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## **The Professionalizing of Graduate “Students”**

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### **Student or Worker?**

As graduate students continue to fight for collective bargaining rights, everyone seems to use the oppositional pairs “student/worker” or “student/employee.” In casual conversations, in legal precedents, public statements, flyers, and emails, this reductive logic runs the debate. Why is this happening? So far, university administrations have argued that, even if the world of a graduate student involves both student-like responsibilities and worker-like responsibilities, they are “primarily students,” and therefore union representation is inappropriate, and does not fall under the National Labor Relations Act of 1935. Advocates of unionization have argued that even if this were true, it doesn’t matter. Insofar as graduate students are compensated for a contracted term of labor (whether it be teaching, or research-oriented), they fall under the broad definition of “any employee” as stated in Section 2(3) of the National Labor Relations Act, and deserve the recognition of a democratically-elected union regardless of any “student” status.<sup>1</sup>

As is well-known, two recent decisions by the National Labor Relations Board (NLRB) have considered this matter directly. The first, decided by a Clinton-appointed labor board in 2000, gave TAs and GAs at private schools the right to collective bargaining as employees under the NLRA. Their argument for the inclusion of GAs underneath Section 2(3) of the NLRA is thus:

The uncontradicted and salient facts establish that graduate assistants perform services under the control and direction of the Employer, and they are compensated for these services by the Employer. Graduate assistants work as teachers or researchers. They perform their duties for, and under the control of, the Employer’s departments or programs. Graduate assistants are paid for their work and are carried on the Employer’s payroll system. *The graduate assistants’ relationship with the Employer is thus indistinguishable from a traditional master-servant relationship.*<sup>2</sup>

The “master-servant relationship” in this passage refers to the “master-servant test,” which can legally determine whether or not a group of workers falls under the definition of employee as determined in the NLRA Section 3(2). It turns on a determination of *control*—that is, is the employee’s work *controlled* in some way by a supervisor, management, or other systematic structure?

While there is nothing particularly illogical about this legal “test,” it utterly fails to do justice to the complexity of academic labor, as it offers only the crudest way of understanding the economic relationship between academic employees and university management. Back in 1935, the “master-servant test” ostensibly may have made more sense, when unions needed legal recognition to mitigate the enormous amount of control management had, before industry was in the habit of negotiating collective bargaining contracts. But for today’s private universities there is no such expectation, and the overly vague wording of the 1935 NLRA has allowed the debate over graduate assistant unionization to be polarized into a series of insufficient oppositions: student/worker, student/employee, academic/economic, and so on. The “work” performed by academic labor entirely exceeds the possibility of these strict distinctions. Our work is at once valued because it is unpredictable, original (e.g., in research and teaching methodologies, the cultivation of a meaningful and well-known intellectual community) and also valued for the strict and anticipatable repetition of a program (e.g., in core curricula, language instruction, undergraduate sciences, committee work, and so on). The “master-servant test” cannot see these manifold distinctions, and is susceptible to possible challenges by the NLRB precisely because there is no immanent need under the NLRA to account for dramatic historical differences between industrial labor of the early 20<sup>th</sup> century and labor in the so-called post-war knowledge industries like higher education. The NLRA *itself* does not understand this history.

The second decision, made by a Bush-appointed board in 2004, reversed the 2000 decision, stripping GAs of the right to unionize. Unlike the 2000 decision, the 2004 reversal focused less on whether or not GAs were actually statutory employees under the NLRA Section 2(3), but instead determined that the general “intendment” (legal term for intended meaning) of the NLRA would not have protected them. So their argument consists of two stages. The first demonstrates that the relationship between GAs and the university is “primarily academic, rather than economic”:

...in light of the status of graduate student assistants as students, the role of graduate student assistantships in graduate education, the graduate student assistants’ relationship with the faculty, and the financial support they receive to attend Brown, we conclude that the overall relationship between the graduate student assistants and Brown is primarily an educational one, rather than an economic one.<sup>3</sup>

And the other, making reference to a 1977 precedent, *St. Clare’s Hospital & Health Center*, 229 NLRB 251, claims the “primarily academic” argument would be at odds with *the original intent* of the NLRA, not the wording of the act itself. The 1977 *St. Clare* decision stated the following:

Since the individuals are rendering services which are directly related to—and indeed constitute an integral part of—their educational program, they are serving primarily as students and not primarily as employees. In our view this is a very fundamental distinction for it means that the mutual interests of the students and the educational institution in the services being rendered are predominantly academic rather than economic in nature. *Such interests are completely foreign to the normal employment relationship and, in our judgment, are not readily adaptable to the collective-bargaining process.* It is for this reason that the Board has

determined that the national labor policy does not require—and in fact precludes—the extension of collective-bargaining rights and obligations to situations such as the one now before us.<sup>4</sup>

The 2004 NLRB majority, in effect, universalizes everything in the world of a working TA *as* academic *and not* economic through a generous sleight-of-hand: the word “primarily.” Leveling an enormous tautology, they write that academic labor in the university is primarily academic, subtracting out any possibility of ethical accountability in economic matters. University administrations, in turn, compensate for this violence by casting the life of a graduate student as *a gift*: something generous, precious, human, timeless, and free. This is precisely why the head academic official at New York University, provost David McLaughlin, claims *all* his academic employees (all faculty and TAs) work at NYU for the “life of the mind”: a life that does not, under any conditions, consider financial matters in producing scholarship. This elitist characterization of academic life is called upon against the allegedly impure, market-driven, and politically charged realm of bargaining, wages, benefits, hours, the economic, the *industry* of higher education. Andrew Ross describes this as the logic of “sacrificial labor.” He writes: “Like artists and performers, academics are inclined by training to sacrifice earnings for the opportunity to exercise their craft. While other traditional professional industries, like law or medicine, depend to some degree on intern labor, none rely economically on the self-sacrifice of their accredited members to anything like the same degree.”<sup>5</sup> And so, university administrations will claim salaries and benefits are *aid*, which is to say, the university will pretend it is not absolutely necessary for them to pay their GAs; essentially GAs do not even have a right to demand compensation, because it is generously *given* to them. Likewise, the 2004 NLRB claims that this is not a normal employment relationship, and, as they say, anxiously putting the matter under closure: “that is the end of our inquiry.”<sup>6</sup>

This line of argument frequently claims that PhD “students” are actually privileged as compared to other wildly exploited and revenue-generating “pre-professional” M.A. students in creative fields like music, art, performance studies, film, writing, and most infamously, the catch-all hangover of the liberal arts education: NYU’s interdisciplinary Draper program. In a fall 2005 town hall meeting, NYU president John Sexton even went some lengths to tell graduate assistants on the verge of the 2005-06 GSOC strike that not only were they not employees, but that they should not complain: didn’t they know their pay rates were actually higher than NYU’s adjunct professors? This perverse alibi exempts administrators again, as I argued above, from *any* ethical responsibility to the work of academic employees, subsuming the changes in the academic labor market under the rhetoric of a general financial squeeze. The spin runs as follows: “we are a tuition driven institution,” according to NYU President, John Sexton. Standing face to face with the cold reality of a university’s finances always ends in an injunction to sacrifice your labor.

The task here, in the fight for graduate assistant unionization, is to demonstrate the complicated productive capacity of graduate students in the modern university, a productive capacity that, honestly, *both* NLRB decisions (the one in 2000 granting GAs union recognition, and the one in 2004 stripping it away), have failed to characterize.

## **Graduate School is Haunted: “Preprofessionalism”<sup>7</sup> and its Contexts**

What *exactly* does the university gain from keeping a graduate student for five years? Why would a private university that faces shrinking public funding, inevitably rising tuition, the constant struggle to solicit donations from alumni, and a shaky economy *give* graduate students funding to be primarily “students” for 5 years?

In the economic system of higher education, universities will extract value from graduate students, in effect professionalizing them far in *advance* of any tenured position, and far *beyond* the 20 hours/week teaching assignments claimed to be legitimate labor. To the benefit of the university, graduate students are working earlier and in greater capacity than ever before. Universities, in economic competition with one another, can multiply production by inflicting a double violence to the work of young scholars: 1) by structurally excluding most PhD holders from tenured positions, and 2) as a result, enforcing early professionalization on graduate students with the haunting specter of an unstable and highly competitive future. What is so incredibly powerful about the latter is that this enforcement can be left to faculty, advisors, other graduate students, and the academic community at large. I will explain.

In the 29 years since the *St. Clare Hospital* decision, contrary to the claims of the 2004 NLRB majority, the academy has changed enormously, though I would add that these changes cannot all be sufficiently subsumed under the banner of the corporatization of the university.<sup>8</sup> That is, the problem is not only that university management has tried to consolidate power in its own hands, but that it has been successful in reproducing its power within individual disciplines and departments through a hegemonic ideology of graduate student professionalism.

It has become a well-known fact that graduate students earning a PhD in the humanities and the social sciences will apply for tenure-track jobs in an oversaturated market. The vast majority will end up un-tenured, either leaving the discipline, or instead employed in the casual labor force of temporary, adjunct teaching.

But it has rarely been pointed out how the specter of this economic reality haunts “students” from the beginning of graduate school, such that directors of graduate studies in departments begin advising students to publish as early as possible, as much as possible, presenting papers at conferences, attending and organizing conferences, networking immediately, often before a qualifying exam has been taken, and before a dissertation has even been proposed. Middle management (the faculty who act as advisors to graduate students) can do no better than inform their students how bleak the prospects are, and inevitably must pressure them into producing academic work immediately. This means the life of a graduate student, haunted by an artificially competitive job market, is professionalized earlier. In some cases while we are still in coursework, we profess, perform and produce as active scholars. And unlike faculty members who may receive pay increases based on the amount and quality of work they produce, graduate students produce this work for free. Carrying the university’s brand name on graduate student-led conferences, oral papers and publications, the university benefits from an increasingly active graduate student population, who are substantively producing knowledge, engaging in research *for* the university, in the university’s name. (The great irony is that even *this very article*, regardless of its critical content, produces value for my university, its brand name signed here: *NYU*.)

The phenomenon, which is essentially the professionalizing of graduate students, would be impossible to execute as explicit university policy. Rather, the kind of quasi-hegemonic power that professionalizes graduate students is much closer to Michel Foucault's concept of power, which he opposes to a classical, juridical, top-down or hierarchical concept of power (and its associated concepts: repression and ideology). Foucault's worth citing on the matter: "What makes power hold good, what makes it accepted, is simply the fact that it doesn't only weigh on us as a force that says no, but that it traverses and produces things, it induces pleasure, forms knowledge, produces discourse. It needs to be considered as a productive network which runs through the whole social body, much more than as a negative instance whose function is repression."<sup>9</sup> Foucault's notion of power, which aims to explain power as immanent to (rather than simply operative of) social behavior, is developed and produced by institutions, but reproduced through networks of discourse. This is precisely the kind of power that professionalizes graduate students. Haunted by the specter of an unethical academy, haunted by an industry that casualizes its labor force while maintaining an audacious "life of the mind" ideology, graduate students get honest advice from faculty. Professors and fellow students, other scholars we meet at conferences, even some of our friends outside higher education—they are well-meaning and yet they must reiterate this very specter—remind us to begin *producing* work as soon as possible, or else. It's out of their hands. The real power lies elsewhere. This decentralized enforcement of early professionalization, which in the end amounts to on-the-job training, runs the system that makes sure graduate students are not only productive teachers, but productive researchers as well. It all plays an insidious and nearly invisible part of a graduate student's everyday life.

For the humanities, or more generally, the "leftist" or "progressive" disciplines in academia<sup>10</sup>, the everyday traversal of this powerful haunting that enforces production on graduate students necessitates the effacement of the student/worker distinction. Student roles become productive, productivity becomes the site for learning. This effacement between student and worker, "academic" relation and "economic" relation, has to happen, or the kind of power operative here would not work. Here are a few examples:

There are many roles a GA can take in a department that already explicitly challenge the strict division between student and worker, where students become productive quasi-faculty: committee work, colloquium organizing and participation, recruitment of job candidates and prospective graduate students, conference organizing, interdisciplinary networking, non-contracted research, reading groups, and so on. But one place where universities will probably claim graduate students *are definitely just students* is in courses. This claim, however, seems increasingly difficult to make, given many changes in the academic world, one of the most powerful being the progressive revolutions in the humanities since the 1960s.

Under more conservative paradigms of scholarship common in the 1950s and 60s, many professors lectured to graduate students, passing down philological, methodological, and hermeneutic techniques. Any question and answer was not based in a tradition of critical thought, the relationship with the students as a whole was thoroughly un-dialogical, even the requisite seminar paper tended to be heavily prescribed by the professor. This system was excellent at conserving the status of great works, though it's no surprise that, in many disciplines, it has been eclipsed by

progressive models. Newer seminars in the humanities frequently involve either a cultural studies or historicist critique of older methodologies built around non-canonical, or lesser-known discourses. In some cases, this means the syllabus (if there is one at all) is merely a reading list on a very specific topic, but cannot really constitute a pedagogical program because the aim of the course is not the reiteration of canonical works, but a conversation around common critical techniques.

As a result, theory and method, often keystones in syllabi, have become the common language of the humanities (Marxism, psychoanalysis, feminism, queer theory, critical race theory, deconstruction, media studies, phenomenology, semiotics, formalism, and so on). They are the new canonical texts, and for some disciplines, have eclipsed the specific, historically-located objects, regions, eras, and works which used to constitute the canon. And this new canon of critical theory inaugurates a pattern of constant innovation, putting the old canons in perpetual crisis, and engendering a rampant particularization in research interests. The fact is that many graduate students, in this type of seminar, shoulder a new burden of particularization through highly independent research (a.k.a. *work*) in the form of seminar papers, which can be passed along swiftly to conference presentations or publication. This is happening not only because graduate students are haunted by the job market, but because critical methodologies challenge the very project of top-down teaching in the first place. Despite the enormous contribution of critical theory and its absolute necessity, the fact should be acknowledged that—better than anything else—critical theory produces “creative” research efficiently. This creative production meshes ideally with the logic of preprofessionalism.

Which is why it is no surprise that these seminars (which thematize the new canon of critical theory) tend to have a de-centered class format, where the teaching labor is shared. All seminar participants give presentations, sometimes to the point where the course instructor makes only a 20-minute introduction the first week, and from then on, simply supplements student-led discussions. The conclusion, for many graduate students, is this: *graduate seminars are essentially reading groups*, as if they were custom-built for a class of already specialized, professional scholars. The one promised thing a graduate student yields from the course is a graded and commented term paper, and as many graduate students know, sometimes this is not guaranteed.

In many humanities and social science departments, faculty research interests overlap less and less with the graduate students they are advising, engendering what some scholars will call the “balkanization” of research interests, departments, and disciplines. One could argue for several possible contributing factors to this situation: rampant revisionary historicism, interdisciplinarity, overproduction of scholarship, and so on. At least one unfortunate downside to this situation is that graduate students frequently lack solid training in canonical material. As an example, NYU’s English Department previously maintained a curriculum that included a range of distribution requirements in periods and national literatures. But as seminars became increasingly particularized, the canon came under attack, graduate student specialties fragmented, and this curricular policy was changed. As many of us know, this can prove especially problematic for the haunting job market, because most junior faculty will have to teach some kind of undergraduate survey course that covers canonical material. A professionalized graduate student panics.

And of course, the remedy is telling. If a GA has only taken coursework on postcolonial theory and 19<sup>th</sup> century British literature, a department will give that person a teaching assignment in new American poetry or Shakespeare. Teaching canonical works (when graduate students are “on the clock” so to speak) becomes a curricular supplement, a form of coursework. In other words, the canon, which used to be carried down and taught to students, is no longer taught as such. It is now something graduate students increasingly have to teach themselves, while working. Like professionals.

In the cases of many leading universities, prospective students sometimes no older than 22 years, are sent “offer letters” (which, at NYU, since the 2005-06 GSOC strike, are now legally-binding, official contracts for employment) and are actually brought to campus on “fly-outs” as if they were already superstar faculty. Upon arrival, they are led through aggressive quasi-corporate recruitment weekends, complete with lavish parties, free airline tickets, in some cases hotel rooms and bar tabs. Now that these prospective “students” must be contracted and budgeted under “departmental personnel” (as in the case of NYU),<sup>11</sup> departments are forced to bet on these prospective GAs in a market almost as tight as the actual job market (my department at NYU, Musicology, culled 6 applications from 150 or so total last year).

In producing a scarcity of secure academic employment and haunting all graduate students everywhere, any university (that has the capital to do so) must simultaneously invest in its own graduate student recruitment. They fly these prospective “students” out with a financial promise that these people will survive into the fully compensated and tenured “life of the mind.” After all, regardless of a university’s will to reduce tenured positions, their own academic reputation still relies on their ability to place graduate students in tenure-track positions. Universities hope these aggressively-recruited students will be no old-fashioned graduate students who follow their mentors’ scholarship closely; quite the contrary, they need to act like professionals, who think independently, present papers at conferences, lead colloquia and publish their work in journals, with the university’s brand name attached to their work. These very best graduate students will stand up to the relentless haunting, like the proper individuals they ought to be, and find jobs. This is especially so with universities like NYU (where the endowment is low, the alumni giving rate is also low, and the ambition to grow their reputation is high); they must invest in the best graduate students to simply maintain the value of their PhD degree on the market.

With recruitment and preprofessionalism (all the way from the graduate seminar to the dissertation advising) working in tandem, it is more than obvious that graduate students who embark on a PhD track are, despite claims to the contrary, *hired* by the university. To ensure a return on their investment, they quietly enforce, as I argued above, the haunting specter of the very scarcity they produced in the first place, allowing them to professionalize us into the competitive market, without formally or legally declaring it as such. They underpay us, refuse to call us employees and accord us rights, while holding the scarcity of the job market in their own hands. The life of the mind, whatever that was, is fully under the pressure of the market, without an ethical discussion, without a union contract.

The chilling phantasms of a terrible market are not unknown to the young recruits of graduate school. From their perspective, before the scarcity of tenured jobs, they would have taken on financial hardship for graduate school because they could

reasonably expect to pay it off later on, as is generally the case with medical school, for example. But now that academic tenure is rare, graduate students must anticipate graduate school as employment. Newly professionalized graduate students are, for all intents and purposes, the lowest rung on the faculty ladder with, at best, a five-year contract.

I want to conclude, simply, by insisting that many graduate students are undergoing a new phase of enforced professionalization. This phase is, according to any well-researched economic study, one where graduate students are “working” in the traditional sense, not only in the classroom, but in their everyday activities as a graduate “student.” Reading the NLRB decisions on the matter, it seems as though the fight will remain one quite vulnerable to significant political distortion as long as the debate turns on a determination of “employee status” assumed to exist beneath the banner of a longer term “academic” or “student” status, as is the case with the “master-servant test.” This old oppositional pair ought to be put to rest, so that graduate students can be accorded rights based on their actual functional role in the modern university.

I propose instead, that the delimitation of “graduate student” status be laid aside entirely. Unionization should not only be accorded to a TA in a proper bargaining unit, actively teaching, but to the entirety of the new professional faculty-in-training, for the full duration of graduate training. A massive information campaign must be waged against university administrations who will wish to maintain it otherwise, refusing ethical responsibility by asserting that our only life is the “life of the mind.”

## Endnotes

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<sup>1</sup> For a more detailed critique of the *Brown* 2004 decision see Scott Henkel, “Working Conditions and Learning Conditions after the National Labor Relations Board’s *Brown University* Decision.” *Workplace: A Journal for Academic Labor* 6.2, June 2005.

<sup>2</sup> New York University *and* International Union, United Automobile, Aerospace and Agricultural Workers of America, AFL-CIO, Petitioner. Case 2-RC-22082. Oct. 31, 2000. 332 NLRB No. 111. p. 1206 (emphasis mine).

<sup>3</sup> Brown University *and* International Union, United Automobile, Aerospace and Agricultural Implement Workers of America, UAW AFL-CIO, Petitioner. Case 1-RC-21368 July 13, 2004. 342 NLRB No. 42. p. 7.

<sup>4</sup> St. Clare’s Hospital 229 NLRB at 1002 (emphasis mine).

<sup>5</sup> Ross, Andrew “The Mental Labor Problem,” *Social Text* 63, Vol. 18, No. 2, Summer 2000, p. 22.

<sup>6</sup> *Brown* NLRB 2004, p. 11.

<sup>7</sup> This is the term coined by John Guillory in his article, “Preprofessionalism: What Graduate Students Want” *ADE Bulletin*: 113 (Spring 1996), pp. 4-8. Guillory characterizes the particular effects preprofessionalism has had upon literary studies, with particular attention to the ensuing radicalization or politicization of academic work.

<sup>8</sup> See the dissenting opinions in *Brown* NLRB, 2004, pp. 15-17. The dissent summarizes well the new economic realities of higher education, documenting, among other things, the increasing reliance on GA’s and adjunct labor for undergraduate instruction.



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<sup>9</sup> Michel Foucault, "Truth and Power." Interviewers: Alessandro Fontana, Paquale Pasquino, in *Power/Knowledge: Selected Interviews & Other Writings, 1972-1977*, p. 119.

<sup>10</sup> Again, see John Guillory's article cited above for an excellent argument for how "preprofessionalism" is linked with the progressive values of literary studies (Guillory, 1996).

<sup>11</sup> See *NYU NLRB 2000 decision*, appendix, pp. 1215-1216.

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