

Contingent Faculty, Their Unions, and the Law in Mexico

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I will do my best to give you some information on the topic, although presently I am not directly involved and not very familiar with some specifics. Sorry for any misspellings or inappropriate words you may find, I do not use English very often.

Legal Context

First the legal context. Hiring of faculty in universities is regulated like other types of work, by the Federal Labor Law (Ley Federal del Trabajo) (which now is under intense pressure to be changed because of some very progressive features); it holds some principles that translate into different teachers' work situations.

One of those principles is that hiring is, by its own nature, definitive in all workplaces as long as the "matter of labor subsists" that is until the factory or institution closes, including educational institutions. There are some (few) exceptions but that is the general rule. The law establishes that hiring in public autonomous institutions (something that creates sort of an umbrella for the rest of colleges, even private) should be done through an institutional process involving an academic evaluation of the candidates, but once somebody is chosen and hired he or she is, to speak in American terms, fully tenured. The judicial interpretation of the law is that there could not be any contract "on probation". Obviously this person can be fired but only for some specific causes and those are clearly specified in the law: such as not obeying the orders given related to work, being absent more than three consecutive days, etc., and these situations apply to all workplaces. That is, there are no specific causes for dismissal in the case of academic institutions. After a period of rapid expansion of higher education in Mexico during the seventies, from the mid eighties on, the number of definitive (tenured) positions available have drastically diminished. Only a handful are opened every year. Teachers in this category can be full time, half time or part time. Obviously the number of full time teachers has increased slowly, while the number of part-timers has soared.

A second principle, and thus a different category of academic workers, is that there can be temporary contracts but, as it is applied to universities, only to replace temporary absences of tenured teachers, such as sabbatical, leave of absence, or to cope with situations such as unforeseen student demand, etc. This principle, plus some imaginative interpretations (by the administrations of institutions) of the law have created a number (that could be in the thousands in large institutions) that are hired every six months for a semester, finish their contract, and then they are hired again. Some of them may be in that situation for years, as many as ten, while they try to win a definitive position. As it can be imagined the conditions of these workers are very precarious, they do not have vacations, sabbaticals, etc.

A third principle is that the administration may hire, without any union supervision or agreement, all those workers needed to fulfill tasks that are of confidential nature, such as private secretaries, advisers, drivers, etc. These workers are called "de confianza" (trust worthy) and legally they are

hired and fired at will. In some institutions, however, the bilateral agreement with the union specifies clearly which positions can be filled with this type of workers. This category is important because in some institutions it is used to circumvent the law and to hire teachers as “de confianza” even though their tasks (teaching and doing research) are clearly related to the regular work of the institution. But it is a category that allows administrators to hire (and fire) practically at will any number of workers under this principle. Obviously, when fired, workers may (and do) argue and probe in Federal and local labor tribunals that they were doing regular work. But it is a long, costly and sometimes unsuccessful procedure.

A fourth principle (not in the labor but in the civil law) is that of the hiring of providers of professional services. The original intent of the law is obviously to regulate the hiring of, say, an architect or lawyer for the provision of specific services of a professional nature. But many institutions - especially private- use this category to hire teachers and thus have the possibility of ceasing the relationship at any moment, arguing that the professional services that have been rendered are no longer necessary. There are public institutions, such as the University of the City of Mexico (Universidad de la Ciudad de México), that use this shortcut to hire ALL of their faculty.

Union Organizational Context

Now for the organizational context of faculty or academic workers. For historical reasons (too much power for unions that were not subordinated to the official party and to the State) a national union of university workers, teachers and/or clerical was specifically forbidden by a change in the Federal Labor Law (1980). Unions can only exist for each institution. But these unions are allowed to organize in federations. In Mexico there are three main coordination efforts but only one acts formally as a Federation.

One is the CNSUES, Coordinadora Nacional de Sindicatos Universitarios y de la Educación Superior (National Coordination of University and Higher Education Institution Unions) which is the most active, militant and clearly defined vis a vis the Federal educational policies for higher institutions. CNSUES includes unions such as that of the Metropolitan University (Sindicato Independiente de Trabajadores de la Universidad Autónoma Metropolitana) (to which I belong), and the agricultural university of Chapingo (Universidad Autónoma de Chapingo), which are known for their long and frequent strikes and for their progressive stances on national issues ranging from Chiapas to student movements.

The second organization is the FSUNTU, Federación Nacional de Trabajadores Universitarios (National Federation of University Workers Unions) which was the original target of the reforms (1980) to the law that prohibited a national union. It is less active (fewer strikes) and bit moderate in its stances and struggles, but has used its position and influence to support movements such as the zapatistas and the student strike of 1999-2000 and to resist, for example, changes in the Federal Labor Law and the privatization of oil and electricity. The union of the UNAM (National Autonomous University of Mexico) (STUNAM) is by far the most influential of their members, which include an important number of public universities' unions. In terms of

numbers and, because of the UNAM's, political weight, FSUNTU is the most important federation. It maintains good relations with the CNSUES.

The third one is the CONTU, Confederación Nacional de Trabajadores Universitarios, formed by unions that have suffered an interesting process. From being considered as unions of the administrations, with the years they have changed their stances in important ways and now, not only often join the other two federations around certain basic positions, such as funding for public higher education, salary increases (which are determined nationally for public institutions), but also march together in national demonstrations. One of the most important unions of this federation is the UNAM's official faculty union (Asociaciones Profesionales del Personal Académico de la UNAM, APPAUNAM) (the STUNAM, although it has thousands of faculty as members does not hold the official representation of academic workers).

The three organizations at certain moments, (such as now, January 2004, the month were most unions negotiate salary increases) join forces in the Wide Front of University and Higher Education Unions (FASUES, Frente Amplio de Sindicatos Universitarios y de Educación Superior).

Unions affiliate both tenured and non tenured personnel, full time or part time, and temporary.

Only two university unions, one of a public institution (SITUAM) and one of a private (Sindicato de Trabajadores de la Universidad Iberoamericana, STUIA) have a union that includes all workers: faculty, clerical and service.

Conditions of Work

Conditions of hiring tend to be much worse in private institutions, many of which do not have a union or it is only a formality without any teeth.

Unrest in universities, especially public, is mounting, because of hiring, low salaries, scarcity of new permanent positions, heavier load of work and merit pay systems. Especially worrisome for union leadership is what here is call the "precarization of labor" meaning a sharp deterioration of the condition in which academic workers (job stability, salary, bilaterality, etc.) in which an increasing majority of teachers and low and middle echelons of researchers work.

Tri-national Relations

Relations between university unions in the three countries have increased importantly (especially México-Canada) from the start of the North American Free Trade Agreement (NAFTA). The conferences of the Tri-national Coalition in Defense of Public Education have facilitated solidarity and a closer knowledge among unions of the these countries. Many of the university unions belong to the Tri-national, including the STUNAM, SITUAM, STAUACH, and others. There are people in the U.S. (Dan Leahy, Evergreen College, Olympia, WA) and Canada (Larry Khuen) that can provide more specifics - and with no problem of language barrier - on the work of the Coalition. MariLuz Arriaga (UNAM, México), as you probably know, is part of the Coordination of the Mexican Section of the Tri-national.

