



Review of Freedom of Speech in Higher Education.

Submission presented by 2019 and 2018 NUS National President
Desiree Cai and Mark Pace.

January 2019

Introduction

The National Union of Students (NUS) has prepared this submission for the Review of Freedom of Speech in Higher Education conducted by the Hon Robert S French AC at the direction of the Commonwealth Minister for Education.

NUS was founded in 1987 as the peak representative body for post-secondary students in Australia. The membership of NUS consists of affiliated campus organisations across Australia. In many cases, our affiliate organisations administer several clubs and activities across their campus that represent a wide and diverse range of political views and ideas.

Media coverage of IPA reports¹ would suggest a free speech crisis across Australian campuses, however our member organisations have not experienced any such crises. Individual incidents have occurred on certain campuses; however, the frequency of such incidents remains rather more moderate than media coverage might suggest. Furthermore, it is NUS' position that the right to protest forms a crucial part of free speech.

Overall, NUS affirms Universities Australia's statement:

*Australian universities foster vigorous debate and encourage the contest of ideas in a respectful, professional and courteous manner.*²

While specific incidents may warrant further investigation by the respective university, NUS believes student campus culture supports and protects free speech and open discourse. The Higher Education Standards Framework ('the Standards') currently directs universities to "maintain an institutional environment in which freedom of intellectual inquiry is upheld and protected"³ and our affiliated organisations experiences suggest this is the case.

NUS is concerned, however, that funding cuts to specific disciplines could have adverse effects on viewpoint diversity and academic freedom within universities. News regarding the veto of \$4.2 million worth of humanities research projects by the former Minister for Education Simon Birmingham⁴ highlights current vulnerabilities of academic freedom to political interference. Furthermore, researchers have highlighted the "important relationship between funding, the capacity of universities to set and control research and teaching programmes, and academic freedom"⁵. Significant funding cuts, particularly when focused on specific research and teaching programmes, have a profound impact on academic freedom.

¹ The Australian, "Most Universities 'Hostile' to Free Speech, Researchers Find", 9 Dec 2018.

<https://www.theaustralian.com.au/higher-education/most-universities-hostile-to-free-speech-researchers-find/news-story/bea4b7838ca43b68e2377446956ec931>

² Universities Australia, *University Leaders Reaffirm Longstanding Commitment to Founding Ideals*, 07 Nov 2018.

https://www.universitiesaustralia.edu.au/Media-and-Events/media-releases/University-leaders-reaffirm-longstanding-commitment-to-founding-ideals#.XDMu_lwzZPY

³ Department of Education, *Higher Education Standards Framework* (2014).

<https://docs.education.gov.au/system/files/doc/other/finalproposedhesframework-advicetominister.pdf>

⁴ Nature, "Australian Academics fear political interference following vetoed projects", 30 October 2018.

<https://www.nature.com/articles/d41586-018-07221-3>

⁵ Ann Martin-Sardesai et al., "Government Research Evaluations and Academic Freedom: A UK and Australian Comparison", *Higher Education Research & Development* 36, no. 2 (2016): 372 – 385.

<https://www.tandfonline.com/doi/abs/10.1080/07294360.2016.1208156?journalCode=cher20>

Campus Free Speech

NUS firmly believes the rights to organise and protest are crucial expressions of free speech. Stone and Roberts noted that student protests should be expected and permitted, with steps taken to facilitate protest that does not disrupt the event⁶.

Most NUS affiliated organisations administer clubs across a wide spectrum of activities, cultures, and political philosophies. Campus organisations currently maintain processes that oversee the creation and administration of clubs in a fair and legal manner. The diversity of clubs on campuses means events where differences in political ideas may cause protest are not just guaranteed, they demonstrate the practice of free speech on campus.

Reports of suggestions that student protestors take on “responsibility of the financial cost”⁷ for protests have alarmed NUS and our member organisations. In the event of controversial speaker Bettina Arndt’s visits to campuses across Australia, questions regarding security costs arose during her tour while, in one instance, police were called regarding a protest against Arndt.⁸ NUS member organisations have noted how these events are, in the first place, isolated and furthermore demonstrate action on the part of the student body – in other words, students free speech. It would be chilling to essentially charge students for expressing their free speech.

The Free Speech on Campus Audit 2018 report spotlights incidents as major actions against free speech, however NUS notes that a number of these incidents⁹, such as the failure of Quentin Van Meter to complete administrative process to complete a booking at the University of Western Australia, are shown to be administrative failures rather than something sinister.

It seems correct to suggest, as former University of Melbourne Vice-Chancellor Glyn Davis does, “the free speech controversy relies heavily on American examples.”¹⁰ Australian universities, and student organisations, have managed to strike a balance in protecting free speech and open discourse at campuses.

NUS agrees with Stone and Roberts’ assessment that universities should facilitate protest¹¹, including through the provision of adequate resources to ensure the security of events being held on campus by campus groups. Universities should be adequately resourced by state and federal governments to ensure their capacity to provide spaces to discuss and debate controversial ideas whilst protecting and facilitating safe protest.

⁶ Adrienne Stone and Jade Roberts, “It’s Complicated: Academic Freedom and Freedom of Speech”, *Pursuit*, 2018. <https://pursuit.unimelb.edu.au/articles/it-s-complicated-academic-freedom-and-freedom-of-speech>

⁷ Michael Koziol, “You protest, you pay: Education Minister’s bid to bolster free speech at universities”, *The Australian*, 22 September 2018.

<https://www.smh.com.au/politics/federal/you-protest-you-pay-education-minister-s-bid-to-bolster-free-speech-at-universities-20180921-p5057h.html>

⁸ Gavin Fernando, “Riot squad called to Sydney University over protests to sex therapist Bettina Arndt”, *News.com.au*, 12 September 2018.

<https://www.news.com.au/lifestyle/real-life/news-life/riot-squad-called-to-sydney-university-over-protests-to-sex-therapist-bettina-arndt/news-story/0698b147e38b44f2b13fc3766664385c>

⁹ Matthew Lesh, “Free Speech on Campus Audit 2018”, December 2018.

<https://ipa.org.au/publications-ipa/research-papers/free-speech-on-campus-audit-2018>

¹⁰ Glyn Davis, “Special Pleading: Free speech and Australian universities”, *The Conversation*, 4 December 2018.

<https://theconversation.com/special-pleading-free-speech-and-australian-universities-108170>

¹¹ Stone and Roberts, “It’s Complicated”, 2018.

Each campus organisation bears a different, often unique, relationship with the university administration. The varied nature of university-student organisation relationship means policies around events, bookings and security are best developed within the respective campuses.

NUS recommends any policies around events, speakers and security developed by university administrators be made with significant consultation and contribution from elected student representatives.

NUS further recommends the right to protest not be limited by the imposition of financial penalties on protestors at campus events.

Students, Academic Freedom and Free Speech

The Standards rightly call for all higher education providers to “maintain an institutional environment in which freedom of intellectual inquiry is upheld and protected”¹². For the students NUS represents, this translates to a necessity that the curriculum content taught to students provides us with the skills and knowledge to uphold and protect freedom of intellectual inquiry. Perhaps greater clarity could be established within the Standards to guide TEQSA in assessing the environment of free intellectual inquiry of different higher education providers.

Kunkel and Radford-Hill note how “academic freedom directly influences what students learn...beyond the classroom and into the community”¹³. NUS notes student satisfaction with skills developed during higher education studies continues to remain high as per the most recent Student Experience Survey report¹⁴. NUS continues to affirm Universities Australia’s statement that Australian campuses “foster vigorous debate and encourage the contest of ideas”¹⁵ and believes Australian students are educated in an environment that broadly maintains freedom of intellectual inquiry.

Australian students have a significant reason to support and defend academic freedom and the free speech it logically links to. As noted earlier in this submission, that free speech has always been understood to include the rights to protest. Australian universities and students have done well in balancing and practicing academic freedom and free speech.

Therefore, NUS stresses the importance of defending and nurturing student autonomy in any policy initiative.

For campus student organisations, any policy initiatives should be self-initiated by the organisation. NUS affiliated organisations are autonomously organised and governed entities, attempts to impose a central code of conduct would fail in the face of their diverse structures and relationships with university facilities and administration.

Student organisations would, however, often benefit from greater clarity in policy regarding their use of university facilities and their relationship with the university. NUS would encourage university

¹² Department of Education, *Higher Education Standards Framework* (2014).

¹³ Charlotte Kunkel and Sheila Radford-Hill, “Engaging Advocacy: Academic Freedom and Student Learning”, *Minnesota Review* 76, 2011. <https://muse.jhu.edu/article/461176>

¹⁴ Quality Indicators for Learning and Teaching, “2017 Student Experience Survey National Report”, 2018. https://www.qilt.edu.au/docs/default-source/ues-national-report/2017-student-experience-survey-national-report/2017-ses-national-reportb27e8791b1e86477b58fff00006709da.pdf?sfvrsn=1e96e33c_2

¹⁵ Universities Australia, *University Leaders Reaffirm Longstanding Commitment to Founding Ideals*, 07 Nov 2018.

administrators to meet with elected student leaders and representatives to work collaboratively to establish clear policies around events and security to ensure fair and free access for student groups. This would require the appropriate resources be provided to universities to provide these services considering their position as public institutions that provide a specific public good in intellectual inquiry.

NUS recommends student organisation use of university facilities and relationship with university administration be clearly defined, with any policy being developed in collaboration with elected student representatives.

NUS further recommends further funding be made available to universities so they can maintain an environment of freedom of intellectual inquiry through secure use of its facilities.

Funding Cuts and Free Speech

Of great concern to NUS and its affiliate members is the impact of funding cuts and ministerial intervention in research funding on academic freedom and free speech. Academic freedom suffers when funding restrictions means the prioritising of research projects “likely to be saleable”¹⁶. Independent processes have been established for funding research proposals in Australia to try maximise merit as a criterion in the selection of successful research funding.

However, Martin-Sardesai et al. argue “traditional values of professional autonomy and academic freedom”¹⁷ within universities have become secondary to market demands in the current Australian higher education sector. General trends that see funds shifting from humanities areas into other disciplines already has an impact on the academic freedom of humanities scholars and limits viewpoint diversity.

More alarming are direct interventions by political figures to block the funding of grants that had been approved by the Australian Research Council, as with former Minister for Education Simon Birmingham blocking more than \$4 million in humanities grants¹⁸.

NUS strongly opposes arbitrary and ideologically motivated intervention by the relevant Minister in the research funding process of Australian universities. NUS views such intervention as contrary to the principles of academic freedom and free speech and would welcome a review of Ministerial discretion and the independence of the Australian Research Council.

Any form of performance-based funding is highly dangerous in the view of NUS, with a major reason being how it can “unjustifiably limit freedom of research”¹⁹. The possibility of ideological motivations in research funding would produce a profound chilling effect in Australian research, curbing academic freedom and inhibiting free speech culture on campuses.

¹⁶ Ann Martin-Sardesai et al., “Government Research Evaluations”, pp. 375.

¹⁷ Ann Martin-Sardesai et al., “Government Research Evaluations”, pp. 380.

¹⁸ Paul Karp, *The Guardian*, “‘Disgraceful’: university decries ‘political interference’ that blocked \$4m in grants”, 30 October 2018.

<https://www.theguardian.com/australia-news/2018/oct/30/disgraceful-university-decries-political-interference-that-blocked-4m-in-grants>

¹⁹ Petra Butler and Roderick Mulgan, “Can academic freedom survive performance-based research funding?”, *Victoria University of Wellington Law Review*, Vol 44 Issue 3/4, pp. 518., Nov 2013.

NUS recommends processes surrounding Ministerial intervention in research funding approved by the Australian Research Council be reviewed to maximise transparency and ensure the integrity of academic freedom in Australian research.

NUS further recommends a significant boost in funding to higher education in Australia to better facilitate free speech and academic freedom.

Conclusion

This submission has outlined strong support for increasing higher education funding as a means through which to promote academic freedom and free speech. Funding restrictions, and politically motivated intervention in research funding, has significant implications for academic freedom and free speech.

While the Standards do currently ensure the protection of freedom of intellectual inquiry at universities, NUS can see the potential benefits of further clarification within the Standards on how to judge this. However, any such changes should be made with the input of elected student representatives and include provisions to protect free speech in the form of protest.

This submission reaffirms NUS' commitment to protest as a form of speech and expression and calls for the appropriate facilitation of peaceful protest at university campuses. Universities and student organisations should internally initiate policy changes or initiatives as appropriate for their circumstances. Any such changes should be made in collaboration with elected student representatives.

Additionally, clear policies outlining the use of university facilities by student groups and the relationship between student organisations and the university will further assist in facilitating free speech on campus. Elected student representatives should be consulted on the organising of student groups and events on campus as part on the development of these policies.

Finally, this submission continues to reiterate the importance of increased funding, not just in researching and teaching, but in resources for universities to provide services as spaces of public discussion. This is crucial to promote free speech and academic freedom on Australian campuses.