

Freedom of Speech at University

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I have lived a fortunate life. For the last decade, I have enjoyed a 'portfolio career' as a non-executive director on a range of private, public and community-based organisations. I spent the previous two decades as a 'mandarin' in the Australian Public Service. In preparing these remarks, however, I realise that I have spent some 30 years in and around universities. I enjoy them. I care about them. And I have high expectations of them. Most have been fulfilled.

I was a naïve but enthusiastic undergraduate, who continued through years of postgraduate and doctoral study, and then enjoyed a long period of lecturing and researching as an academic. Now, late in life, I am a Chancellor, chairing a Board of Trustees. Both as a scholar, and now as a governor, I have always had a strong sense that a university delivers more than a narrowly, instrumentalist purpose.

Of course, universities do enhance human capital formation. I am certain that higher education has both a powerful private impact (for individuals who gain financially from their certificated study) and public benefit (graduating employees with more sophisticated and flexible workplace competencies and citizens with commitment to greater civic engagement.) I remain committed to the maintenance of a demand-driven system of university entry because I see equal access to education as fundamental to the maintenance of an open, socially mobile society. It is the foundation of a 'fair go'.

But I have always imagined that universities are more than that. Indeed, when I first set foot on a campus in the mid-1960s the last thing on my mind was the utilitarian purpose of my lectures, assignments and exams. Rather to my parents' despair, I chose subjects that seemed to lead nowhere in particular (American literature, history and politics). Beyond my largely unfulfilled hopes for a life of sex, drugs and rock'n roll, what I really wanted from university was exposure to unexpected and challenging ideas. I was convinced that was going to make my experience exciting and fun. On balance, it did.

More than half a century on, the university environment has changed profoundly. On the positive side, far more students are now able to enjoy higher education, albeit in very different ways than in the past. Yet I still retain that profound sense of universities as a place of personal liberty and intellectual experimentation. Universities, to my mind, should be environments in which students, supported by their peers just as much as by their teachers, are exposed to new and sometimes uncomfortable perspectives on the world. They are places not just for students to be taught but in which they can learn how to make up their own minds.

Part of that opportunity comes from academic study. Hopefully students gain a firm grasp of different opinions and interpretations. Ideally they graduate with an ability to analyse, conceptualise and synthesise information and arguments. Most important, in the algorithmic world of Dr Google, they will learn how to assess the provenance of intellectual authority and be able to gauge its reliability and authenticity. They will gain the capacity to distinguish a theory from a conspiracy.

As active citizens, I hope that graduates will leave with the capacity to argue and debate robustly but to do so with respect and civility. As employees, preparing for a lifetime of work in a world in which cognitive technology is undermining many professional attributes, I trust that they will develop a capacity for critical thought. If so, they will be better prepared for the manifold uncertainties of change.

From this perspective, universities need to be places in which the values of academic freedom continue to be extolled. That ethos underpins a democratic purpose that is greater than the transmission of knowledge to the next generation. In the words of ANU's first Vice-Chancellor, Sir Douglas Copland, in 1948: "The establishment and maintenance of academic freedom is more important than the actual research and teaching done inside the walls of a university".

Copland's sentiment is persuasive. It needs to be a cornerstone of any university ethics framework. Yet its translation into the language of management and governance is more challenging. Clearly academics need to be afforded the right to research, teach and expound their individual ideas without fear or favour. They should be able to make their own choice of subject matter, create their own lines of enquiry and be afforded the opportunity to analyse and present their own conclusions, even if their perspective is unpopular or out of favour with their colleagues or students.

That objective requires governing bodies to ensure that university scholars can exercise their intellectual autonomy. More than that, academics should be allowed – indeed, encouraged – to communicate their expertise to the wider world, without fear of institutional censorship, discipline, sanction or retribution.

So far, so easy. In the words of the ANU statement on academic freedom, the goal is to provide "the freedom to pursue knowledge, speak and write without unreasonable restriction" and to talk and advocate publicly on the basis of "legitimate intellectual and professional criteria."

The challenge, which is periodically played out in the media, is to define more exactly what is 'reasonable' and 'legitimate.' What are the appropriate constraints on individual autonomy? Certainly freedom does not mean that an academic can ignore the curriculum syllabus that has been approved or fail to maintain appropriate standards of teaching or research evidence. In the more public arena, it is generally best to ensure that academic views are expressed as those of particular individuals rather than of the institution that employs them.

It can be trickier to require that they only present views that are based upon their academic expertise. Academic public advocacy may stretch far beyond particular research expertise. Moreover, there is often a considerable distance between the scholarly assessment of a particular matter and the political conclusions that are drawn as to how society should respond.

More challenging still, it can be hard to distinguish the academic who is a proud and vocal dissenter from the person who, in the eyes of their colleagues, breaches professional conduct by refusing to work harmoniously with them. How, and on what basis, is bloody-minded obnoxiousness unacceptable? In what circumstances can the conflicting views of the majority of their colleagues be interpreted as trying to bully them into intellectual agreement or harass them into silence?

It needs to be recognised, too, that, academics may perceive that their intellectual integrity is threatened by the nature of their contract just as much as by managerial fiat. Casualisation, it is sometimes argued, can create self-censorship. A young tutor or lecturer may fear upsetting university authorities if continuation of their employment is unprotected by tenure.

Finally, to what extent is access to resource funding a matter of academic freedom? I think it is appropriate for governments to establish budgets for publicly-funded research and, on occasion, to provide financial incentives to academics to direct their attention to areas that are perceived to have particular benefits to the national interest. It is a matter for universities, individually and collectively, to argue and advocate the merits of those government decisions. Conversely, it seems to me that for a government to intervene directly in an agreed process of academic peer review of research proposals, on the basis that some topics are adjudged politically unworthy of support, oversteps the appropriate role of the state. Such interventions have the potential to undermine academic integrity.

Academic freedom, to my mind, should result in students being exposed to a wide variety of perspectives and interpretations. The question is the extent to which universities should consciously seek that end. Critics, generally from the libertarian right of the political spectrum, are increasingly expressing concern that academe is no longer reflective of broad diversity and that universities provide no room for differing views: to Kevin Donnelly's jaundiced eye, a "rainbow alliance ... of neo-Marxism, radical feminism, post-modernism, deconstructionism and gender and post-colonial theories dominate the academy."

It is sometimes suggested that university management, if it is serious about the underlying purpose of academic freedom, needs to do more to ensure that lecturers of different political persuasions are recruited. But how? It is probably true that academia – just like investment banking or social work – tends to exhibit a self-selection bias amongst those who look to it for a career. It is difficult to envisage how, on a merit basis, one could actively intervene to counter such a tendency.

Thankfully, students do not, simply accept the views of their teachers. 'Academic freedom' represents just one side of the coin of liberty: on the other side is imprinted 'freedom of speech.' Universities, as part of their broader community engagements, have traditionally been places to which outsiders have been invited to present views. Some, one hopes, are controversial. This concept, too, is now perceived to be under threat.

Freedom of speech and of expression is under challenge on Australian university campuses although not – I believe – to the same extent as in the USA. Critics argue that university administrators are now too willing to deter provocative speakers, either because of institutional risk aversion, political correctness or bureaucratic managerialism. The Free Speech on Campus audit, conducted annually by the Institute of Public Affairs (IPA) paints a bleak picture. In 2017, according to IPA, 34 of Australia's 42 universities were depicted as 'red' (meaning dangerously bad) in terms of the limits they had placed on allowing the diversity of ideas to be given voice on campus. The most restrictive, in IPA's eyes, was the University of Sydney. At the other end of the spectrum, the only 'green' light was awarded to the University of New England.

This is the free speech issue that is now giving rise to a crescendo of media concern and threats of political intervention. From the right, it is suggested that speakers are being denied access to university simply on the basis that they espouse unpopular views which a vocal minority of students and staff will seek to disrupt. From the left, concerns are expressed that the right to peacefully protest the perspective of controversial speakers is being unnecessarily fettered.

The new Minister for Education, Dan Tehan, has recently signalled an interest in subjecting individual universities to financial consequences if they are seen to abet 'censorship' on campus. Former High Court Justice, and now Chancellor of the University of Western Australia, Robert French, has been asked to review the rules and regulations protecting freedom of speech on university campuses.

Far more broadly, there is concern (particularly, perhaps, from my 'children of the sixties' generation) that university life is becoming more anodyne. Provocative speakers with dangerous ideas are no longer welcome at universities, for fear of the intellectual furore or physical agitation that might result.

In the United States, where the phenomenon has become more widely evident, a number of significant publicly-funded universities are now resisting. The Chicago Statement has become their clarion cry. It is a declaration of principles on free speech that was drafted at the University of Chicago in 2012. It has been adopted by a small minority of influential American universities (including Princeton, Johns Hopkins, Georgetown and Louisiana State). Around 35 universities have now signed up.

The Statement makes it clear that those at university "may not disturb, disrupt or otherwise interfere with the freedom of others to express views they reject or even loathe." It is premised upon the belief that the best way for individuals to address repellent ideas is through robust open discussion, not inhibition or prohibition. Its underlying ethos is that universities should be places for vigorous debate of public policy. Their campuses should be marked by intellectual vitality, in which students find themselves in a bustling marketplace of competing ideas. Universities may choose to set aside safe places for particular student cohorts to meet or pray, but campuses should not be safe places to hide from cerebral challenge.

Universities which adhere to the principles of the Chicago Statement reject the concept that speakers should be 'no platformed' or shouted down by a 'hecklers' veto' except perhaps, in extremis, where there is a justified expectation that the views expressed are so hateful that they may provoke violence. The emerging tendency of American universities to confine public debate to 'free-speech areas' of campus is rejected. And in the confines of the lecture hall, as at public debates, students should not need to be given 'trigger warnings' that discussion of a subject may cause them discomfort or anxiety. The implicit goal is that universities should resist bending to the easily-offended sensibilities of the so-called 'snowflake generation'.

The Chicago Statement has limited adherents. Indeed, the Foundation for Individual Rights and Education (FIRE) was founded in the United States in 1998 to fight what was perceived to be a continuing betrayal of liberty on campuses. FIRE estimates that around one-third of American universities now have codes that in some way restrict freedom of speech on campus. It estimates that their number is growing.

These are challenging matters. The members of a university's Board, Council or Senate will hold a wide variety of views on these subjects. My own position is that the

default position of a university should be in favour of freedom: any proposal to impose restrictions either on academic freedom or campus freedom of speech should be carefully scrutinised. Entirely appropriately, others on my Board of Trustees may have a different perspective.

What is incontrovertible is that such matters are clearly ones for university governance. They cannot be not just delegated to executive management. They are central to the institutional values that need to be set and upheld. They sit alongside the other thorny proposals that may seek to place ethical limits on a university's activities, such as its investment portfolio, philanthropic donations, research activities, industry partnerships or procurement decisions.

Few of these questions lend themselves to a simple 'yes' or 'no' answer. Each member of our governing bodies will bring to the table a different ethical perspective informed by their own experience and values. Consensus will not easily be achieved. Each Chancellor will on occasion need to exercise judgement based on how to turn a decision argued around principles into an outcome based on pragmatism. For all members of a university's governing body, the articulation of university freedoms is likely to become one of the more contentious manifestations of the ethical challenges we face. We need to be prepared.