



Queensland University of Technology

Submission to the Legal Affairs and Safety Committee's Inquiry into Serious Vilification and Hate Crimes in Queensland

The Queensland University of Technology (QUT) appreciates the opportunity to contribute to the Legal Affairs and Safety Committee's Inquiry into Serious Vilification and Hate Crimes in Queensland.

This submission concentrates on the intersection of the Inquiry's concerns with matters of academic freedom and freedom of speech, which are vitally important values of universities, 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 most interlocutors of the general desirability of limiting speech only to the extent necessary for the purpose of reasonable protection against the harmful effects of serious vilification and hate speech.

However there is a subtlety that we wish to draw to your attention that resists the simplistic, linear, zero-sum model of 'censorship' versus 'protection' often underwriting public debate around the consideration of limitations on speech: the fact that extreme speech acts can have the effect of silencing others through intimidation, humiliation and vilification.

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

[Commenting](#) on the report, Federal Education Minister the Hon Alan Tudge said that such interference 'cannot be tolerated.'

Shutting debate down is by definition antagonistic to academic freedom and freedom of speech, and it can be achieved as readily by means of speech acts – including vilification, threats and abuse – as it can be by other forms of intimidation. Indeed, the author of the federal government’s report on [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.

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, standards of civility and professional conventions usually suffice to ensure that all speakers are able to have their say, but there is a strong and valid argument that statutory measures setting an outer limit on extreme negativity in speech – such as hate speech and serious vilification – could bolster 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, since it is clear that maximum net freedom of speech is actually achieved when all feel welcome and empowered to speak. It may seem paradoxical that we can help ensure free speech for all by limiting it at the edges, but if we acknowledge that speech is an act that has real effects in the world, it is not actually the contradiction it may seem at first glance.

In light of the significant degree of interest in the ways in which universities guarantee rights of academic freedom and freedom of speech to staff, students and visitors to campus, statutory clarity on the nature and location of expected limits on speech with respect to serious vilification and hate speech would be a useful aid to university administrators tasked with making decisions on specific incidents. The sharper the definition of the line the more accurately universities are able to police it. We therefore welcome the Queensland Parliament’s interest in the matter and look forward to further developments should the Committee recommend statutory reform in the area.