

CAUT Council Meeting
Ottawa Westin Hotel
23 November 2002

I am delighted to be here under such auspicious circumstances. Today CAUT and AAUP will sign a reciprocal agreement that will formalize an already warm and cooperative relationship. And we do this just weeks after the University of Toronto settled with Nancy Olivieri and her colleagues in a very disturbing and high profile case. It was a thrill to be present yesterday to help you celebrate the victory.

In September, Jim Turk and Vic Catano visited the AAUP office in Washington, and we had a full day of very productive discussions with members of our professional staff. As a result, we have identified a fairly extensive list of items on which we might collaborate: attending one another's conferences, sharing research data, co-authoring articles and books, jointly sponsoring conferences on topics of mutual concern, and exchanging staff for limited periods. AAUP has relied on CAUT's leadership in several areas, especially the work you have done in advancing the cause of contingent faculty and in analyzing the effects of international trade agreements on the academy.

The Olivieri case has received rather broad coverage south of the border, and I trust that you are aware of one of our most difficult cases, that of Sami Al-Arian, a Palestinian-American professor at the University of South Florida. The facts of the case are so convoluted that I shall take a few moments to bring you up to date. On September 27, 2001, Judy Genshaft, the president of the University, placed Al-Arian, a tenured associate professor of computer science, on paid leave one day after a television appearance that generated a storm of negative publicity. Bowing to threats to withhold financial contributions to the university, as well as fears of possible violence, Genshaft informed Al-Arian on December 19 of her intent to terminate his employment. The reason she gave for her decision was that his extramural utterances had created a situation in which the University cannot effectively provide for your safety and [the] safety of your students and colleagues or even to carry out its mission in an efficient and productive manner. In other words, he was to be punished in anticipation of the criminal acts of those who might find his positions offensive.

AAUP staff immediately offered their services to all concerned parties in an effort to mediate and, it was hoped, reverse the decision to dismiss Al-Arian. President Genshaft indicated that she would co-operate and, in fact, appeared to welcome our counsel. Nevertheless, a new semester began, and Professor Al-Arian was still on paid leave and banned from the campus.

In an unprecedented act, our General Secretary, on February 6, 2002, authorized an investigation without knowing whether Al-Arian would be dismissed. Our concern centered on the threat to academic freedom posed by the novel notion that a tenured professor might be dismissed because of threats to his safety or because potential donors might withdraw financial support if he remained on the faculty.

The *ad hoc* investigating committee spent three days in March interviewing the concerned parties as well as student and faculty groups at the University. An interim report urged President Genshaft to return Professor Al-Arian to his duties by the beginning of the summer, but no later than the beginning of the fall semester. The committee informed Genshaft that AAUP would very likely vote to censure FSU if Al-Arian were dismissed on what we perceived to be pretextual grounds.

In a bizarre twist, Genshaft re-cast the issues in two important ways. In a public statement made on August 21, in which she acknowledged both the importance of academic freedom and her reliance on advice from AAUP, she attempted to justify the possibility of firing Al-Arian by claiming that he has ties to terrorists, although a decade-long FBI investigation had produced no evidence warranting a formal indictment. She also took the unusual step of seeking declaratory relief from a state court, that is, asking the court to advise whether firing Al-Arian would abridge his First Amendment free speech rights, expressing concern that doing so might cause AAUP to impose censure on the University's administration.

At its semi-annual meeting on November 2, the AAUP's Committee A on Academic Freedom and Tenure issued the following statement to clarify the relationship between a legal finding on the application of the First Amendment and a professional finding of violations of academic freedom:

The administration of the University of South Florida has sought a declaratory judgment on the question of whether the dismissal of Professor Sami Al-Arian would violate his First Amendment rights or "constitutional law." This extraordinary action is predicated in part on the administration's expressed concern that it will be censured by the AAUP. Censure by the Association is imposed as a sanction for violations of its policies, which define principles of academic freedom. It is important to stress, however, that the constitutional and professional definitions of academic freedom are separate and distinct. The Constitution, insofar as it protects academic freedom, generates legal rights. In contrast, academic freedom as defined by the AAUP inheres in the professional standards of the academic community. Because the AAUP imposes censure based on its determination that AAUP policies have been violated, and not on whether an administration's conduct violated the First Amendment, a court's determination of First Amendment rights does not control the imposition of censure

In the meantime, AAUP has been accused of defending a terrorist who should not only be fired, but extradited. The most common argument favoring his dismissal has been that academic freedom extends only to relevant classroom utterances, not to extramural ones. Proponents of that view have read only the sections of AAUP's 1940 Statement of Principles on Academic Freedom and Tenure that pertain to the classroom. They conveniently ignore the portion of the Statement that says, in relevant part, "College and university teachers are citizens, members of a learned profession, and officers of an educational institution. When they speak or write as citizens, they should be free from institutional censorship or discipline.... We now await the judgment of the court and Genshaft's next move."

The Al-Arian case is arguably the most dramatic one to emerge in the past year, but it is by no means the only one. Time doesn't permit me to list all the troubling cases that have arisen in the US recently. The overarching point I wish to make in this context is that, if tenured faculty are vulnerable to draconian disciplinary measures, how much more vulnerable are contingent faculty who do not have the protection of tenure. They are often evaluated only by their students, who are now referred to as "customers" by cost-conscious administrators.

When we tell students that they are customers, we must expect them to behave like

customers. They will reward us with good evaluations when we give them high grades for little effort. An article in the Summer 2002 issue of *Chance*, a publication of the American Statistical Association, concluded:

...the results from this analysis provide conclusive evidence of a biasing effect of student grades on student evaluations of teaching.

From a policy viewpoint, the findings of this study are important. As an increasing number of universities use student evaluations of teaching in administrative decisions that affect the careers of their faculty, the incentives for faculty to manipulate their grading policies in order to enhance their evaluations increase. Because grading policies affect student enrollment decisions and the amount students learn in their courses, the ultimate consequence of such manipulations is the degradation of the quality of education in the United States.

Many of us have long been concerned about the use and abuse of part-time, adjunct faculty, who lack the protection of tenure and whose working conditions and compensation are often execrable. The startling news is that, in the last decade, 54% of all new full-time faculty hires in the United States were off the tenure track. I repeat, 54% of all new full-time faculty hires were off the tenure track. According to the U.S. Department of Education, only 38% of the professorate were on the tenure track in 1998, the most recent year for which we have data. In other words, the overwhelming majority, 62%, of the professorate were contingent and exploited. Without the protection of tenure, academic freedom is fragile and imperiled.

Tenured faculty committed to academic freedom must work for the conversion of contingent positions to tenure-track ones, dying at our desks unless we have a written guarantee that we will be replaced by someone on the tenure track. We must stop referring to students as customers, presidents as CEOs, and bursars as CFOs. Language matters. Above all, tenured faculty must exercise academic freedom or risk losing it. The price of tenure is a continuing and life-long moral obligation to exercise academic freedom by speaking out against assaults on our principles. We are not always right when we speak out, but we are always wrong when we do not.