President’s Message

Toward a Brighter Future

It is difficult to measure the impact of our demands and our political representations on government action with regard to universities, but with the next elections nearing, it seems that several of our demands have been heard by the Minister of Higher Education.

This has been demonstrated by the following gestures and announcements that suggest a brighter future after five years of austerity and improvisation when handling matters:

1) A reinvestment of $100 million, in Quebec's 2017 budget, into university operating funds, an increase of 3.3%, while system costs increased by 2.1%;

2) A 10.6% increase in university research funding through the adoption of the Quebec Research and Innovation Strategy (SQRI) in June 2017, with a commitment to continue on this path in order to double the budget of the FRQs (Quebec’s research funding agencies) in four years, from $189 million in 2016 to $378 million in 2021; and

3) Legislation that will be introduced in the near future regarding the remuneration and benefits of university administrators, without which any reinvestment would be seen in a cynical manner by the public, who is certain that rectors and vice-rectors would pocket most of it.

(Continued on the next page)
2017–2018 Priorities

Equitable reinvestment into universities

The budget cuts of almost a billion dollars that were made between 2012 and 2016 by the Quebec government weakened universities and contributed to the deterioration of working and studying conditions. The small reinvestment of $100 million announced in the last budget far from makes up for it. While refinancing is pressing in order to preserve the quality and diversity of the programs offered, as well as preserve existing expertise, it must be carried out on new terms, since the current method is random, arbitrary and discretionary.

This year, we are calling for a massive reinvestment on the part of the Minister of Higher Education, based on the principles of transparency and equity, in addition to new parameters that could revive the university network while correcting the flaws of the funding formula that is currently in place.

Better support for research

In collaboration with the Canadian academic community, we are putting pressure on the federal government to implement the recommendation of the Naylor report to increase annual research funding to $1.3 billion.

Once again, we must ensure that the increased funding is equitable, particularly with regard to different fields, since it has been shown that concentrating funds on a restricted number of researchers, fields, or large studies in partnership with companies is not a fruitful investment because it does not lead to increased scientific production. We are therefore calling for better support for independent research and will again call for an annual base research grant, which would be awarded to every university professor; this FQPPU initiative is supported by almost 90% of professors.

Campaign to raise awareness about professorial work

The public’s opinion of university professors influences the support that the public gives to the demands made by the FQPPU that would put the university network back on track. While university attendance has increased considerably over the past few decades, the role of university professors in advancing Quebec society remains largely unknown.

This year, at the request of its members, the FQPPU is launching a campaign to raise awareness about the profession through various media platforms. When the conceptual phase ends in the fall of 2017, a dedicated informative website will be created, inserts will be placed in newspapers, and promotional video clips will be televised beginning in January 2018.

An election year that could lead to real progress

It is not a secret that in preparation for the next provincial elections (October 1, 2018), the budget will contain its share of gifts, among which is a significant reinvestment into universities.

However, while the crisis that Quebec’s university network is currently facing is financial, it is also concerned with the terms of this funding, which must be revised. The crisis also extends to hierarchical administration, which has become widespread due to austerity measures that have been imposed since 2012, as well as to working and studying conditions, which have deteriorated as a result, leading to staff and student casualization.

These themes will be the focus of the second meeting of the États généraux sur l’enseignement supérieur (ÉGES; general assembly on higher education), which will take place in Montréal in the spring of 2018. This event will build on the first meeting held in Québec from May 18 to 20, 2017, which had the objectives of

• creating a space for debate and reflection on higher education issues;
• discussing solutions that correspond to our vision of higher education and the conditions necessary for their implementation;
• strengthening ties with other organizations in order to share our analyses and unite our actions, so as to make education a national priority; and
• laying the foundation for an action and mobilisation plan to put pressure on political powers to make commitments to education.

A study on wage gaps

The FQPPU and the team behind the Canada Research Chair in Innovation at Polytechnique Montréal are collaboratively conducting a study on gender wage gaps for university professors in Canada. The data was collected using a survey over the summer of 2017.

The study aims to identify the factors that influence the wage levels of university professors, such as unionization, age, year of graduation, and gender. Preliminary results will be released in the fall, and the final report should be complete by spring 2018.

In solidarity,

Jean-Marie Lafortune
From the Executive Committee

Denis Bélisle, Vice-President
Breaking Free of the Ghetto

It is difficult to really know what image the words “university professor” evoke for each person. One thing is for certain: the Anglo-Saxon prototype of the career intellectual—with a huge wooden cabinet with intricate detailing and a fireplace from which emerges the flickering of dancing flames, never-ending shelves filled with scholarly volumes, surrounding an imposing desk before which students gather, entranced by the presence of the master, draped in his black robes, giving a speech complete with dramatic flourishes—if it ever corresponded to any semblance of reality, is no longer anything but folklore. Most of us have only a simple, functional office, we teach in the same classrooms as other schools, and students no longer exhibit the same sort of fascination with regard to their professors.

However, in almost a thousand years, the mission of universities has not changed very much. Starting with the University of Bologna, it was acknowledged that universities had the vital function to develop, preserve, and perpetuate knowledge. They had the privilege of being able to grant degrees, and therefore benefitted from a certain autonomy. It was then that the notion of academic freedom began, allowing for the free movement of students and professors, no matter their nationalities.

Twentieth century civil service established an organizational empire that assimilated all of the actors in the system into a certain class of “attendants,” by creating job descriptions, salary scales, and job categories, and by defining responsibilities (customer service, clerical work, accounting, administration, security, management, maintenance services, etc.). Not so long along, at some point during this bureaucratic organization, the basis of the mission of universities, professors saw themselves being confined to a class of “knowledge attendants.”

No matter what some may say, academics do not operate according to obvious determinisms or completely predictable processes. The tenacity that continues to occur well beyond normal work hours and without which the work would not get done, the intellectual discipline that must be adopted in order to maintain a high level of expertise in our areas of specialization, the courage it takes to regularly make public presentations in class, conferences, and interviews, and most of all the imagination and creativity necessary to advance research, as well as to develop pedagogical environments—none of this can be easily regulated. For most of us, it is a personal commitment to the mission of universities. It is only later that we agree to make it correspond with our “working conditions,” by getting involved in union activities and by participating within various organizational bodies that ensure that our respective institutions run smoothly.

This difficult-to-grasp aspect about the nature of our commitment makes professors a select group limited to a well-defined micro-environment—a department. In contrast with other categories of staff members, who for the most part can be assigned to almost any of the institution’s services, professors have a difficult time transferring from one department to another or from one faculty to another. There has also been a depletion of resources: budgets for assistants and correctors have been reduced dramatically, and research grants have become leaner and oriented toward industry interests. Let us not forget about the trend to discredit the work of professors, either through the myth of intellectuals always being on vacation in their ivory towers every summer or, more concretely, by the fantasies of university leaders who want to increase teaching loads.

The combination of these factors (belonging to an identifiable group that is devalued, an imposed location, and external control of resources) usually characterize a ghetto. Ghettos result in the emergence of internal codes, behaviours, and signs of belonging that can either reinforce general solidarity or divide the group by instituting a culture in which the weaker dominate the weakest.

This struggle between colleagues is harmful, and only by re-establishing collegiality would we be able to neutralize it. This virtue requires openness and mutual support. It also requires the following: never voting in assemblies for stricter rules than those imposed by the university; working together and to the best of our abilities to eliminate existing constraints, foster freedom, and prevent the emergence of obstacles; being wary of targets that are often arrangements that only favour a minority; never tolerating, even in private, or from anyone, the denigration of a colleague; admitting our mistakes and resisting the desire to establish rules aimed at overall prevention; and accepting otherness, the unusual, and even the vague and the odd—no one knows where it will lead, and it could, in the end, lead to the right place.

Under these conditions, we would be a college and not a ghetto.
In Quebec, almost all university professors are unionized and subject to the negotiated rules in their collective agreements, in accordance with the basic requirements of the Act respecting labour standards. Our collective agreements cannot deny us the rights granted under the Act. They must instead broaden the scope of the Act—the “floor” below which any negotiated agreement is null and void.

First contracts: Ejection seats?

Many universities provide professors with a first employment contract of two to three years that can be renewed once, which becomes the time frame for professors to get tenure.1 This results, during the first two contracts, in an image of professors sitting in ejection seats. As the first two contracts are fixed-term contracts, the decision to keep professors employed falls exclusively, we are told, to departmental assemblies. However, according to the Act respecting labour standards, “[a]n employee credited with two years of uninterrupted service in the same enterprise who believes that he has not been dismissed for a good and sufficient cause may present his complaint [...] to the Commission des normes [...], except where a remedial procedure [...] is provided [...] in an agreement” (section 124).

Are unionized professors eligible for the application of section 124 of the Act respecting labour standards or must they refer only to their agreement if their contract is not renewed? On this subject, Justice LeBel wrote, “The public order status the legislature has attributed to [the Act respecting labour standards] means that no [...] collective agreement can prevent an employee credited with two years of uninterrupted service who is dismissed without good and sufficient cause from contesting his or her dismissal, and that any provision of such an agreement that purports to do so is of no effect. The agreement survives, but any of its provisions that are inconsistent with the minimum standard are of no effect. They are deemed unwritten”2 (our emphasis).

1 The arrangements may vary, but that has no effect on the point of this example.
2 Syndicat de la fonction publique du Québec v Quebec (Attorney General), 2010 SCC 28, CANLII.
If all employees in Quebec benefit from job protection after two years of uninterrupted service, why don’t we? Why not consider that section 124 of the Act respecting labour standards is implicitly integrated into our agreements? In 2010, we received the answer to these questions. At the time, the second contract of a professor at UQTR was not renewed. She demanded, by way of grievance, that her rights be respected pursuant to section 124 of the Act.

Following numerous legal proceedings, the nine Supreme Court judges reaffirmed the public nature of the Act respecting labour standards. It was decided that clauses of collective agreements that denied employees remedial measures under section 124 of the Act are null and void and deemed unwritten. It was also decided that the grievance arbitrator had jurisdiction and that the professor was justified in proceeding with a grievance.

In addition, before having heard the grievance, the arbitrator needed to ensure that the collective agreement, as modified by voiding the clauses deemed unwritten, contained a remedial measure equivalent to that of section 124 of the Act respecting labour standards (the possibility of reversing the dismissal, reintegrating the employee, and setting an amount to be paid as compensation). In the case of the UQTR professor, section 18 of her collective agreement was deemed equivalent. The grievance could therefore be heard in arbitration.  

What happened next could have been very instructive, but after a few days of arbitration, UQTR offered the professor financial compensation in exchange for dropping the grievance, which she accepted. It is useful, however, to reflect on the arguments most often used with regard to applying section 124 of the Act respecting labour standards in an academic context:

- **Claim #1**: The principle of uninterrupted service only applies to open-ended contracts. **False**: Under the Act, uninterrupted service “means the uninterrupted period during which the employee is bound to the employer by a contract of employment, [...] [including] the period during which fixed term contracts succeed one another [...]” (section 1, paragraph 12). Uninterrupted service is calculated irrespective of the nature of the contract. Conclusion: A professor accumulates two years of uninterrupted service during the first contract and, in this respect, becomes eligible for remedial action under section 124 of the Act.

- **Claim #2**: It is not the university that dismisses professors, but their peers who are also unionized. In this context, the university is not held to apply section 124 of the Act, because it only ratifies decisions made by a sovereign departmental assembly. **False**: The Commission des relations du travail (CRT), in Lafinamme v UQAM, concluded that the distinctive features of academia are not a reason for universities to turn a blind eye to the actions and decisions of departmental assemblies. Conclusion: Universities are legally accountable for the departmental assembly decisions they ratify with regard to labour law.

- **Claim #3**: A non-renewal differs from a dismissal. Section 124 of the Act only applies in cases of dismissal. **Partially false**: Based on jurisprudence, the non-renewal of a fixed-term contract may, under some circumstances, constitute a dismissal when the employee is entitled to expect that the contract will be renewed. Since the Act is legislation of public order, the employer cannot hide behind a non-renewal clause to avoid having to show just and sufficient cause for dismissal.

Essentially, professors who work for two years in the same university and who reasonably believe that their contracts will be renewed, have the right to remedial action pursuant to section 124 of the Act respecting labour standards. In such cases, the university is accountable for the decisions of the departmental assembly and must show that there was just and sufficient cause for the dismissal to the arbitrator if the collective agreement includes a clause equivalent to section 124 of the Act. The burden of proof is thus on the university.

The university has three options to choose from in order to demonstrate that a dismissal is legitimate: 1) serious misconduct on the part of the professor, 2) a disciplinary issue (changes in mood, threatening or intimidating behaviour toward colleagues, etc.), or 3) incompetence or unsatisfactory performance. For the first option, it goes without saying that the employer must provide evidence of the serious misconduct.

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3 “Employee” as defined in section 1, paragraph 10 of the Act respecting labour standards.

4 If the grievance and arbitration procedure is equivalent, the arbitrator hears the grievance, as was the case here. If it is not equivalent, the Commission des relations du travail (CRT) has jurisdiction, and professors retain their rights to remedial measures through the CRT.


6 Or to the CRT if this is not the case.
For the second option, progressive sanctions must have been issued before the dismissal took place. The professor had to have been notified verbally, notified in writing, and even suspended following the inappropriate behaviour. The university must demonstrate that this progression of sanctions occurred. “As dismissal is an extreme measure[,] it must only be imposed when all other solutions have been exhausted, when the employee has been notified of what he is being criticized for and has had reasonable time to rectify his behaviour.”

For the third option, it is impossible, with regard to incompetence, to rectify the situation through progressive sanctions. Before dismissing employees for reasons of incompetence or unsatisfactory performance, the employer must do the following: 1) inform the employees of its expectations and current policies; 2) make employees aware of the issues with their work; 3) provide employees with the necessary support to improve the situation and meet objectives; 4) provide employees with a reasonable amount of time to adjust; and 5) clearly inform employees of the possibility of dismissal if there is no improvement. If a university has not followed this procedure, it may be considered to have acted in an abusive and unreasonable manner.

Rigour and transparency

Some people will be pleased to learn about (or have clarified) the existence of remedial action under section 124 of the Act respecting labour standards, since for several years, new academics have held casual positions. Those with such a view admit that the first evaluations of professors are carried out from a position of vulnerability and can influence professors’ subsequent work performance.

Others will say that it is difficult, or even impossible, in academia, to determine a professor’s competence within a period of two years, and that section 124 of the Act respecting labour standards should not apply to this field. This group is instead in favour of maintaining the casual status of new professors for the long term (5 or 6 years), so professors have an opportunity to demonstrate their abilities and their motivation to integrate themselves into the academic community with the goal of building a career.

In the end, section 124 of the Act respecting labour standards does not prevent the non-renewal of professors’ contracts, but urges departmental assemblies to rigorously and transparently document just and sufficient causes for the non-renewal of contracts, by regularly informing professors of expected performance and their progression, while allowing them to improve.

“The Audacious” Research Grants!

A new funding program, available through the three Fonds de recherche du Québec (FRQ), has been implemented with the aim of supporting research that is not from a targeted field and that is considered “risky” because of its boldness. The new program, AUDACE, will provide support, in particular, to teams of researchers that carry out research that is outside of the box, as a result of being intersectoral or exploratory. The FQPPU has long called for this type of research to be better recognized by granting agencies and to have its own dedicated funding. We are therefore pleased with this initiative, which responds to a need that has been repeatedly expressed by our members. The deadline to submit an application for the program this year is November 22, 2017, at 4 p.m. For details, visit the websites of the FRQS, the FRQSC, or the FRQNT.

Support for New Academics

For several years, the FRQSC has had research programs specifically for academics at the beginning of their careers. However, several new colleagues seem to overlook this rather accessible funding source, the existence of which also meets one of the FQPUP’s historic demands. These programs provide individual professors with grants of up to $15 000 per year for three years to launch their careers in research or research-creation. To be eligible, applicants must have held a full-time position in a Quebec university for less than five years and must have successfully defended their doctoral dissertation before June 1, 2018.

In May, during the ACFAS Congress, the FQPPU and the Syndicat général des professeurs et professeures de l’Université de Montréal (SGPUM) jointly held a seminar entitled “Current Transformations in Universities.” These transformations take place on various scales. The seminar began with systemic transformations, and continued on to look at transformations of universities themselves and of the working conditions of those who are employed there. Below, I will provide a brief summary of some of the comments that were made, as well as some of my own reflections.

Systemic transformations

Several speakers clearly demonstrated that what is happening in the academic world in Quebec as well as elsewhere in Canada and the world, is the result of a shared rationale—that of neo-liberalism. According to this rationale, nothing has real value other than knowledge that has economic value. Instead of being seen as a place for advancing knowledge for the common good, universities are considered to be organizations like any others, dedicated to the production of goods: graduates destined for the labour market, research that is useful for companies, and patents allowing for the private appropriation of scientific discoveries.

Universities are therefore increasingly subject to competition to generate profits through tuition fees and to obtain research grants. The largest universities are in competition on a global scale. International students are seen as a clientele to attract, instead of people who could contribute to the collective enrichment of shared knowledge.

The transformation of how universities are conceived has been largely promoted by international organizations such as the OECD, the World Bank, and the International Monetary Fund. Governments have also played a major role in this process. Several governments have adopted this neo-liberal rationale and have favoured this transformation by reducing public funding of universities, increasing tuition fees, creating research chairs, and supporting, implicitly or explicitly, the ranking of universities.

While the neo-liberal concept of universities has gained ground across developed countries, it has manifested based on national institutional logic. It is not surprising then that in Scandinavian countries, even though labour casualization has gained traction, it is offset by prevailing social democratic politics.

Institutional transformations

The changes induced by the predominance of neo-liberal ideology have even affected the make-up of universities. Collegiality, the sharing of power between boards of directors and academic councils (or their equivalents), and, in a more general manner, professors’ ability to influence university direction and organization have been attacked.

The adoption of a neo-liberal concept of universities affects their make-up in two different ways. The first subjects universities to accountability measures that are unnecessarily extreme and costly. What is accomplished at universities can only exist if it is measurable and measured: number of publications and the impact factor of the journals in which they are published, number of patents issued, number of graduated students, etc. This increasing emphasis on performance indicators equates universities to parts of a conglomerate, for which the head office evaluates from a distance, in an overly simplified manner, what is being accomplished in the university.

The second transformation pushes universities toward the entrepreneurial organization model. Instead of being made within the university, important decisions go through the highest ranks of the institution, dominated by administrators who are often unaware of university dynamics. Examples of this trend are the administrations of Université de Montréal, Université du Québec à Montréal, and Université du Québec en Outaouais, which have all recently attempted to revise organizational structure to benefit administrators.

Considered until very recently to be archetypes of professional bureaucracy, characterized by the relative power of the people who carry out their mission through their daily work, universities are subtly transforming into instruments subject to entrepreneurial logic, which has been imposed on them by external sources.
Working condition transformations

The work of people who teach, carry out research, and provide services is profoundly affected by these transformations. Full professors, even if they generally continue to have favourable working conditions, must produce more. They also end up being the narrow focus of an unequal system that depends on a vast array of peripheral, casual employees—assistants, technicians, professional researchers, lecturers, and teaching assistants—to function.

In the highly competitive world of research, the order to “publish or perish” has become increasingly pressing. Professors are invited to become research entrepreneurs and, as a result, put their teaching and service roles on the back burner. This has lead to a hierarchy of academic ranks, where the highest ranked—and often the highest paid—are those who bring in the most grant money and who are international research stars at the height of their careers. It would be wrong, however, to think that the neo-liberal rationale behind these changes to the profession of “professor” is only promoted by driving forces external to universities. Some of us do agree with this production-oriented view of universities that glorifies the image of research entrepreneurs. This is particularly the case for new colleagues, trained in this environment that values research above all.

What can be done?

The transformation discussed above operate in a subtle way, and few of our colleagues are aware of them. On the surface, universities remain the same: institutions with the goal of producing and disseminating rigorous knowledge. However, as we have seen, the university mission has been somewhat diverted in favour of a utilitarian and production-oriented approach that goes against the values at the core of the modern university.

It is therefore important to, first, take advantage of the forums at our disposal, both within our universities and externally, to debate the dangers of the arrival of neo-liberal universities and to disseminate our vision of universities that have missions of basic research, critical thinking, and working for the common good. Thus, it is also important to oppose any attempt to change rules for management, funding, and organization of work that goes against this vision. For example, German universities refused to increase tuition fees and take part in the Shanghai ranking.9

More generally, it must be kept in mind that universities can better serve the common good if they have a great deal of autonomy in relation to the authorities that control them. Universities should therefore not fall within the public sector, nor within the profit-oriented, private sector, but within a third sector that can be qualified as “plural.”10 This sector is characterized by the fact that the institutions and social movements that are part of it do not belong, for all intents and purposes, to anyone, and that, as a result, neither governments nor companies can take what they produce.

Finally, it is important to question the rapid pace of work that has resulted from the neo-liberal concept of universities. The idea that, to meet the requirements of their job, university professors must produce a great deal and quickly, is ultimately counterproductive. It affects our ability to deeply reflect on issues that interest us, to discuss such issues with our colleagues, and to allot sufficient time to “our” students and to service.11 Paradoxically, collectively slowing the pace of work will help us have a greater influence on the future of universities.
The funding of basic or “untargeted” research has always been delicate. The subject creates an uneasiness among politicians. The question being asked at the highest level is the following: “Why should we fund a professor who seems to be having fun studying a phenomenon that does not seem to be useful for society, and even seems a bit far-fetched, when there are so many concrete issues to resolve and so little money to do so?” For a government, which always has re-election in mind, it is certainly more cost-effective politically to fund research projects with clear benefits.

Let’s look at a few examples of this “dilemma” for politicians. Should a government provide a university professor with $100 000 per year to study bee foraging behaviours or the molecular features of a slug’s slime? Take a poll of those around you. I’m betting that the majority of respondents—even the most educated and informed—will respond as follows: “Better to give that amount to research projects that are socially useful in the health or education fields.”

While it is true that studies that seem socially profitable must be funded, it is extremely important to note that in research, it is nearly impossible to distinguish between what is useful and what is not useful. The following three studies, chosen among several examples, are enlightening instances of recent, unexpected benefits of basic research on the well-being of society.

Reflecting on the relevance of funding untargeted research, American senator William Proxmire asked himself in the 1970s why he should “waste” taxpayer money on “useless” research. To demonstrate his point, he chose to mock a study on “The Sex Life of the Screwworm Fly.” It is understandable why Proxmire, an American conservative, a representative of a puritanical society, would choose a study with the words “sex life” and “screwworm” in the title. To give his criticism more teeth, Proxmire created the Golden Fleece Award, which was awarded monthly from 1975 to 1988 and mocked “useless” research.  

What a masterful misunderstanding of science! The studies on the screwworm fly ultimately led to what is recognized as one of the greatest discoveries of the 20th century in entomology. The research led to the control of this deadly parasite, a benefit for both humans and animals, as the screwworm fly had been mainly attacking beef cattle herds. In fact, the sterile-male technique led, in 1966—before William Proxmire intervened—to the eradication of the screwworm fly in the U.S. and eventually to its control elsewhere. This resulted in savings, over the past 50 years, of billions of dollars for the cattle industry and for consumers.

This naive attack on science by William Proxmire was eventually contested by another American politician, Jim Cooper, who helped create, in 2012, the Golden Goose Awards to reward studies funded by the American government that seemed strange or obscure at the start, but that led, in the end, to significant breakthroughs in the field of medicine, to key social and behavioural insights, and to major technological advances. Currently, the Golden Goose Awards are supported by several prestigious organizations such as the American Association for the Advancement of Science, the Association of American Universities, and The Science Coalition.

The three Golden Goose Awards for 2017 will be awarded on September 27th. In 2016, one of these awards was given to the previously mentioned study about the screwworm fly. Another award was given to a study on slug slime, which, surprisingly, led to the development of a new, “miracle” superglue. This glue forms strong bonds with biological tissue. It is used in surgery because it is non-toxic and can be applied to wet surfaces.

An unusual third award

The third award was given to a study entitled “The Honey Bee Algorithm.” This absolutely captivating story highlights, for the umpteenth time, that the avenues opened up by basic science can lead to unpredictable destinations. Could you have foreseen a link between bee foraging behaviours and Google’s web hosting servers?

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12 Rather clever, as “screw” has a sexual connotation in American slang.
13 As it has two meanings, the word “fleece” was also a clever choice: it refers to both “a fabric” (when used as a noun) and “to swindle” (when used as a verb).
Tom Seeley is a biologist at Cornell University who studies bees—particularly their foraging behaviour in a field of flowers, which by definition is a complex environment that varies based on season, weather, type and density of flowers, etc. When a foraging bee returns to the hive with its nectar, it “knows” the amount of nectar available in the patch of flowers it explored. At the hive, it determines how “needy” its colony is for nectar, by noting the reception behaviour of the specialized bees receiving the nectar. If, at the hive, nectar is sparse, the foraging bee will perform a dance aimed at recruiting other bees to bring them to the patch. Through this interactive system, the colony distributes its bees among patches in such a way that they maximize honey production. Nature is clearly quite extraordinary. After millions of years of evolution, bees have “learned” to optimally distribute themselves in very different environments, taking into account the number of flowers, seasons, weather conditions, etc.

After having heard Seeley speak about his research on the radio, John Vande Vate, a professor in systems engineering at the Georgia Institute of Technology, spoke to two of his colleagues, C.A. Tovey and J.J. Bartholdi. Together, they developed, in the 1990s, a mathematical model that quantifies the behaviour and effectiveness of foraging bees. In short, the model can predict how foraging bees will distribute themselves in an environment with variable resources.

In 2002, in a different world and in the context of a different issue, Sunil Nakrani, a PhD student in Computation from Oxford University, asked himself, “What is the most efficient way to allocate computer servers to ever-changing internet traffic?” Note that in the world of web hosting, each server can run only one application at a time to optimize security. The constant switching from one application to another—like a bee foraging from one patch of flowers to another—takes time. It therefore leads to costs while the server wipes itself clean and loads a new application. Nakrani then read one of Tovey’s articles. Eventually, they worked together to develop an algorithm based on the model of foraging bee behaviour to better allocate servers that host websites. The algorithm, which had not been patented, was enormously successful and now generates billions of dollars for the web-hosting industry. In addition, the field of self-organizing systems research is expanding and continues to have new applications.

“Okay,” you might say. “Basic research leads to new ideas, but we are a small country. We can’t do everything. Let the United States do this work while we focus on all things practical.” In other words, we are a small hive; better to let the big guns work to find the best honey. No one knows how to optimally divide applied research and basic research. In Quebec and elsewhere in Canada, this is a secondary issue, since both types of research sorely lack funding. Maybe one day the bees will tell us how a small society should split applied and basic research...

The issue with the skeptic’s counter-argument is that it does not take into account what a university is at its core: a place where young people are trained to think, explore, and develop their curiosity. Basic research—delving into the unknown—is at the heart of that.

**TRAINING SESSION ON THE DUTY TO ACCOMMODATE IN THE WORKPLACE**


**TRAINING SESSION ON PSYCHOLOGICAL HARASSMENT IN THE ACADEMIC WORK ENVIRONMENT**

At the request of members who understand that there are enduring stereotypes about professors, the FQPPU has committed to carrying out a media campaign to raise public awareness about the work of university professors. While the most visible aspects of the campaign will begin in January 2018, decisions about which messages to deliver have already given us a better idea of public opinion.

**Snapshot in June 2017**

Public opinion research was carried out. Coordinated by the firm sept24 and carried out by SOM from June 2 to 4, 2017, with 1022 participants, the survey’s margin of error was 3.9%. The results were relatively encouraging.

The results revealed that the public has a fairly good opinion (68%) or a very good opinion (24%) of university professors, while only 8% of respondents have a fairly bad opinion (7%) and a very bad opinion (1%).

The dominant characteristics of Quebec’s public opinion of university professors are all positive (see graph below). The public feels that professors play a key role in educating citizens through the transfer of knowledge, that they are passionate about their fields of expertise, that they help advance society through their research, and that they are essential for the progress of Quebec society.

What is troubling, however, is that 43% of participants did not have a definitive opinion about the issue, 11% only mentioned neutral elements, and 32% did not clearly understand the issue. In short, the situation is not that there is enduring prejudice against professors or an attitude of mistrusting the elite, but that there is a lack of understanding about the work of university professors and difficulty promoting the benefits, for society, of their work.

The campaign’s goal will be to concretely illustrate the work of university professors. It will aim for public opinion to go from “fairly good” (neutral or undecided) to “very good” (fixed and clear). The main target will be women under 55 years old from middle-class backgrounds (income of $25,000 to $50,000), with no university diploma, and who are French-speaking, while also focusing on men aged 35 years and over, also from middle-class backgrounds, with high school or vocational diplomas.

**Among the following statements, which characterize Quebec university professors the best?**

- **Do not know, no answer**
- **Are an unnecessary expense for society**
- **Do not work very hard and are always on vacation**
- **Are involved in their communities**
- **Have their heads in the clouds**
- **Are arrogant**
- **Are experts that protect the interests of the population**
- **Are, for the most part, leftists**
- **Often speak in unintelligible language**
- **Are out of touch with reality**
- **Are not very accessible**
- **Provide concrete outcomes for society**
- **Ensure the truthfulness of facts and provide an accurate perspective of current events**
- **Are essential for the progress of Quebec society**
- **Help advance society through their research**
- **Are passionate about their fields of expertise**
- **Play a key role in educating citizens through the transfer of knowledge**

*Graph from the document analyzing the results submitted by sept24 on June 22, 2017, p. 7*
Legal Information

Copyright in Universities: “Fair Dealing” at the Heart of Legal Disputes in Quebec and Canada

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Fair dealing for the purpose of research, private study, education, parody or satire does not infringe copyright.¹⁴

This section taken from Canada’s Copyright Act has, in recent years, led to open conflicts between copyright collective societies—Access Copyright in Canada and Copibec in Quebec—and two universities—York University and Université Laval. Central to the legal dispute is the interpretation of what constitutes “fair dealing” of copyrighted works for educational and research purposes. Here is an overview of the two decisions, which could affect existing practices in our universities.

York University versus Access Copyright

Since 1985, Canada’s Copyright Act has stipulated that fair dealing for the purpose of education or research does not infringe copyright. Based on a strict interpretation of the Act, York University (YU) and several other Canadian universities that were members of the Association of Universities and Colleges of Canada (AUCC) stopped paying the main copyright collective society in Canada, Access Copyright, for licences, as of the 2011–2012 academic year. Meanwhile, YU implemented its own copyright policy, which stipulated that professors, instructors, and students could reproduce up to 10% of a copyrighted work without violating the Act, given the legislative provisions regarding fair dealing.

Access Copyright then sued YU for the amounts that had not been paid since the agreement between the parties had been terminated. In a judgment handed down on July 12, 2017,¹⁵ the Federal Court sided with Access Copyright and concluded that YU was indeed subject to the tariff determined by Copyright Board of Canada for using copyrighted works during the period covered by the lawsuit. Justice Michael L. Phelan specified that by deciding arbitrarily to distance itself from the provisions of the Copyright Act without trying to negotiate with Access Copyright, YU acted in an unlawful manner.

While the Court acknowledged that it was YU’s sincere intention to use the copyrighted works for educational and research purposes, it concluded that its internal policy aimed to get for free the content it had had to pay for in the past. The Court also concluded that YU’s internal policy was not equitable, since the 10% limit that it outlines is arbitrary, and no reason was put forth by the University to justify why the quantity of 10% was equitable.

The judge pointed out that YU made no real effort to respect its internal policy, nor gave itself the means to reprimand offenders. This lack of monitoring indicated, for the judge, that the University’s position was unfair.

Finally, the Court suggested that in order to determine if a university’s use of a copyrighted work is fair, it must be determined whether a university’s copying practices are in line with its institutional policy. The Court provided a reminder that a test for “fairness” was outlined by the Supreme Court of Canada in 2012¹⁶ and includes six factors:

- What is the purpose of the dealing?
- What is the character of the dealing?
- What is the amount of the dealing?
- Are there possible alternatives to the dealing?
- What is the nature of the work?
- What is the effect of the dealing on the work?

Copibec versus Université Laval

Quebec’s academic community is facing a similar lawsuit, which is pitting Copibec against Université Laval (UL). Quebec’s copyright collective society has recently been authorized to file a class action against UL.¹⁷ Let’s take a look at the facts surrounding the case.

¹⁴ Copyright Act (R.S.C., 1985, c. C-42, s. 29).
¹⁵ Canadian Copyright Licensing Agency v York University, 2017 FC 669.
¹⁶ Alberta (Education) v Canadian Copyright Licensing Agency (Access Copyright), 2012 SCC 37, at para 12.
¹⁷ Société québécoise de gestion collective des droits de reproduction (Copibec) v Université Laval, 2017 QCCA 199.
From 1999 to 2014, UL was operating under a licence granted by Copibec that authorized the university to reproduce copyrighted works, for which Copibec managed the rights, in a multitude of paper and electronic formats. In the spring of 2014, UL informed Copibec that it did not intend to renew the global licence that was expiring and adopted a policy and a regulation aimed at promoting fair dealing by students and university staff of course material taken from works protected by the Copyright Act. Copibec then launched a class action, demanding damages from the university for violating the proprietary and moral rights of the authors it represents.

In court on June 26, 2016, Quebec Superior Court Justice Michel Beaupré refused to authorize the class action, a judgment that Copibec appealed. On February 8, 2017, justices Gagnon, Bélanger, and Mainville overturned the previous judgment and allowed the class action. The judges felt that at the step of deciding whether or not to authorize a class action, the trial judge should not make a decision based on the merits of the case, thus anticipating UL’s defence, but instead should determine whether there is legal justification for the class action.

The Court pointed out that UL has the burden to prove that it respects the principle of fair dealing of copyrighted works. It must prove that, on one hand, all of the works were used for teaching and research purposes and, on the other hand, that their use is indeed fair, as specified by the Supreme Court in the CCH decision.  

The concept of fair dealing for the purpose of education or research is therefore, again, central to the case. Copibec believes that fair dealing as set out in section 29 of the Copyright Act is an exception to the general copyright protection principles in the Copyright Act. This exception, which is applicable in cases of private study, research, or education, cannot be used, according to Copibec, to institutionally and systematically breach the rights of authors and publishers of copyrighted works.

Meanwhile, UL argues that its practices are consistent with section 29 of the Copyright Act, which enables UL, as an institution dedicated to higher education and research, not to be governed by the rules for copyright that exist in other fields.

Ultimately, while they allowed the class action, the Court of Appeals judges took great care to avoid expressing an opinion on the merits of the case. While the parties wait for a decision, they have agreed to keep a record of the works reproduced by UL for the purposes of teaching and research, in the event that UL is required to pay royalties in the future.

Reactions from the academic community

The Canadian Copyright Licensing Agency v York University decision was met with reactions from those in the academic community, such as the Canadian Alliance of Student Associations (CASA), which was concerned that this interpretation of fair dealing would lead to additional costs for Canadian students and would limit access to teaching materials required for quality education.  

For its part, the Canadian Association of University Teachers (CAUT), which has long advocated that the flexibility in the Copyright Act for teaching and research use be respected in the courts, was disappointed by the judgment. “In a context where the largest share of a university library’s budget is used to obtain licences for using and disseminating digital content directly from publishers,” said Paul Jones, CAUT’s specialist on intellectual property, “and that many professors use open access publishing to publish their work, there are concerns regarding the usefulness of obtaining a licence from Access Copyright, as its legitimacy is also contested due to a lack of transparency with regard to the creators that it claims to represent and the share of the royalties that they are given.” CAUT hopes, in this case, that the decision will be appealed, which would allow it to intervene.

An evolving context

Olivier Charbonneau, a librarian at Concordia University, has found that with the emergence of digital content over the past few years, the content acquisition context of university libraries has been evolving: “In 2005–2006, most Quebec university libraries surpassed the 50% mark with regard to the digital share of their new acquisitions. Today, at

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18 CCH Canadian Ltd. v Law Society of Upper Canada, supra, note 26, para. 52.


Concordia, digital content represents about 92% of the acquisitions made by the library.\textsuperscript{21} The acquisition of this content is negotiated directly with publishers—for the most part, scientific publishers—which, in addition to providing user and reproduction licences, also agree to provide a digital copy of the works to universities, which is not the case for Copibec or Access Copyright, which only provide reproduction licences without providing the content itself.

Contrary to the impression that emerges when reading recent judgments on the subject, universities did not stop paying royalties for copyrighted works overnight. On the contrary, in 2015–2016, for example, Université Laval’s library spent more than $12.1 million on acquisitions.\textsuperscript{21}

Considering that the overall budget allocated to acquisitions for Quebec university libraries was $75.2 million in 2015–2016,\textsuperscript{22} it is understandable that copyright collective societies want their share of the pie. However, while they are quick to attribute their loss of revenue to universities’ bad faith and to a lax interpretation of the principle of fair dealing, it is important to reflect on the way that these societies have adapted what they are offering—or not—as a result of the paradigm shift that has ensued due to virtual access to knowledge, which, in the context of a course, no longer requires the physical reproduction of documents and course packs, but instead requires the exchange of digital files. In short, the decisions that will be rendered in the Copibec class action, as well as in the appeal of the Canadian Copyright Licensing Agency v York University decision, are likely to determine the way in which Quebec universities and other Canadian universities will orient their practices with regard to acquiring documentation, as well as those related to copyright.

One thing is for sure: the uncertainties that currently exist with regard to copyright in universities are not in the best interests of professors, who despite their legal responsibility in this regard, receive inconsistent, inadequate, and at times even non-existent support from university administrations.

Furthermore, beyond the specific cases discussed in this article and the technical and legal issues that they raise, the confirmed rise in digital content leads to new issues. One of the concerns that comes with the shift toward dematerialized knowledge is reduced access to Quebec and Francophone content. While it is important, as academics, to support the right to fair dealing of copyrighted works for education and research purposes, it is also appropriate to reflect on creators’ ability to carry out their work under adequate conditions, as well as on their ability to disseminate their work through platforms that are not strictly driven by market logic, which inevitably favours content predominantly from Anglo-Saxon countries. With its unique linguistic and geographical position, Quebec has long understood the importance of literary and cultural production from its creators in preserving its identity. That being said, it is of the utmost importance to defend provisions that protect cultural exception in the context of the NAFTA renegotiations, in order to ensure Quebec’s ability to support its creators through public grants in the future, and to preserve our ability, as academics, to study and transmit this culture to future generations.

\textbf{THE FQPPU’S SEMINAR AT THE 2016 ACFAS CONGRESS}

Video clips of the presentations given during the seminar entitled “From university administration to governance: progress or regression?”, organized by the FQPPU for the ACFAS Congress in May 2016, are available here: \url{http://bit.ly/2a0NIEf} (content available in French only).


\textsuperscript{22} BCI. 2017. \textit{Op cit.}