

## **Contingent Faculty and Academic Freedom: A Contradiction in Terms**

*Joe Berry*

In order to talk about academic freedom and faculty activism in general, one reality needs to be clarified: We are now talking about a faculty labor force that is over 70 percent working without any substantial job security or tenure. It is impossible to discuss academic freedom and the ability, or lack thereof, of faculty to engage in activism on or off the campus without confronting this major change since the 1970s. The core argument for tenure, the special job security of academics, has always been that they needed this protection in order to practice research and teach freely to the benefit of their students, the institutional mission of higher education and the society as a whole. That is the rationale put forward by the AAUP in its famous statements codifying rights of academic freedom and the need for tenure to protect them. For most faculty now, these rights exist as nostalgic historical artifacts. For most U.S. workers, free speech on the job is not even a historical artifact—they never have had it. This makes it harder politically to defend academic freedom and tenure as necessary special rights of academics. In light of this reality, many contingent faculty members frame their defense of academic freedom not only from their work experience, but also as part of a fight for job security and First Amendment protections for all workers.

### **Today's Contingent Majority Faculty**

The academic labor force has been fundamentally transformed since the 1970s when the casualization of faculty work began in earnest. Since that time, under the pressure of both economic constraints and administrative needs for greater flexibility in assignment, universities and colleges have continued to convert a greater and greater proportion of their faculty, both research and teaching, but especially teaching, from full-time tenured and tenure-track positions to contingent appointments ranging from a year or more full-time to one class for one semester. Over 75 percent of these contingent, precariously positioned, nontenure-track faculty are not covered by a union contract and are therefore completely at-will employees. Even among the minority who are covered by union contracts, most have no substantial protection against dismissal or, as it is referred to in this

**WORKS AND DAYS 51/52, 53/54: Vols. 26 & 27, 2008-09**

world, "failure to rehire." All of the high-sounding statements in faculty handbooks, college mission documents, and other academic ephemera do not change this reality for the majority, most of whom are completely excluded from participation in the shared governance bodies that create such documents. I would argue that this casualization and collective disempowerment of the majority of faculty is by far the greatest threat to academic freedom and activism on campuses.

This change in the faculty workforce has had implications that are usually invisible to even the majority of full-time tenured and tenure-track faculty. For instance, the effective hiring (and rehiring) person for most contingent faculty is a low-level administrator often titled "department chair," "program coordinator/director," "assistant dean" or their designee, people who are seen by the tenured or tenure-track faculty as colleagues, that is, faculty, not employers or supervisors. To contingent faculty, however, these people are unambiguously bosses with every bit as much power (usually unchecked) as the most dictatorial hiring foreman on the factory floor in the days before unionism arrived in the 1930s in mass production industries.

The fact that these supervisors often also see themselves more as faculty than as supervisors or foremen only makes matters worse. This happens in two ways. First, it results in them spending much less time and attention on their supervisory duties than is necessary to do a fair, equitable, and complete job. Second, their ambivalence about their role leads them to be both inconsistent in it and very sensitive to any perceived criticism of it since the supervisory role oftentimes is not one they're particularly comfortable with in the first place.

Another problem is that these "hiring administrators" are seen as faculty colleagues by the core tenured and tenure-track faculty, which then makes it much less likely that tenured colleagues will defend contingents when they are accused of anything, since it would mean going up against those whom they perceive as their colleagues in the department, in the senate, and often in the faculty association or union. In fact, these bottom-level administrators are often the leaders of these "faculty bodies," such as senates, faculty associations, and even collective bargaining units. Thus even unionized contingent faculty often have much less protection than would appear to be the case upon a reading of the collective bargaining agreement or administrative regulations or handbooks.

### **Implications of Contingency**

The key restriction, of course, on faculty activism and academic freedom is not direct repression or direct threats of firing or explicit rules that restrict teaching, research, or other forms of behavior on or off campus. The main factor is the fear and self-censorship that this climate and reality creates. Anyone who has ever tried to organize even tenured and tenure-track faculty to do anything even remotely controversial in their classroom or on campus knows that, as a group, they are not a particularly courageous bunch, especially before they get tenure. Despite the stereotype of the liberal or left-wing faculty majority, in fact, on the ground and on a personal level, most faculty are very mainstream in their behavior and quite conscious of the desirability of remaining so. If that is true for full-time tenured and

tenure-track faculty, these forces are multiplied a hundred-fold when applied to contingent faculty. There is a famous joke in circulation among teachers without tenure that says anyone who proclaims that they teach their classes and behave in their institution as if they had tenure is probably either not telling the truth or too unaware or stupid to be trusted with the position as teacher. What is remarkable is the degree to which contingent faculty have overcome this fear and taken action that might get them in trouble, whether this action was organizing unions, teaching controversial subjects, or participating critically in the life of the institution in any way.

Though the reality outlined above has not fundamentally changed since 9/11, as attacks on faculty freedom have intensified during this period, the dangers for contingent faculty have also increased. Perhaps even more substantial a threat to the academic freedom and potential for activism of contingent faculty has been the recent economic cuts in many institutions. In the context of overall cutbacks and when faced with a troublesome adjunct, it is very easy for administrators to hide the "failure to rehire" excuse in the confusion of mass layoffs. Most of the actions taken against contingent faculty in this regard are never labeled as such, are never even spoken aloud in public (or perhaps even in private). Most contingents dismissed for any reason, as at-will employees, do not even have to be given a reason at all. Often they do not even get a face-to-face meeting. Typically, they are met only with an e-mail or phone message, or, at worst, they just quit after having their messages of inquiry answered. This is an ideal situation for already ambivalent supervisors. They do not even have to face in person, even for a moment, the physical reality of their actions. This system results in people losing their jobs and, in most cases, not even trying to make a fight for fear that their very resistance or publicity will result in them being blacklisted from other employers as troublemakers. As may be expected, the minority of contingent faculty find the courage and the support necessary to make a fight that we even hear about. Those are the cases that become "Cases." As recently as spring 2008, "Cases" arose at the University of New Haven (student grade complaints) and Cal State, Fullerton (loyalty oath). The vast majority remain below the waterline known only to their close contingent colleagues and whispered about, perhaps, when the next year's assignments are released.

### **An Example from Chicago**

One example of this situation—happily, a partial victory—took place at Roosevelt University in Chicago from 2005-06. This is an example, I believe, that not only has many characteristics of the general situation, but at the same time also shows the unusual resistance, and hence publicity, of the victimized adjunct, his union, and their eventual partial victory.

Roosevelt University is a medium-sized masters- and bachelors-granting private university in downtown Chicago. It has a heritage of progressive thought, antidiscrimination, and attention to the needs of students who otherwise might not get a college education. It was named in 1947 for Franklin and Eleanor Roosevelt as an explicit statement of its commitment to progressive ideas. For some years, in

fact, it was the only bachelor's degree-granting college in the city of Chicago that did not have racial (and anti-Jewish) quotas. Originally, the school had leading trade unionists on its board of trustees and a significant labor education program, and its library was named for the presidents of the American Federation of Labor and Congress of Industrial Organizations (AFL and CIO). In recent years, the institution has opened a branch campus in the suburbs and moved more in the direction of catering to traditional younger (and whiter) students and suburbanites and away from working (and working-class) adults. This change has been controversial among faculty and alumni, many of whom came to Roosevelt because of its progressive and accessible policies, low class sizes, and friendliness to people of color and working adults. This shift in focus came about partially because of economic problems in the 1980s and a desire to cultivate an additional student base who could pay tuition in this very tuition-driven institution that historically had a very small endowment and lacked rich alumni. The same economic constraints pushed the institution toward a heavier and more entrenched reliance on contingent faculty, so that by 2000, contingents were teaching well over half of the classes.

This contingent majority organized itself as a union in 1999, known today as the Roosevelt Adjunct Faculty Organization (RAFO, IEA/NEA) and signed their first collective bargaining agreement in 2000. This agreement had very little additional job security for adjuncts who were each hired on a per-class, semester-to-semester basis (though it did improve other conditions and pay). Another aspect of the agreement was that it included an academic freedom article that had been the subject of hard-bargaining in the negotiations, with the union proposing that the contract include basically the AAUP academic freedom language and the university strongly, in turn, resisting this notion. The compromise language that resulted did at least assert that within the guidelines of the course being taught, faculty had the right of academic freedom, and that while off the campus, faculty had the rights of free speech as long as they clearly identified themselves as not speaking for the university.

### **A Problem Suspected**

In the fall of 2005, Douglas Giles, a philosophy adjunct with fewer than five semesters' experience at Roosevelt, approached me as his department union representative at an October Campus Equity Week function on campus. Taking me aside, Giles somewhat hesitantly suggested to me that he thought he might have a problem regarding his Spring 2006 course load, but that nothing had been said to indicate he would not receive an assignment. He told me that the department chair in our combined history/philosophy/art history department had delegated initial assignments and course scheduling to one of the senior tenured philosophy instructors. This instructor had told Giles the previous May that he couldn't remember exactly which Spring 2006 classes he had scheduled him for, but that he had followed Giles's past schedule that included two classes—Intro to Philosophy and World Religions. However, Giles was now concerned that this might not happen because of some phone calls he had received at

home from the department head the month before (September 2005). I advised him to send a one-sentence e-mail to the department head inquiring as to the specifics of his assignments so that he could plan his other work and schedule for the upcoming semester. I asked him to let me know what happened.

Giles forwarded me two e-mails, first from his department head and then another from the dean, stating that he would not have any assignments in Spring 2006 and that he would also never have any assignment in the College of Liberal Arts at Roosevelt; no reasons were given.

Because of his low seniority, Giles did not have a contractual right to a "reason" for this nonreemployment/termination. However, as a union, we were going to press for a reason anyway, especially after finding out the content of the phone calls Giles had received from his department head in September.

### Two Phone Calls<sup>1</sup>

To shorten a long and extremely complicated story, but one which the administration throughout the grievance procedure never denied in specific detail, the department head phoned Giles in early September to discuss a grade appeal by a Jewish student who felt that he had been discriminated against in his final World Religions class grade. Giles transcribed on his computer real-time notes to capture the content of this phone call without the knowledge of the department head. The conversation itself was also never refuted by the administration. Giles is a very fast typist (this was checked during the processing of the grievance), and his notes, which are close to an actual transcript, became documentary evidence in the grievance.<sup>2</sup>

Giles, who is not Jewish, explained the basis of the grade (a "C") was largely the result of frequent absences by the student; the department head added that she thought the student was "kind of a flake." Later in the same call, the department head said that the student had raised another issue that concerned her. She said she was concerned about the student's claims that Giles brought "anti-Jewish political beliefs" into the World Religions class and was retaliating against him for his Jewish beliefs. In the course of that discussion, the department head asked Giles if Zionism was discussed in class. He said, "Yes, once," and that it had occurred when a student asked about the accusation made by some Muslims that Zionism is racist and wondered how Giles would respond. Giles said he addressed the students by saying he did not believe Zionism was racist, but that rather it was a belief that the Jewish people had a historically based right to the land of Israel which coincided to the very beginnings of Jewish faith. Not satisfied, the department head asked how Giles "could have allowed such a question in class?" Giles replied that he encouraged students to ask any and all questions and didn't know what a student was going to ask until they asked it. Once a question was asked, he felt obligated to answer it as best he could. The department head replied that she felt it was completely inappropriate to have any discussion about Zionism in a religion class because "you can only discuss Zionism in a negative way and it opens up Judaism to attack." Giles disagreed and said he didn't understand

her reasoning. The discussion continued with an inquiry into whether there was a question on the final test about Zionism: Giles said “Yes, because the issue had been raised in class and the question came directly from the textbook.” Giles’s exam question was, “What was the history of Zionism and how does it affect the current conflict between Israelis and Palestinians?” Giles explained that there were eight other questions, and that he permitted the students to choose four to answer from this group. Therefore, based on the question pool and Giles’s related terms, no student was conditionally obligated to address the Zionism question.

The department head replied, “How could you put a question about Zionism on a religion test? That is a totally inappropriate question.” She further challenged the question as being “political” and that bringing politics into this class was wrong. The discussion ended with the department head saying, “We are going to have to disagree. I don’t think you can have any discussion of Zionism or the Palestinian issues outside of a political context, and it’s disrespectful to any Jews in your class to mention either of those.” She then ended the conversation indicating that Giles’s qualifications as a teacher were not in question, nor was he unsuited to teach a class. Instead, she simply affirmed that she was going to deny the student’s grade appeal because she didn’t think Giles had acted in a way consistent with the student’s objections.

A week later, Giles’s department head again phoned him at home to confirm that she was writing the official response to the student’s grade appeal and that said appeal was without merit and would be subsequently denied. She added, though, that Giles was making her job much harder; that she just couldn’t get past the fact that Giles had allowed Zionism to come up in a religion class. “Your job as a professor in a religion class is to tell them only the basic elements of what each religion believes and nothing more.” She then questioned his choice of textbook because it included a discussion of what she called the “Jewish-Arab” conflict. The problem, she said, was that “it was in the textbook for people to see—as was a section on Zionism, I suppose?” Giles answered, “Yes, next to a section on the Holocaust and next to the founding of Israel.” To which she responded, “Well, that is the problem. If you allow a discussion of Zionism in class, you open it up to a criticism.” Giles protested that his worry about what she said is that to forbid discussion of Zionism is to leave students with the impression that there is no religious basis for the state of Israel. The department head, who is Jewish and an art historian, not a philosopher or a religious studies specialist, then interrupted to say, “Our claims to the land of Israel go back to the days of Abraham. The Palestinians were not on that land. The land was empty when the Israelis got there, and only after Israel was founded did they start saying it was theirs. That land belongs to the Jews. That is what you should be teaching in a religion class.” She continued, “What disturbs me, Douglas, is that you act like the Palestinians have a side in this. They don’t have a side. They are animals. They strap bombs to their bodies and blow up women and children. They are not civilized.” She then said that she was not interested in discussing this any further and that she did not want Giles to mention this conversation ever again. She then hung up.

Remember, this was a conversation between a supervisor with virtually complete power to hire and fire a subordinate. This was not a discussion between colleagues who had differences of opinion on political issues or how to teach a class (though, ironically, that was the exact assertion later made by the university further along in the grievance procedure). Specifically, if it had been a conversation between two tenured faculty members, Giles might have dismissed and excused her comments as an indication of some personal trouble unrelated to him. But that was not the reality. And in many respects, the real reason gets to the heart of why, in theory and in practice, contingents do not have academic freedom. Whether intentional or not, Giles's circumstance can certainly be understood as causally related to intimidating behavior put forth by his department head/supervisor. An indication that Giles's department head sensed a potential dilemma was the fact that at the end of the first conversation she went out of her way to twice say she was not conveying that Giles was unsuited to teach the class, and that this was conversely just a disagreement on approach. Of course, the attempt by Giles's department head to deflect critical scrutiny from the power she held over Giles did not change the inherent reality of the power relations that existed. Giles exhibited tremendous courage, however, by resisting the power imbalance through his own mettle, arming himself with quick thinking rather than the aid of second- or third-party witnesses to the conversations. He came away from the encounter with his computer note transcriptions of the conversations—some rather useful evidence that would later prove central to what would have otherwise been a classic “he said, she said” scenario.

### The Struggle

It appears in retrospect that at this point the department head began the attempt to build a case—unnecessary as it was under the contract—to dismiss Giles. Without going into excessive detail, an attempt was made to induce another student to file a formal complaint against Giles in another class, an effort which was ultimately unsuccessful but greatly muddied the waters in the grievance proceeding, as intended. Likewise, a bogus and fictional post hoc “faculty evaluation” was invented to further justify the dismissal.

The union filed the grievance as violation of the academic freedom supposedly applicable to contingents, even if the contingents had not yet worked sufficient semesters to have any contractual job security or the right to a reason for failure to rehire. This forced the administration to reply and to assert also that it was not an academic freedom violation, which effectively put them into the position of having to put forth an alternative rationale. Hence it seems clear that the attempt to create a student complaint against Giles and the bogus evaluation were anticipatory maneuvers to counter the union's academic freedom claims. An important matter to consider here is that the administration's retrospective attempt to create a case against Giles was the subject of two later grievances: one over their handling of student complaints and the other over faculty evaluations.

Without continuing the chronology—which lasted a full twelve months before it was finally settled—the point of this story should by now be clear. Even with a union to defend him, Giles as a contingent faculty member was subject to extreme intimidation, the effective loss of two semesters' employment (Spring and Fall 2006) and a great deal of stress. For the union leadership—with its weak job security language and its somewhat ineffectual, but nonetheless substantial, academic freedom language—the Giles case was also an intimidating one carrying with it the fears that not only would administrative relations be poisoned permanently thereafter, but also that a basically small, politically fragile, and young union of part-time adjuncts would thus find itself the subject of active union-busting during contract renewal. It is a tribute to both the grievant and the union leadership that neither of these concerns kept them from moving forward, though trepidations of various sorts did result in differences of opinion about how to proceed. On top of the losses suffered by Giles and the tenuous relations between union and administration that remained, the Giles case monopolized essentially all the extra resources available to the union leadership for the better part of a year, taking attention from many other concerns. Thus the red tape of academic due process in such matters, in and of itself, also contributes to the loss of academic freedom protections for other similarly affected faculty.

Besides filing the grievance and following it up with two others, going through the entire grievance procedure, and arranging for arbitrations, other means of struggle were employed. Giles courageously discussed with his students the issues and they set up an academic freedom free speech Web site to solicit support. A letter was circulated to the philosophy profession and the American Philosophical Association, who ultimately sent a letter of protest to Roosevelt University ("American Philosophical"). Support was solicited from the local Muslim civil rights and defense organization. Both Giles and I spoke about his case to the plenary of the (International) Conference of Contingent Academic Labor VII, in Vancouver, Canada, in August 2006. After weeks and months of attempting to give the university a chance to do the right thing and avoid public embarrassment, the union, sparked by the Giles case, finally lost patience and held a public forum in September 2006 on academic freedom. The forum included speakers Reg Weaver, the president of the National Education Association and an alumnus of Roosevelt; Jack Metzgar, the former president of the AAUP chapter at Roosevelt; John K. Wilson, noted author on academic freedom and the editor of the Illinois AAUP state newspaper; and Tom Auxter, the president of the United Faculty (an organization affiliated with both the American Federation of Teachers [AFT] and National Education Association [NEA]) at the University of Florida, where he is also the leader of a major free speech fight.

It was just after this public event and on the eve of the first scheduled arbitration that the university finally opened negotiations with the union's attorney to settle the case. A small union of adjuncts (a membership of under four hundred) with no local paid staff had to fight for a year, along with a courageous grievant, and go all the way to arbitration to get the university's attention.



Ultimately, for both the union and Douglas Giles the case was settled acceptably with an offer of reemployment (which he declined) and a substantial financial settlement. The settlement also included the establishment of an academic freedom committee to handle, both specifically and proactively, future issues of academic freedom violations that might arise. As a further contingency, the new committee was to represent equally the union *and* the administration.

### Lessons

Some lessons can be drawn from this experience. First, the extreme vulnerability of individual contingents to behavior such as that of Giles's former department head can (and should) never be forgotten. In the Giles case, it was not a situation of an overall attack on academic freedom by an administration on faculty. In fact, Roosevelt has almost never had an academic freedom issue in its fifty-year history. However, adjuncts are so vulnerable that one out-of-control department head and one complaining student, reflexively backed up by the institution and most of the full-time tenure-track faculty, results in cases such as what we find here. Fighting these cases is especially important in order to combat the fear and chill that administrative actions like this send out to a vulnerable contingent faculty group. Without fighting Giles's case, we would soon have had no union worthy of the name since very few faculty would ever volunteer to be active.

Second, local full-time tenure-track faculty are not reliable allies when it comes to violations of academic freedom by department heads whom they see as colleagues. In fact, the leadership of the AAUP at Roosevelt, a nonbargaining unit chapter, refused to assist the RAFO in this case even to the extent of sharing their e-mail membership list so the RAFO could send out a "Dear Colleagues" letter. Later, after the public forum was held and the case was settled, the president of the local AAUP chapter (herself a department head) sent a letter to the state AAUP newspaper protesting its coverage of the case. In contrast, the national AAUP was much more supportive of our efforts.

Third, for a specific case even to become a public issue requires unusual levels of courage and commitment on the part of both the individual contingent and any organization or union that he or she approaches for support. Further, it requires the creativity to go beyond the normal paths of a private contractual grievance procedure to wage a public campaign, which many will interpret as being directed against the institution in general. This is an ironic and difficult situation, especially at Roosevelt University with its progressive history and mission. Roosevelt's contingent faculty feel that they are the true defenders of the historic mission of this university, and it was only with great reluctance that public actions, such as those outlined herein, were taken.

Fourth, internally, the lesson of the Giles case is that it is very important, however difficult, to maintain open, transparent, and respectful communication among all involved in an academic labor struggle. Differences of opinion will emerge, as they did in this case, as to what to do next and when. The pressures from the university, the

demands of getting support from larger faculty and union structures, the general political climate today, and the normal personality conflicts all make this kind of work both difficult and essential: a scary set of challenges, for certain, but those which are nevertheless necessary to confront.

Finally, this case also illuminates the post-9/11 world where all references to Islam, Judaism, the Middle East, the Holocaust, Israel, and Palestine are especially contentious and dangerous to breach. This is both new and not new for contingent faculty. Of course, there have always been periods where the open discussion of some issue became inflamed and provided an incentive to restrict academic freedom and public discussion, generally. Here we are reminded of McCarthy-era anticommunism, the backlash to the Black Freedom Movement or the Vietnam War, as examples. However, added to these historic periods of political fragmentation is the new reality that the majority of today's faculty lack basic job securities necessary to stand and defend their rights to enact or protect their academic freedom. It is this present condition that we all must confront, and better together than separately.

### Notes

<sup>1</sup> For additional information pertaining to the Giles case, see Wilson.

<sup>2</sup> See Giles. For further clarification of Giles's telephone transcription notes cited in "Two Phone Calls" 5-7, the calls from the department head occurred on September 13 and September 20, 2005—as referenced in the essay, Giles's notes were contemporaneous. These notes were used in the grievance meeting at Roosevelt University on December 9, 2005, which I submitted to the dean and then provided as evidence on behalf of RAFO and as Giles's department representative.

### Works Cited

- American Philosophical Association's Committee for the Defense of the Professional Rights of Philosophers. Letter to Roosevelt University President, Charles Middleton. 18 Sept. 2006.
- Giles, Douglas. Transcript of telephone calls with dept. head, Roosevelt University, Chicago, IL. 13, 20 Sept. 2005.
- Wilson, John K. "Politics and Palestinians at Roosevelt." *ZNet.org*. 10 Aug. 2006. Z Communications. 1 Aug. 2008 <<http://www.zmag.org/znet/viewArticle/3406>>.

## IV. Neoliberal Freedoms, Contingency, and Capital

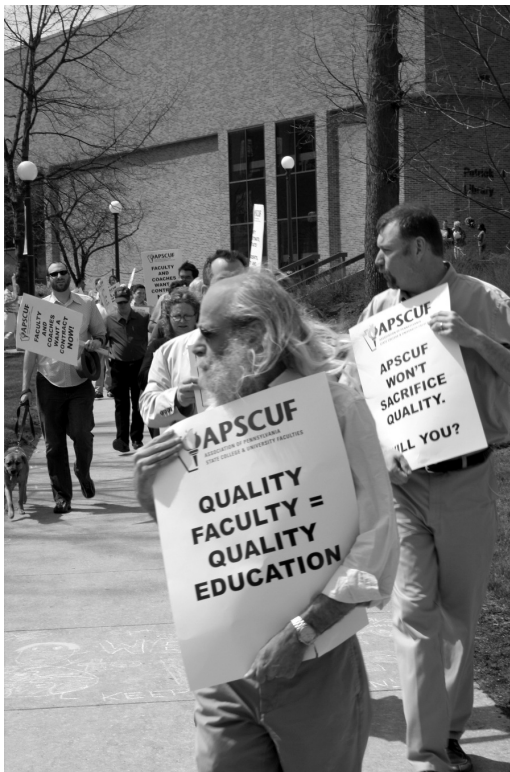


Photo Credit: Landon F. Garside

