

Loose coupling, conflict, and resistance: the case of IPR policy conflict in an Israeli university

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Abstract This paper investigates a conflict that erupted during the years 2003–2005 between faculty and management at an Israeli research university, over the introduction of new intellectual property rights (IPR) regulations. The introduction of new IPR regulations triggered contention and resistance among faculty members and raised debates over questions of academic freedom, labor relations, and the mission of the university, as well as struggles over financial remunerations and overhead expenses. We draw on the analytical perspectives of loose coupling and framing within new institutional theory to explore the processes and outcomes of organizational conflicts within universities and the background and implications of changes in IPR regulations. Our study identifies a repertoire of coupling processes and framing strategies in the context of organizational conflict within a university, and discusses the specific significance of loose coupling in academic settings.

Keywords Organizational conflict · Research commercialization · Loose coupling · IPR policy

Introduction

In the first decade of the 2000s, university campuses in Israel experienced unrest over managements' initiatives to update and modify regulatory policies governing intellectual property rights (IPR). The introduction of new regulations brought to the surface deep-rooted tensions between academic management and faculty over the distribution,

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management, and commercialization of inventions. Similar conflicts over revised IPR policies erupted in the same years in universities and research institutes across the globe, such as the National Institutes of Health (NIH) and Cambridge University (Twombly 2007; Tomusk 2011).

This paper investigates one such conflict that occurred at an Israeli research university during the years 2003–2005. In this university, the introduction of new IPR regulations triggered contention and resistance among faculty members and raised debates over questions of academic freedom, labor relations, and the mission of the university, as well as struggles over financial remunerations and overhead expenses. We draw from this case study to explore the processes and outcomes of organizational conflict within universities, and to gain insights regarding the effects of IP-based research commercialization on academic systems.

Examination of organizational conflict constitutes a useful starting point in the analysis of organizational processes. Conflicts expose breaches and instances in which a given status quo is not—or at least not yet—taken for granted. In particular, they provide opportunities to observe processes of discussion, reconsideration, and re-framing. Investigation of such dynamics can lead to a better understanding of the conditions under which social relations become routinized and durable (Frickel and Moore 2006).

The organizational conflict explored in this paper concerns the commercialization of academic research and university ownership of intellectual property (IP). In recent years, universities all over the world are increasingly engaged in the patenting and licensing of innovative research results. These activities, commonly referred to as “technology transfer,” and the larger context in which they are embedded, the adoption of private sector management practices in higher education, are disputed topics between management and faculty and among faculty members (Crespo and Dridi 2007; Kleinman and Osley-Thomas 2014).

To understand the various responses within universities to the tensions created by the introduction of managerial reforms, and specifically IPR regulations, we draw on the analytical perspectives of loose coupling and framing within new institutional theory. The concept of loose coupling, which relates to the gaps that often exist between formal organizational structures and actual policies (Weick 1976; Meyer and Rowan 1977), fits the research setting of the university as an organization, which has been recognized as a loosely coupled system (Meyer and Rowan 1977; Clark 1983; Orton and Weick 1990). In recent years, scholars directed attention to coupling processes in organizations (Hallett 2010; Hallett and Ventresca 2006), through which different varieties of gaps between formal policies and actual practices are created, whether unintentionally or as actors see fit in particular situations. In this paper, we show how in the context of organizational conflict in a university, actors use coupling strategies to instigate conflict and to contain it. Our study identifies a repertoire of coupling processes in the context of organizational conflict, and discusses the specific significance of loose coupling in academic settings. We also draw on new institutional research on framing, naturalized and taken for granted templates that structure understanding of events. We focus on the streams of research attending to framing contests, exploring how institutionalized cultural categories of understanding are deployed by actors in support of alternative views or practices (Vogel 2012; Cornelissen and Werner 2014), and demonstrate how management and faculty used framing in their efforts to define what is at stake, what should be done, and why in the settings of the IPR conflict.

Theoretical framework

New-institutional theory is fundamentally concerned with how cultural rules and cognitive structures shape organizational structures. It emphasizes the powerful and adaptive role of norms, values, and beliefs in the development of organizations and organizational fields (DiMaggio and Powell 1991; Scott 2004). Institutional and organizational processes and arrangements are naturally littered with conflicts, tensions, and politics. The focus on organizational conflict, which constitutes a “breach” in taken-for-granted institutional arrangements, reveals the micro-foundations of institutional process and the resulting variations, limits, and boundaries of social institutions (Schneiberg and Clemens 2006; Yu 2013). The conflict setting we examine—which incorporates both—rule-making and resistance, two decisive expressions of power—provides a rich opportunity to observe actor agency and power dynamics in institutional processes. This advantage is particularly salient in light of repeated claims that new institutional theory offers only limited instruments for dealing with questions of power, in particular how power and interests shape processes of institutional change (Scott 2004; Dillard et al. 2004; Clegg 2010).

Organizational conflict is addressed to some extent in a stream of literature that explores how institutional pressure and demands trigger organizational change. Specifically, these works show how change processes often invoke tensions and conflicts initiatives (e.g., Townley 2002; Rojas 2010; Irvine 2011). In order to study an organizational conflict within a university, we suggest incorporating institutional theory’s concept of coupling. *Loose coupling* is classically defined as situations in which elements are responsive to one another but retain evidence of separateness and identity (Weick 1976: 3). Meyer and Rowan (1977: 343) further elaborate on this definition, stating that organizations are loosely coupled when “structural elements are only loosely linked to each other and to activities, rules are often violated, decisions are often un-implemented, or if implemented have uncertain consequences, technologies are of problematic efficiency, and evaluation and inspection systems are subverted or rendered so vague as to provide little coordination.”

Universities have been described as loosely coupled systems (Meyer and Rowan 1977; Clark 1983; Orton and Weick 1990), in which either the organizational structure itself is characterized by loose coupling, such that some practices are structurally detached from other organizational elements (e.g., Huising and Silbey 2013), or organizational responses to external pressures or attempted reforms take the form of loose coupling (e.g., Modell 2003). Recent shifts in university governance toward “managerialism” at the expense of collegiality have been described as a shift from a state of loose coupling between system policies and practices to a state of tighter coupling (de Boer et al. 2007).

Two concepts related to loose coupling are *decoupling* and *tight coupling*. Tight coupling—i.e., full compatibility among external requirements, organizational structures, and work activities—was considered to be the norm characterizing most organizations prior to Meyer and Rowan’s (1977) conceptualization of local nonconformity. Decoupling is a strategy that an organization adopts in order to protect its technical core from external pressures. In such cases, organizations maintain a certain façade reflecting the prevailing rationalized myths of good organization—whereas actual organizational activities may diverge from these principles in response to practical considerations (Meyer and Rowan 1977: 356–357).

In their review of the coupling literature, Orton and Weick (1990) propose a dialectical interpretation of the concept of loose coupling, which emphasizes simultaneous processes

of coupling and decoupling of policy and practices. This approach forces researchers “to study structure as something that organizations do, rather than merely as something they have” (Orton and Weick 1990: 218). Studies that adopt a dialectical conceptualization of loose coupling (e.g., Hallett 2010; Hallett and Ventresca 2006) explore the micro-processes in which organizational members interpret and respond to institutional pressures, and how processes of coupling unfold differently depending on internal characteristics and local context.

In this study, we build on the approach of the studies discussed above, that interpret coupling as a process, involving conflicts and political struggles. We aim to demonstrate that in the context of organizational conflict in a university, different actors can use different strategies of “loose coupling”—recoupling or decoupling—to pursue their conflicting interests and goals and, finally, to restrain the conflict.

Another feature of organizational conflicts, which is relevant to our case study, refers to symbolic struggles over meaning in efforts to affect interpretations of events among various audiences. Specifically, we are interested in discursive framing, the use that actors make of diverse institutional frames, naturalized and taken-for-granted frames (Cornelissen and Werner 2014), which they are able to enlist, modify, and disseminate in their efforts to define what is at stake, what should be done, and why. We refer to framing as the strategic use of discursive processes of meaning construction in line with existing cultural categories of understanding and examine “framing contests,” or struggles over meaning (Benford and Snow 2000) in intra-organizational settings of IPR conflict in a university. We examine processes of loose coupling and framing as resources and outcomes of the agency of multiple actors in the context of organizational conflict in a university.

The context: changes in university governance structures and IPR regulations

In traditional academic governance, policy and university development are based on the dominant principles of academic self-governance of the professoriate. This collegial model has been challenged by the rising and changing role of administrative and management professionals and the introduction of new public management (NPM) reforms in higher education. The latter processes, referred to as “managerialism,” typically involve the adoption of private sector management practices that rely mainly on measurements of productivity and output, on contractual and legal arrangements and a general market orientation (Chandler et al. 2002; Enders et al. 2013).

University efforts to promote and control the commercialization of the results of academic research are part of the trend of managerialism. The Bayh–Dole Act, issued in 1980, enabled US universities to retain IPR on inventions resulting from federally funded research. European countries saw the US as a model for the development of relations between academia and industry, and, in the 1980s, institutional mechanisms facilitating such relations, adopted from American universities, began to appear in most European academic systems. These mechanisms included Technology Transfer Offices (TTOs) and an IP system establishing that universities own the IP generated by general academic research (Howells and McKinlay 1999). Since the end of the 1990s, most European countries have moved away from inventor ownership of patent rights toward ownership by the institution employing the inventor (Geuna and Rossi 2011).

In Israel, the higher education arena includes eight public research universities, an open university, and 37 academic colleges, mainly focused on teaching (Council for Higher Education 2014). Like US and European universities, Israeli universities also began to take action to reform their IPR regulations in the late 1990s, but the Israeli case exhibits unique characteristics. The mechanism of commercializing academic knowledge through patent registration and selling the license to use the patent in exchange for royalties was implemented in Israeli research institutes as early as the late 1950s. Starting in the 1970s, most universities were involved in the field in an organized fashion, using designated subsidiary companies.

However, until the 2000s, there were no national IPR regulations that specifically addressed universities in the context of ownership of IP. Instead, universities acted according to the Israeli patent law (1967) covering “service inventions,” defined as inventions that an employee arrives at as a consequence of service and during the period of service with a given organization, and which are considered the employer’s property (academic faculty members in Israel are employees of the academic institutions in which they work). Since the 1960s, Israeli universities have formulated internal IPR regulations (which are one-sided collective agreements) settling the status of service inventions, the shares of the inventors in any revenues, and the obligations and rights of faculty, the university, and the technology transfer company (TT company) in this context.

During the late 1990s and early 2000s, Israeli universities, like many other universities worldwide, began a process of examining and revising current regulations. In Israel, the motivation for this process was to address a growing concern with the universities’ failure to enforce their regulations (Shefer and Frenkel 2003: 56). This failure was mostly manifested in the phenomenon of academic scientists who took their research results outside universities to the private market and commercialized them independently, by contacting industrial companies or establishing their own ventures.

Another important factor in the Israeli context was the new “managerialist” governance structure imposed on Israeli universities in the early- to mid-2000s, which reduced the power of the rector (responsible for academic affairs), reduced the size and functions of the university Senate (the entity representing academic faculty), and appointed the president and Executive Council, a non-academic body by its nature, as the supreme authorities within the university. In fact, the guiding document of this reform considered IPR management to be an integral part of effective university governance.

The process of updating IPR regulations proved to be a source of conflict and contention in almost all research universities in the country. The case study discussed in this paper explores one of these conflicts.

Methods

We used in-depth case study methodology. Case studies are rich, empirical descriptions of particular instances of a phenomenon, and are typically based on a variety of data sources. As such, they make it possible to examine “how” and “why” questions and to offer persuasive arguments with regard to cause-and-effect relationships (Siggelkow 2007).

Data collection

We collected data from multiple sources: archival research, semi-structured interviews, and supplementary materials, such as news items and official state reports. Our main source of data collection was archival documents. We drew on three separate archives: the archive of the university, the archive of the Senior Faculty Association, and a personal archive of a faculty member who was one of the key actors in the conflict.

We obtained additional insights and interpretations by conducting in-depth semi-structured interviews with nine respondents who were selected from each of the relevant groups of actors: university management (2 respondents); the Senior Faculty Association (1); the Forum of Applied Researchers (3), and faculty members who are involved in technology transfer activities (3). Respondents were asked to describe the course of events and to provide their interpretations of the motives, strategies, and actions of the various parties. We also collected additional documents related to the subject under study, such as state comptroller reports and news articles.

Data analysis

Data analysis was carried out in four phases. In the first phase, we developed a chronological narrative, which allowed us to identify the key events and key actors. In the second phase of data analysis, we conducted first-order categorization, looking for emerging categories from the empirical material, consisting mostly of informant own terms (Van Maanen 1979). In the third phase, we proceeded to carry out second-order coding, based on our knowledge of the research literature, aiming to identify more abstract themes into which we could organize our first-order codes. We chose to rely on the literature of loose coupling because it fit with the organizational context of universities (Clark 1983), and, more significantly, because it resonated with terms and concepts that appeared in interviews and archival data sources, such as “collegiality” as opposed to “business considerations,” or “common standards” as opposed to “personal discretion.” In the fourth phase of data analysis, we clustered our second-order themes into higher-order dimensions (Strauss and Corbin 1998). Throughout the analysis process, we went back and forth between the data, relevant literature and our emerging categories and themes, and made several refinements along the way.

Findings

We present our findings in chronological order corresponding to the evolution of the conflict. As the conflict unfolds, the efforts of various actors to inflame, mediate, or resolve the conflict are revealed.

Pre-conflict

Management: recoupling

The university discussed in this case study is one of the eight public research universities in Israel. The period of the IPR conflict coincided with a reform in the university’s governance structure following government-initiated reforms. The reform dispossessed

academic faculty of the authority to manage academic affairs, and turned university governance into a corporate-like hierarchical structure, managed by a president and a non-academic, and often business-oriented, Executive Council.

The central motive for management's initiative to update its IPR statute was the growing recognition that the existing regulations were phrased in general terms and lacked mechanisms of control and enforcement. The shortcomings of the existing regulations resulted in various cases of conflicts of interest of faculty members, such as the misuse of university laboratories in the service of commercial interest, or allowing industry actors to own the IP resulting from consultation work provided by faculty members. In the most extreme cases, faculty members, especially in the fields of engineering and information technology, were bypassing existing regulations and acting independently to commercially exploit their inventions.

According to the conceptualizations of Orton and Weick (1990: 205), loose coupling is a multidimensional process, such that a system characterized as loosely coupled may contain some elements that are tightly coupled and others that are decoupled. Thus, the loosely coupled system of IPR at the university, which management was determined to recouple, was characterized by partial compliance with internal regulations. To address this situation, management decided to update and strengthen existing regulations and ensure their enforcement.

The mechanism chosen for this purpose was a committee, appointed "for reexamination and updating"¹ of the university's current IPR statutes. On June 30, 2004, the Committee submitted its recommendations for a new statute. The new statute did not radically diverge from the norms and rules accepted in other academic institutions. While it seemed that, with regard to IPR, the new statute was moderate, except for a minor reduction of faculty's shares in the revenues of commercialized inventions, its strongest impact concerned academic faculty members' autonomy. This change was mainly reflected in the regulations that dealt with the prevention of conflict of interest, including new restrictions on external activities (consulting work/sabbaticals/leaves of absence) and the subordination of such activities to the ruling of the VP of R&D.

Management presented the reformulation of IPR policy as an act of effective governance, describing the modifications as "procedural changes that obligate faculty members to comply with an organized procedure of reporting and approval,"² and at the same time was persistent in declaring that "the university would see to it that its rights are upheld."³ Essentially, management was engaging in "managerial" framing, which draws on business values of efficiency and effectiveness. It was also engaging in legalistic framing, in which scientific inventions by faculty members, considered "service inventions" by local law, were discussed as property to be protected.

Senior faculty association: decoupling

The publication of the appointment of the Status Committee provoked reactions throughout campus, "including talks and meetings among members with stakes in the matter."⁴

¹ Letter of appointment, 13.5.2003. University Archives; 4.17(104).

² University reply to the Regional Labor Court, 6.7.2005, Senior Faculty Association Archives.

³ Letter to academic faculty and senior administrative faculty from the president and the rector, 1.3.2001. University Archives; 17.385(50).

⁴ Summary of replies from faculty members concerning intellectual property and business interests in academic research; University Archives, 4.9.2003; 4.17(104).

During the year in which the Statute Committee operated, faculty members initiated two organizational responses. The first response was initiated by the formal unionized mechanism of the Senior Faculty Association. The chair of the Association approached the rector and asked for a representative of the Association to be added to the Statute Committee, as this was a matter of labor relations. The rector refused, claiming that the work of the committee was not related to the Association's areas of responsibility. A member of the Association, a professor from the chemistry department, represented the general feeling among Association members that:

The issue concerns changes in the **current status** [emphasis in original] of these rights and practices at the University for several years. The University desires to change these conditions, and probably to the detriment of faculty members. The University's management is trying to bypass the Association and run things behind its back, as it usually does in such matters.⁵

The Association conceptualized management's decision to formulate new IPR regulations as a labor relations issue, and acted to protect existing rights of faculty members against revisions in current "conditions" and "practices": to decouple what management was trying to recouple. While management wanted to preserve technology transfer through recoupling of policy and practice, the Association aimed to maintain the current loosely coupled organizational arrangements.

Forum of applied researchers: challenging

The second organizational response of faculty members was the establishment of a voluntary Forum of Applied Researchers, initiated by a professor of electrical engineering. Following a meeting of the Forum members, the founder of the Forum drafted a position paper, which he then distributed to all faculty members at the University. Thirty-nine researchers signed the position paper; most were from the Faculty of Engineering, and a few were from the faculties of life sciences, exact sciences, and medicine. The position paper questioned the university's claims for ownership and management of IP and sharply criticized its activities in the field of commercialization: "The researchers perceive that little profit, if any, is generated by the current system. Most feel that the commercialization attempts, if any, of their patents by the TT company have been unprofessional and ineffective."⁶

The Forum suggested that, instead of upholding the existing institutional arrangements, the university should adopt a policy of advancing entrepreneurial activity, encouraging its faculty to engage in outside activities, and most importantly, giving inventors the option to decide whether to submit their inventions to be handled by the university's TT company, or whether to carry out the patent application and commercialization process independently. The Forum considered inventor-led processing of patents and commercialization to be a favorable solution, in light of precedents in other academic institutions:

It should be noted that some leading research universities have benefited from a much more liberal policy towards their researchers. MIT, Johns Hopkins, and the Technion, among others, (...) categorize an invention as a service invention only if

⁵ Letter to the Senior Faculty Association, 20.7.2003, Senior Faculty Association Archives.

⁶ Intellectual Property and Commercial Involvement, a Position Paper of the Forum of Applied Researchers in response to a call from the Committee, September, 2003; University Archives, 4.17(104).

substantial university funds were used in its invention. (...) Generally, the researchers are free to deal with these non-service inventions as they see fit.⁷

Faculty members who joined the Forum felt frustrated by existing IPR and research commercialization policies. When management undertook an initiative to amend IPR regulations, Forum members identified an opportunity for change in the overall apparatus of technology transfer at the university. Thus, whereas management had framed the new IPR initiatives in terms of ownership of organizational property and effective management, and the Association had framed them as a labor rights issue, the Forum presented the scientist as an individualist entrepreneur, and the results of research as the “private” property of individual scientists.

Conflict

Crisis

Following the adoption of the recommendations of the Statute Committee in October 2004, management decided to establish a new committee for implementation of the statute. The Implementation Committee was asked to propose mechanisms for application of the Statute and, if needed, to suggest modifications. The first move of the new committee was to distribute the statute prepared by the Statute Committee to faculty members.

In preparing the statute, the Statute Committee had relied on the services of one of the leading law firms in the country. The result was a 24-page document, written in formal legalistic language (including sentences of more than 200 words). In addition, the statute was distributed in a PDF format that did not allow editing or printing, “to prevent the opportunity for anyone to modify the draft and circulate an unauthorized and misleading version.”⁸ As such, the statute was formulated and distributed in a manner that conflicted with prevailing norms of academic culture. One of the members of the Forum of Applied Researchers commented in an interview:

The document was very long, written with legalistic phrasings and vague formulations. It was formulated as if we were a business corporation that is constantly trying to improve its position, to make a profit (...) but we are not a corporation. We are colleagues.

A former staff member of the TT company agreed with this observation:

The statute was written by a law firm (...) but the researcher is not a lawyer and should not be made to read such long and legalistic documents, because his reaction will not be good. The legal language is very draconian. Even when it says that you own everything—it will still look bad to you. And then you cannot overcome the dynamic that is created.

The referral to legalistic language and procedures was where management’s initiative of recoupling was disrupted. The legal logic, which was part of the “managerialism” toolkit of corporate practices, was incompatible with the collegial logic that faculty members were accustomed to. In distributing this document, management had broken what Meyer and Rowan (1977) referred to as “the logic of confidence and good faith,” which is one of the

⁷ *Ibid.* p. 6.

⁸ University reply to the Regional Labor Court, 6.7.2005. Senior Faculty Association Archives.

cornerstones of a loosely coupled organizational system. This step had unintended consequences: It triggered negative gut reactions among Association members, members of the Forum and others, and caused them to escalate their opposition to the new statute.

Varieties of decoupling

In the new phase of the conflict, which began after the distribution of the new statute, the Association, individual faculty members, and finally also management engaged in various strategies of decoupling: working to reverse the recoupling expressed in the new statute.

Decoupling through negotiation channels The Association responded to management's recoupling initiative by engaging in a struggle aimed at decoupling policy and practices, and returning to the previous state of loose coupling. This state of loose coupling did not necessarily involve ignoring and bypassing the IPR regulations, to which the Association objected, but it provided an opportunity for such behavior. The Association proposed that such behavior should be handled with traditional academic mechanisms of after-the-fact arbitration.

On February 14, 2005, the Association submitted to the Regional Labor Court a request for an interim injunction, claiming that the new statute violated the rights of senior faculty. The university requested to postpone the court hearing. The court accepted the request, under the condition that the university would commit to meeting with Association representatives. Following the Court's decision, a meeting among the Association's representatives, the director general of the university and a representative of the Implementation Committee was held on March 2, 2005. The two main demands made by the Association representatives concerned: (1) their request to separate the IPR regulations and the conflict-of-interest regulations and (2) a request to forgo the requirement that faculty members seeking to engage in external work must obtain prior authorization from the VP, and to replace this requirement with retroactive reporting.

The following discussion between the two sides is instructive as to the two positions:

Senior Faculty Association: Instead of demanding prior documentation and authorization, we request to report on such activity, so that the system will be able to operate. In specific cases, faculty members will be invited to provide clarification.

Director General: And what happens when a faculty member signs a form that gives all the IP rights to an external body?

Senior Faculty Association: If he faces a conflict of interests, he will have to decide whether to sign or not.

Director General: Why are you willing to sign for an external body and not willing to sign or receive authorization within the university?

Senior Faculty Association: We request to provide a detailed report and not to request authorization.

Director General: Some things cannot be solved retroactively.

Chair of the Statute Committee: This statute transfers the discretion to one authority—the VP, who will decide if there is or there is not a conflict of interests. The essential question is how to make this change and not hurt the process, so faculty will continue to provide consultations. If the timeframe is too long, we can reconsider.

Senior Faculty Association: The entire moral dimension, the dimension of solidarity, may be hurt by this statute. This is a deterioration of labor conditions. You remove the responsibility from faculty members. Reporting will provide all that is needed.⁹

We suggest that this debate over the seemingly trivial bureaucratic procedure of prior request versus reporting after the fact on external activities was a struggle to maintain academic autonomy in the face of management's attempts to enforce tight coupling. The centrality of this issue was further emphasized 2 months later, when the Implementation Committee distributed an updated draft of the statute. In the new draft the committee accepted most of the demands of the Association, including the cancelation of the obligation to request permission in advance for external work, which was presented now as an option. Yet, the Association objected to mandatory reporting on any external activities of faculty, even reporting after the fact, calling for replacing the "recommendation" with investigation or arbitration after the fact, which is "preferable in every way to the cumbersome mechanisms proposed in the guidelines."¹⁰

Now, in addition to framing the conflict as a dispute over labor relations, the Association presented the new statute as "undermining the foundations of academic life by subordinating the ideal of academic freedom to business considerations":¹¹

The provisions of the new regulations hamper the academic freedom of faculty members. (...) For instance, the subjection of sabbaticals to business-economic considerations undermines the primary purpose of the sabbatical, which is the positioning of the faculty member at the forefront of research in his field and inter-institutional cross-fertilization designed to enrich the host institution, the researcher's institution and the researcher.¹²

Decoupling through defiance and avoidance In the meantime, several faculty members responded to the first draft of the new statute, prepared by the Statute Committee, by sending letters and appearing before the Implementation Committee. The tone of most of the feedback was critical and grave, with frequent declarations of refusal to comply with the new regulations. One Chemistry professor wrote the following cover letter to accompany his specific remarks:

Attached are my remarks on the new IPR rules in their new dress. As you can read, I am very disappointed. **I will never sign the new patent transfer agreement** [*emphasis in the original*]. I know that my remarks and suggestions will be ignored. Thus, I plan to retire (early retirement) in three years, when I turn 58 and become eligible for a full pension, and until that time to work only on my current patents.¹³

A common concern was a minor reduction of faculty's shares in the revenues of commercialized inventions and the decision that the 20 % designated for research was no

⁹ Protocol of meeting between the Senior Faculty Association and Management, 2.3.2005. Senior Faculty Association Archives.

¹⁰ Position paper of the Senior Faculty Association, 25.05.2005, pp. 3–4. Senior Faculty Association Archives.

¹¹ Comments to the Statute on "Inventions, Patents and Conflicts of Interest," 15.01.2005. Senior Faculty Association Archives.

¹² Association's notice to the Regional Labor Court, December 2005.

¹³ Letters of faculty members to the Implementation Committee appear in Annex 6 to the Report. Senior Faculty Association Archives.

longer paid directly to the inventor's laboratory; some of it would be used for basic research in other areas. A professor from the School of Medicine claimed in a Senate meeting:

Since the statute was written by lawyers and not professors, the regulations seriously undermine the rights and freedom of all applied researchers, and soon all researchers in the campus will be hurt. The new statute oppresses the urge to innovate instead of encouraging it. The change in the 20 percent hurts the inventors. It is inconceivable that professors from other units will enjoy the results of the inventor's many years of work.¹⁴

The faculty members who struggled against the new statute were engaged in attempts to reverse the modifications and return to the prior loosely coupled system through individual, mainly discursive, acts of protest, framing the conflict as an issue of academic freedom and academic entrepreneurship.

Decoupling by retreating from the suggested changes The extreme responses of the Senior Faculty Association and faculty members to the new draft were an unexpected reaction to a statute that even the legal counsel of the Association had declared to be moderate and balanced. The organizational change enacted by management had backfired following the use of legalistic language and procedures as a strategy of recoupling.

The second and third drafts produced by the Implementation Committee included the main modifications requested by the Association. That is, the Committee withdrew from most of the clauses that were meant to enforce a hierarchical model and tight coupling. Regarding external R&D activities, the third version of the statute declared that the researcher can accept a pre-ruling from the university in matters of IP; otherwise, he or she may choose the option of reporting the activity to the university after the fact. To minimize the conflict, management had to resort to decoupling policy from activities and forgo its ambition to impose managerialism through mechanisms of control over faculty's external activities.

Challenging

The Forum of Applied Researchers continued to convene throughout the conflict. Members of the Forum appeared before the Implementation Committee with presentations and written documents. The following extracts are taken from a presentation made by the one of the Forum members:¹⁵

- The proposed statute:
 - Has no goals or vision.
 - Is insulting, divisive, greedy and poorly written.
 - Will destroy trust in the university and be counterproductive.
 - Should be scrapped.
- A new committee should be empowered to look into the real IP problem here (poor IP exploitation) and propose solutions.

¹⁴ Synopsis of the Senate meeting, 15.6.2005. Senior Faculty Association Archives.

¹⁵ Presentation before the Implementation Committee, Annex 6 to the Report of the Implementation Committee, July 2005.

- It is probably better to close off IP function of the TT company, release all patents to inventors, get 20 % of any success.
- Successful MIT model
 - Select innovations that TTO thinks it can best market; liberate remaining to inventors.
 - Targeted marketing – no internet lists of “available technologies”.
 - TTO empowered to close deal in one meeting.

The Forum continued to dispute university claims for automatic ownership of IP created by faculty members, thus undermining the basis of the current regime of the “technology transfer” institution in the Israeli academic system. In their correspondences and presentations, Forum members put forward new IPR rules that constituted an alternative to the existing system, whose underlying principles both management and the Association were interested in preserving. The Forum also continued its framing strategy from the pre-conflict stage: combining the legal framing of IP ownership with the ideals of entrepreneurship and innovativeness.

Post-conflict

During the months of April–December 2011, the state comptroller’s team examined the implementation of the new IPR regulations discussed herein, with the goal of incorporating the information into its 2012 report on IP management at universities. Examining the issues for which the statute had put forward recommendations rather than obligations, the report claimed that in practice faculty members rarely report on IP created during external work, do not ask the VP of R&D for pre-rulings in this matter, and do not report concerns over conflicts of interest. The report suggests that this situation may be due to fear of a response that would make it difficult to engage in external work. Our interpretation is somewhat different. We consider the situation described by the state comptroller to be a return to loose coupling, in which the new regulations do not have significant impact on daily operations.

A faculty member from the Faculty of Engineering explained in an interview:

Those who know how to invent also know how not to invent. So now if I’m doing consultation work, I tell them in advance that I’m only consulting. No more inventions. Moreover, I sign consultation agreements only when I do not have to provide prior authorization.

The vast majority of faculty members deliberately avoids the statute’s recommendations for obtaining a pre-ruling and continues to act as before. Faculty members’ overall avoidance of these recommendations, equivalent to maintenance of a former loosely coupled structure, was their final act of resistance.

Discussion

In this paper, we examined a case in which an attempted reform in IPR regulations in an Israeli university resulted in a conflict between management and faculty, which ultimately caused management to withdraw most of its planned changes. We employ the theoretical literature on loose coupling and framing within new institutional theory, to gain insights on

processes of organizational conflict in university settings and the implications of changes in IPR regulations.

Current conceptualizations of loose coupling might suggest that, in a university setting, gaps between policy and practice are either the result of purely symbolic attempts on management's part to create an impression of compliance with external demands or are due to management's inability to exercise effective control. Our investigation, however, suggests differently. We found that academic faculty interpret loose coupling as the right to exercise autonomy and discretion in daily work activities. The status of loose coupling between organizational policy and practice became normalized as part of the organizational culture of the university, and served as a basis of power of academic faculty. By framing personal discretion and partial compliance with policy as enactment of the norms of academic freedom and collegiality, academic faculty conferred symbolic meaning to practices of loose coupling.

These observations can explain the faculty's fierce resistance to attempts to recouple policy and practice in the case of the IPR conflict: the Association resisted the recoupling initiative not because it supported the violation of university IPR policy, but because it was acting to protect academic freedom as faculty members perceived it: personal autonomy, personal discretion, and low accountability to central management. Hence, loose coupling is not a symbolic façade (Meyer and Rowan 1977) but rather a symbolic resource that faculty rely on and an inherent feature of academic systems.

In the context of organizational conflict in the setting of a university, our study demonstrates how processes of coupling serve both to instigate conflict and to contain it. We identified three varieties of coupling: (1) decoupling between formal language and actual requirements (using legalistic language vs. moderate requirements); (2) decoupling between formal policy and enforcement (producing formalized and detailed regulations but no enforcement mechanism); (3) recoupling and decoupling between policy and practice (reformulation of regulations and subsequent ignoring of regulations). These three forms of coupling were enacted through a variety of coupling processes: (1) recoupling through new formalization of policy, using legalistic language and procedures and corporate practices of enforcement and monitoring; (2) decoupling through negotiation channels; (3) decoupling through defiance and avoidance; (4) decoupling through relaxing regulations and removing problematic items.

Hence, our conceptualization of loose coupling is both symbolic and strategic, encompassing a repertoire of modes of action that range between decoupling and recoupling, and between different organizational elements. Through a case study of a failed effort to implement an organizational change in a university, we offer an empirically grounded understanding of the various meanings, motivations, and values embedded in the concept of loose coupling in academic settings.

Furthermore, we propose that the conflict that evolved over the issue of patenting the results of academic research—a conflict comprising an attempt to maintain compliance through recoupling of policy and practice (management), defense of the status quo of IPR practices through a struggle for decoupling (Association), and the presentation of alternative model of IPR (Forum)—ultimately served to strengthen the institution of commercialization of academic research. In particular, we suggest that conflict can serve as a reproductive mechanism, because struggles over various stakes and interests motivate efforts of justification, mobilization, and persuasion, which promote the maintenance of social institutions.

Throughout the conflict, the institutional frame of academic science (academic freedom, serving the public good) and the institutional frame of the market (ownership of knowledge, knowledge as product) were mobilized by both management and faculty, though with different interpretations. The institutional transformations that universities are undergoing, manifested in a shift toward business values and market-oriented policies, were reflected in the “framing contests” (Benford and Snow 2000) that evolved throughout the conflict. We conceive these contests, which were seemingly held over percentages of royalties and trivial bureaucratic procedures, as conflicts over the mission and identity of the university: While endorsing the ideals of the market, both management and faculty accused each other of violating the ideals and norms identified with academic science, such as “academic freedom,” “creativity in research,” and “the open marketplace of ideas,” and subjecting these ideals to “business or economic considerations.” The framing contests over the definition of the conflict as a conflict over ownership of research results, academic autonomy or the academic labor process suggest that the conflict itself can be framed as a conflict over the identity and mission of the university in a period of institutional change.

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