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The Slippery Slope of "Unique"

Daniel J. Julius¹

If there is any message in the recent NLRB decision concerning the appropriateness of departmental micro units at Yale University (NLRB v. Yale University, 01-RC-183014 (2016)), it is that established labor law, NLRB precedent, and attendant collective bargaining processes, developed over the past 70 years in the private and public sectors, can be applied to institutions of higher education. After all, if academic departmental structures and graduate education at Yale are not unique, then very little in higher education can be conceptualized as such when encountering academic union organizing in particular and labor management relationships in general. Actually this point is not lost on practitioners who quite understand that nearly all of the concepts, criteria, processes, and bargaining outcomes developed over the past three quarters of a century in various industries and the public sector, can be adopted and adapted in academe. In fact, this has been the case. Measuring the impact of unionization in higher education is another story, but suffice to say that since the late 1960's when formal collective bargaining (for faculty) gained a toehold in several public community colleges in Michigan and the City University of New York, the higher education sector has become one of the most unionized industries in the United States.²

That higher education may not be considered unique by various courts, labor boards, arbitrators, law firms, and others who facilitate (control) the labor relations process is a decidedly unpopular notion among many academic leaders, faculty, and others. I would argue that universities are organizations providing important individual and societal outcomes which can be measured, but may not be unique for the purposes of labor relations. Of course this is a complex story, and since 1981 faculty at mature private universities are not, for labor relations purposes, conceptualized in the same manner as faculty in public universities. Regardless, the academic private sector provides one of the most fertile grounds for the unionization of adjunct faculty, part-time faculty, and graduate students. Moreover, the Yeshiva decision (NLRB v. Yeshiva University, 444 U.S. 672 (1980)) notwithstanding, the percentage of unionized employees in

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² Actually, craft unions entered academe in the late 1930s, but we normally do not consider such, focusing instead for a variety of reasons, on faculty unions.

private colleges and universities has doubled since 1980, although this figure still represents a very small percentage of the total number of academic employees represented by unions.³

Is it problematic that many people working and studying in post-secondary institutions believe they inhabit unique organizational environments? I think so, and refer to this as the “slippery slope of unique.” I have heard this refrain repeatedly from Maine to Alaska and Florida to Southern California. It is, in my experience common and, in many cases, appears as an unquestioned assumption that a given department, school, or institutional culture is unique. Declarative statements about being unique are invariably accompanied by stated beliefs that “we” are also “one of the best” departments, units, or schools anywhere.

Putting aside the inherent contradiction between being unique (where comparisons are difficult if not possible) and being “one of the best” (where comparisons are mandatory, after all, how can one be best without “comparators” to a lesser), I have observed that best and unique have a symbiotic relationship. No doubt there are institutions with distinctive cultures and values, but unique? Actually very little is unique about any of our institutions. For example, our systems of accounting or financial management, the dictates of public safety or disaster management, legal issues besetting our institutions, shared decision-making processes, deferred maintenance, accreditation guidelines, student advising, strategies to encourage student success, implementation of technology, or the management of departmental conflict; these academic processes and practices are fairly similar in nearly all colleges and universities.⁴ Moreover, how we teach and engage in research, raise money from alumni, engage in peer review processes, become a principal investigator on a grant, assess the undergraduate curriculum in Physics, English, Sociology or Biology, or leadership capabilities needed to succeed, are not unique. The latter point is demonstrated by numerous leaders succeeding in what are presumed to be very different and “unique” organizational environments. Leadership skills are transferable and work in different settings because, in fact, these environments are not that unique. Organizational cultures may differ but decision making methodologies are far more alike than dissimilar. While there are truly excellent departments, units and schools, how they become excellent and maintain excellence is not unique.

Determining what is unique is normally associated with objective and singularly accepted criteria. The Galapagos Islands are unique. Species that live there do not live anywhere else. Assessing “best” is a different matter. Particularly, in the social sciences and humanities. When we discuss institutional comparisons, there are, unfortunately, few objective and accepted

³ The most current statistics on unionization can be accessed through the National Center for the Study of Collective Bargaining in Higher Education and the Professions; <http://www.hunter.cuny.edu/ncscbhep>.

⁴ Many are similar in public and private organizations outside of higher education as well.

criteria. Criteria in use are often clouded by issues of “prestige” or “disciplinary orientation”, and gradations of prestige or disciplinary biases are finely honed. Everyone seems to know the “best” institutions and, with the addition of a few public land grant universities and one or two privates, it is the same list dominating for the past 100 years. These schools own greater endowments, have stronger ties to foundations and funding agencies, are aligned with the political establishment, have wealthier students and alumni, and have higher (more discerning) entrance requirements for students, faculty, and administrators. We know, of course, who works and studies in more privileged institutions. However, with the possible exception of intercollegiate athletic teams, declaring who is best or better is really more an art than a science because many of the criteria for making these claims lack objectivity or are too narrowly construed. The end result is that we measure the width of individual tree trunks rather than gauge the expanse of the forest when it comes to assessing institutions and disciplines. We lack accepted and measurable criteria to substantiate the claims made about being best or unique.

Challenges associated with “unique” and “best” would be manageable, after all we all really know where we fall within the privileged scale, but for several manifestations of associated attitudes and behaviors seriously eroding respect for post-secondary education. For example, when people believe they are unique or the best, there is less willingness to consider new or innovative ideas, different criteria for decision-making or new measures of success. Using comparators is difficult, if not impossible, because by being so special we cannot possibly find meaningful institutional comparators (which, as anyone knows, who has tried to gain agreement on a set of comparators, is a very difficult task). In fact, it can be profoundly disconcerting for some to embrace the notion that comparators might be valid. At this point it is but a short leap to an inability to replicate success because, in order to replicate success, we need to agree on what the criteria for success really are and how we are, or are not, similar to those who are successful. An inability to identify comparators, replicate success, agree upon objective criteria or measures, and allow for honest introspection about the nature of our strengths and weaknesses diminishes organizational diversity, vibrancy, competitiveness and tolerance. This is exactly what is happening as I view the post-secondary landscape.

Labor relations practitioners in higher education have an important role to play. They can contribute to the dialogue of what it may mean to be unique and elucidate the pitfalls associated with these sentiments. Certainly, they could save organizations great sums of money and angst by convincing folks to endeavor not to rediscover the wheel; e.g., by questioning the complex issues around concepts associated with thinking we are “unique”. This will mean that labor relations practitioners must take part in the intellectual debate swirling around policy and mission related questions.

Collective bargaining has, by and large, been adopted and adapted in post-secondary institutions. The same will be the case at Yale if the decision is allowed to stand. Of course, there will be consequences and outcomes at Yale unanticipated by those who both support and oppose graduate student unionization. But that is another story.