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Somebody Back There Didn't Like Me

By Stanley Fish

I know several distinguished academics (you may know them too) who are keepers of a strange flame. Long ago, some institution denied them tenure, and although hardly anyone remembers and no one really cares, years later they still brood about it and blurt out the (to them) life-polluting fact 15 minutes into any conversation no matter what its putative topic.

They say, "I remember encountering something like that the year I didn't get promoted," or "the best essay on that question was written by so and so who, by the way, voted against me in 1976."

This obsession with a past rejection long since overlain by accomplishments and triumphs is a testimony to the severity of the wound inflicted when a jury of one's peers returns a negative verdict on the work of seven or more years. There are of course the material costs and inconveniences -- reorganizing one's professional life, uprooting a family, suffering once again the usual indignities of the job market to which is now added the special indignity of having to explain, over and over, how it is that you became the victim of a grave injustice or, at the very least, of a mistake. But, by all the evidence, the biggest costs are psychological -- the feelings of betrayal, the welling up of self-doubt, the sense of helplessness in the face of forces that have taken from you the ability to control your own life.

Those of us who have been fortunate enough never to have undergone this experience, and who are now charged with the responsibility of overseeing a process so momentous in its consequences, must take special care to put in place safeguards against capricious and irresponsible judgments. Short of universal tenure -- not an impossible notion, but one the American academy has not embraced -- there are bound to be unhappy outcomes, but the least we can do (though it will be small consolation to those who are unsuccessful) is to mark the route clearly so that among the inevitable complaints will not be the complaint that "no one told me" or "I didn't see it coming."

This means, first of all, laying down the tenure procedures and requirements with a clarity that approaches the condition of transparency. These procedures and requirements should not only be published; they should be explained to each junior faculty member at least once a year; and, given that the explanation will be necessarily general and even abstract, its annual repetition must be supplemented by a candid written assessment of the progress the aspiring assistant professor has or has not made.

The rule here is never be encouraging; that is, never say to a candidate for promotion, "you're on the right track" or "everything looks good" or, even, "with just a little improvement in this or that area you'll be fine." I know that the conventional wisdom is that annual reports should try for a

balance between encouragement (the morale-building component) and the detailing of potential problems; but the truth is that those to whom you deliver the mixed message will not be balanced in their listening: Most of them will hear only the cheerleading part of what you have to say, and regard the other part (which will fade from memory) as a small qualification of what is (to their ears) a positive endorsement bordering on a promise.

The only way to ward off misunderstanding and the future lawsuit is to go heavy on the criticism and very, very light on the praise; and this holds in spades for the third-year or mid-career assessment many colleges and universities now make part of the official transcript.

You don't want your overly kind words to come back to haunt you when, in the wake of a later negative decision, the colleague-turned-litigant brandishes the glowing record and charges that he or she has been blindsided, misled, and (horror of horrors) "insufficiently mentored." (I had a Rip van Winkle moment a few years ago when I awoke to find a lot of my fellow academics talking about something called "mentoring" and complaining that they hadn't been getting any. "Mentoring," I learned, is an intense form of the summer camp buddy-system premised on the bizarre assumption that presumably adult persons who freely choose to go into a profession are under no obligation to find out for themselves how things work.)

This all leads up to the department meeting, the pivotal moment in the tenure process. What happens there is very likely to determine what happens down the line (a negative department vote is rarely overturned), and again care must be taken to ensure that the outcome, whatever it is, can be characterized as a rational one. The obstacles to a rational outcome are both procedural and substantive, and removing them requires the imposition of discipline.

The chief procedural obstacle is the lack of a procedure. In the absence of formal reports on research, teaching, and service, the discussion is likely to be anecdotal and inappropriately personal. But formal reports harbor their own danger if the fact of them is taken as relieving others of the responsibility of reading the material. It should be a rule -- it could only be self-enforced, but it would still have some effect -- that only those who have done the reading can either talk or vote.

The chief substantive obstacles to a rational outcome are all the bad reasons people have for voting one way or another -- positive votes cast on the basis of friendship, pity, ideological fellowship, or fear of losing a line, and negative votes cast on the basis of ongoing quarrels in which the candidate had no part or as a payback for a vote taken last year or five years ago, or as a blow in the ideological struggle for or against the Old Guard. Given that these (and other) bad reasons are internal and often constitutive of the holder's psyche, it is impossible to root them out or ban them, but you can make it more difficult to act on them by reserving the vote to those who have participated in the discussion or by requiring anyone intending to vote negatively to give some indication of that intention and some reason for having it.

This does not preclude persons from speaking one way and voting another -- the ballot still remains secret -- but it will exert a pressure that will be felt even by those inclined to resist it.

To the objection that any such requirements or restrictions would be undemocratic, I would reply, as I have in one of my earlier columns, that we are not in the democracy business but in the teaching/learning/credentialing business, and that while democracy is in general a good thing, its imperatives should not be allowed to trump the imperatives we take on by virtue of the contracts we sign and the paychecks we receive.

So far I have been emphasizing the care owed to the candidate in the tenure process, but there is also a corresponding care owed to the institution -- to the department, the college, the university, the profession. The institution can suffer as well as the individual from a decision made out of spite, ignorance, and mean-spiritedness; but here the impulses to be most on guard against are, at least superficially, more benign. For many academics, both at the department level and at the level of university wide committees of tenure and promotion, the act of judgment itself is difficult and even ideologically suspect, and consequently they will seize on any pretext that will allow them to avoid it. They will say (to themselves), "Who am I to judge?" or "By these standards I myself should be stripped of tenure," or "The bar wasn't set this high when he or she signed on," or "In the general scheme of things what does it matter if not everyone is absolutely top-notch?" or "There is some promise here, and what's wrong with giving it time to develop?"

The trouble with these apparently generous sentiments is that those who are moved by them have a mistaken notion (or no notion at all) of the likely future behavior of those who benefit from what will in large part be an act of charity. The one thing they won't be is grateful. If they know (and they will always know) that you have admitted them to the club grudgingly or, even worse, in the spirit of a gift bestowed on the not-quite-deserving, they will resent it forever.

The gift will arrive tainted, and they will spend a lifetime trying to wash away the taint by being as ungenerous to others as you were generous to them, invoking standards much more rigid than the standards they know you think they didn't quite meet, hoping thereby to prove (to you and to themselves) that they really deserved the promotion you granted them only as an exercise of grace. (What you have sown, so shall you reap.)

It may seem harsh, but there are two rules to be observed here:

1. Never give anyone the benefit of the doubt, for you can be quite sure that the substance of the doubt will be confirmed and amplified in the many years during which an unhappy person will find occasions to create unhappiness for others.
2. Never do anyone a favor, because if you do, it will be repaid not in kind, but in the currency of endless bitterness.

Following these rules will not guarantee that the decision you make will be the right one, but following these rules will allow you to rest confident that you made it for the right reasons, even if it turns out to be wrong. (Remember, there are those who, as I said at the beginning, end up covering an early rejection with clouds of glory.)

One final point. You and your colleagues may be reluctant to render a judgment, especially a negative one, for fear of future legal consequences. This, however, is a fear that cannot be protected against. These days you or your department or your college or your university can be

sued for anything. A middle-aged white man can claim discrimination as easily as can a minority woman. You can be accused of a bias against old people, young people, sociologists, college athletes, citizens, noncitizens, mothers, non-mothers, traditionalists, postmodernists, liberals, conservatives, libertarians, and vegetarians.

Most of these accusations will be frivolous, and none of them will threaten you as an individual with professional or financial ruin; it is the institution that must bear whatever costs there are. So you might as well call them as you see them, and let the chips, legal and otherwise, fall where they may.

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