



## Queensland University of Technology

### Submission to the Senate Legal and Constitutional Affairs References Committee's Inquiry into right wing extremist movements in Australia

The Queensland University of Technology (QUT) appreciates the opportunity to contribute to the Legal and Constitutional Affairs References Committee's Inquiry into right wing extremist movements in Australia.

This submission concentrates on an important related matter – addressing term of reference (d) – that ramifies throughout consideration of the preceding substantive terms of reference: namely, the intersection of the Inquiry's concerns with matters of academic freedom and freedom of speech, which are vitally important values of universities and are essential to our ability to fulfil our missions as places of learning and discovery.

In recent years there has been a strong focus on academic freedom and free speech on campus, including a close interest on the part of the Commonwealth on university's policies and procedures. Like all Australian universities, QUT has considered these matters in detail and we have recently updated our suite of policies, including the addition of a single overarching policy on the [protection of academic freedom and freedom of speech](#).

The Committee will no doubt be reminded by many interlocutors of the general desirability of limiting speech only to the extent necessary for the purpose of reasonable protection against the prospect of enlistment to extremist ideology or incitement to extremist behaviour.

While QUT is broadly sympathetic to that caveat, there is a subtlety to which we wish to draw your attention that resists the simplistic, linear, zero-sum model of 'censorship' versus 'protection' that often underwrites public debate around the consideration of limitations on speech. This is the fact that extreme or bullying speech acts can themselves have the effect of silencing others through intimidation, humiliation and vilification.

In practice, it is widely observed that one person's extreme or intimidatory use of unfettered speech can have the effect of diminishing or even entirely suppressing the free speech and academic freedom of others.

As a 2021 [Human Rights Watch report](#) on foreign interference in academic freedom on Australian campuses found, silence is often the result of harassment, intimidation and other aggressive speech acts. The report's author, Sophie McNeill, told the [ABC](#),

*It was really quite shocking to see how pervasive and common not only harassment and intimidation, but it's the self-censorship, I think, that is really quite shocking.*

Then Federal Education Minister, the Hon Alan Tudge, [commenting](#) on the report, said that such interference ‘cannot be tolerated.’

Limiting or shutting down debate is, by definition, antagonistic to academic freedom and freedom of speech. It is critical to note, however, that limiting or shutting down debate can be achieved as readily by means of the speech acts of participants as it can be by the restriction of speech by authorities.

Forms of verbal bullying – including vilification, humiliation, abuse and the issuance of threats– are used by groups or individuals to intimidate dissenters into silence and acquiescence. The bullies may be members of the hegemonic group defending or extending their power; or they may be vocal minorities seeing to hijack debate. The construction of a simplistic ‘censorship versus freedom’ binary in discussions about genuine freedom of speech is a straw-man argument that does not reflect the reality of how discourse operates in society.

Indeed, the author of the federal government’s report of the independent review of freedom of speech in Australian higher education providers, the Hon Robert French AC, made provision in his Model Code for universities to implement

*reasonable and proportionate measures to prevent any person from using lawful speech which a reasonable person would regard, in the circumstances, as likely to humiliate or intimidate other persons.*<sup>1</sup>

Despite these reasoned analyses, some commentators insist upon a simplistic zero-sum conception of free speech that ignores the many complex factors that produce genuine underlying freedom of discourse. For example, in its *Free Speech on Campus Audit 2023*, the Institute of Public Affairs (IPA) takes exception to ‘a number of policies that limit free speech at Australia’s universities.’

These policies, by seeking to prevent ‘unwelcome’ comments and ‘offensive’ conduct, can be used to silence those who are quite rightfully exploring alternate ideas. In practice, they have a chilling effect on freedom of speech, discouraging the informed discussion of disputed topics.<sup>2</sup>

It is perhaps telling that the IPA is preoccupied with chilling effects, since it is precisely to impose their own a chilling effect on debate, conversation or thought that language bullies intimidate others through their own use of abusive, humiliating, discriminatory or violent language. It is for the prevention of those chilling effects that society and its institutions impose conventions and sometimes regulations to limit bullying speech.

A state of receptivity to all views only works in practice in the absence of extreme speech that shuts down dissent and discourages the airing of a variety of opinions. In most settings,

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<sup>1</sup> French, Robert. *Report of the independent review of freedom of speech in Australian higher education providers*. Department of Education, 2019. pp 232 & 297. Accessed at <https://nla.gov.au/nla.obj-3062854449/view> on 2 April, 2024.

<sup>2</sup> McKee, Brianna. *Free Speech on Campus Audit 2023*. Institute of Public Affairs, August 2023. p.26. Downloaded from <https://ipa.org.au/publications-ipa/research-papers/free-speech-on-campus-audit-2023> on 2 April, 2024.

standards of civility and the observance of professional conventions usually suffice to ensure that all speakers are able to have their say.

There is a strong and valid argument that placing outer limits on extreme negativity in speech – such as hate speech and serious vilification, or abuse designed to intimidate and silence – in fact bolsters freedom of speech overall by providing a minimum guarantee of the conditions of inclusion.

We therefore urge the Committee to resist simplistic arguments claiming that any limitation on speech necessarily diminishes net freedom of speech, in a naïve, direct-line, one-to-one correspondence, since it is clear that maximum net freedom of speech is actually achieved when all participants feel welcome and empowered to speak.

It may seem paradoxical that we can help ensure maximum free speech across the board by limiting it at the edges, but if we acknowledge that speech is an act that has real effects in the world, it is clear there is no contradiction in play.

QUT would be happy to discuss these issues further with the Committee should that be of assistance to its deliberations.