedom. There are at least two ways to understand this. One is that tenure is bad because what it is trying to do is bad. Another is that tenure is bad because, while it is trying to do something good, it does it ineffectively. While many critics of tenure seem to base their animosity on the former view, Bruce's criticism seems to be closer to the latter: that tenure fails to protect academic freedom, and indeed it makes things worse. While I agree that some of the effects he discusses are indeed negative, I argue that tenure is a net good and that academia would be worse without it.

Tenure Protects Academic Freedom

First, let us dispense with a common misconception, that tenure means “can’t be fired.” Tenure is not intended to protect people who have plagiarized their research, or who have harassed students or colleagues, or who fail to perform contractually mandated duties, or who turn out to be serial killers. What it does is require a very high bar for termination so as to protect people whose research findings (or teaching methods) are contrary to popular opinion or to the settled dogmas of the powerful. It protects freedom of thought and inquiry by insulating the scholar both from howling mobs outside the academy and from groupthink and orthodoxy within the academy.

University professors are not analogous to elementary school teachers. That is not a criticism of the latter; it is only to say that the former are expected to

be scholars, researchers, and experimenters who advance the boundaries of knowledge in their fields while serving as teacher-mentors to adult or near-adult students. The university has an educational mission, to be sure, but the nature of higher education is connected with the pursuit of truth by the scholars who populate it. The pursuit of truth cannot occur if the scholar is worried about whether her findings will offend the sensibilities of someone in power. Tenure means that scholars can follow their inquiries where they lead without fear of repercussions because someone did not want to hear it.

In addition to tenure's role in protecting scholarship, it has the secondary function of allowing for faculties to be self-governing collections of scholars. University administrators are often susceptible to faddish thinking about curricular matters, or may face incentives in decision making that do not align with the university's educational mission. Tenure means that professors can voice opposition to what they think are bad ideas without fear of reprisals.

Bruce notes research showing that, despite tenure, academia is nevertheless guilty of groupthink and orthodoxy, as vast majorities of the professoriate share a similar political outlook. This can lead to pressures on untenured faculty or outright discrimination based on ideology. I agree that these phenomena are both real and bad. Tenure only imperfectly protects the things it is supposed to protect. But I do not see the logic in arguing that, because the protection is imperfect, we would be safer with no protection. I am especially confused by conservative and libertarian professors who make this argument.¹ Given Bruce's noting that the prevailing orthodoxy is further left, it is precisely conservatives and libertarians who would face reprisals for any perceived pushback against received wisdom. The professor who argues for an increase in the minimum wage will be regarded as right-thinking and compassionate; the professor who argues that minimum-wage laws exacerbate unemployment and hinder mobility among low-skilled workers will be the one making enemies. As it happens, there are professors who make such arguments and are able to flourish in their institutions despite voicing such unpopular truths, largely because tenure insulates them from reprisals for thought crime. I fail to see how eliminating the imperfect protection that allows this small minority to flourish would result in an *increase* in intellectual diversity. Imperfect protection is better than no protection.

Bruce notes that tenured professors can "use the tenure process to create safe spaces for themselves," hampering the advancement of heterodox scholars by not tenuring them or not hiring them in the first place. I have no doubt whatsoever that this happens—I have seen it myself. But it is precisely tenured heterodox professors who are in the best position to work against this. The kind of bullying that Bruce (correctly) describes is often the product of a cowardly mind, so if

the vulnerable junior person has even one fair-minded champion, it is possible the bully will back down. If there is no such champion, the bully has an even easier time of it.

Tenure can also work against this bullying independently of any particular champion. While some will use their power to intimidate heterodox junior scholars, others seem to have assimilated the value of academic freedom. While I have seen examples of the bullying Bruce describes, I have also seen examples of orthodox scholars resisting such bullying. To put it another way, while plenty of orthodox faculty only pay lip service to the ideal of academic freedom and do not mind using their power to insulate themselves, others do take academic freedom seriously as a matter of institutional culture.

Tenure Can Be Reformed

Bruce also argues that tenure protects incompetent faculty, and this is not only intrinsically bad but it can also make people outside the academy think less of all academics. I agree this is a serious problem. The point of the seven-year-probationary period is not just about “putting in the time.” In theory, the junior hire is more about potential and promise than accomplishment. We do not actually know yet whether this person will be a productive scholar or an effective teacher, but we are hoping to find out. If the person turns out to be neither, he or she should not be tenured, although to be sure it often happens that people fall into the habit of not wanting to rock the boat. If I say no to their candidate, maybe they will say no to my candidate. (This could be addressed by using secret ballots.) That kind of laziness is a result of prior laziness, namely unwillingness to mentor junior faculty. It is not as if you hire someone, do not pay any attention to them for seven years, and then discover that they are incompetent. If the more senior department members put in the effort mentoring, weaknesses in the classroom and lack of productivity might be overcome during the probationary period. A junior hire who is incorrigible, who refuses mentoring, can certainly be let go before the end of the seven years. I agree that departments need to be more proactive and tenure committees more discriminating.

Fortunately, though, I do not think that the completely incompetent are the majority of academics. Are there any? Surely. But let me suggest an analogy. We require search warrants to be issued before invading someone’s privacy. While this works to the advantage of criminals, it is a justifiable rule because the benefits of protecting *everyone’s* privacy outweigh the costs of making it harder to gather evidence against the criminal minority. That some schools are too permissive about tenure is as lamentable as the fact that criminals benefit

from the Fourth Amendment, but just as repealing the Fourth Amendment out of frustration with crime would be a bad idea, so is eliminating tenure out of frustration with incompetent professors.

Let us keep in mind also that we have statutes defining who is a criminal. What criteria do we use for defining who is an incompetent professor? Many such complaints come from people outside the academy, who have no basis for making such a judgment. The wrath of the mob should not be allowed to have a chilling effect on a scholar's ability to discover and share truths.

Bruce mentions other critics who note that workers in most companies do not enjoy similar protection. That is true, but I see it as a nonsequitur. If your job is in sales, you should be rewarded for being good at sales, and mentored, or ultimately dismissed, if you are not. Your political or religious views probably should not enter into that process, and I would imagine they usually do not, because your employer's main concern is your ability to sell. If your job is piloting a ship, your political or religious views and how they align with those of the shipping company (or the public) seems similarly irrelevant. But the college professor's work is not like those. The work is about inquiry, discovery, and communication. If a shipping company decided to fire all pilots who do not vote Democrat, that would strike me as silly, but it would not affect the pilots' ability to steer the ships. But if the "company business" is examining ideas of just government and facilitating student discussion of such, it would be directly contrary to mission to fire all the non-Democrats.

The Alternatives Are Worse

It seems to me that the practice of tenure in institutions of higher education helps to foster a sense of the value of academic freedom, which is a good thing even if the exercise of that protection is imperfect. But if nothing else, I would ask what the alternatives are. If Bruce agrees that academic freedom is good but objects to tenure because it is bad at securing that end, we would need to consider alternative means to doing so. One of his possible answers is "nothing at all." His illustration for this possibility is the fact that clergy have training almost as rigorous as academics, yet have no institutional guarantees of intellectual freedom. But the analogy breaks down. It is not that years of training make academics entitled to intellectual freedom; it is that the job of being a teaching scholar requires it, because we do not yet know all the truths, and we do not want to appear dogmatic in our instruction. But clergy are not tasked with discovering new truths; they are tasked with promulgating the teachings of their faith. The kind of ideological

diversity that is on-point for a university faculty's mission would be contrary to mission for a member of the clergy.

Bruce also mentions multiyear contracts subject to review. I do not see how that would offer any protection for academic freedom. The chilling effect would still be quite real. If my book or article or lab result makes the dean upset, or offends the governor, or violates the orthodoxy of the mob, I will lose my job. That it is three years from now instead of next week does not make it less chilling. The threat of reprisal would still intimidate and discourage. And if the contract were much longer, perhaps to mitigate this concern, say fifteen years, then it would not be very effective at ridding the university of incompetent professors. Even a fifteen-year contract would not eliminate the chilling factor. In a way, it would make it worse because if you are going to be there for fifteen years, you are likely to have a house, a spouse with a job, and children in school. If the book you write in year five is going to get you fired ten years later, you would have even more reason to be careful of giving offense because you would have even more to lose. Multiyear contracts are far more imperfect than the tenure system.

Bruce also suggests that professors move back and forth between academia and industry. While possible in some fields, such as engineering or management, this hardly seems feasible for most disciplines. Scholarly study of economics does not equate to being "good at business." This suggestion flies in the face of Adam Smith's insights into division of labor. If you have been teaching literature for the last ten years, why would a firm think you were suitable for anything other than an entry-level position? But most thirty-five-year-olds will need more than an entry-level position to support their families. People go into the professoriate as a career choice, just as others go into medicine or law or engineering. In all of these, the reason they invest the time, energy, and money into the training they need is that they want to pursue that profession. While some people tire of their profession and want to change fields, this is their choice, not a structural feature of the profession. People who have chosen academia have chosen a profession which requires the acquisition of expertise, a love of the pursuit of knowledge, a willingness to question and explore, and an interest in sharing those with the students who come to the university to have that shared with them. We literally cannot do our job if we are fearful of reprisals for doing it.

Note

1. For a specific response to that phenomenon, see Aeon Skoble and Steven Horwitz, "A Libertarian Defense of Tenure," Foundation for Economic Education, January 26, 2016, <https://fee.org/articles/a-libertarian-defense-of-tenure/>.