Universities, freedom of speech, and freedom and responsibility in science

International Science Council Blog
Published: 1 October 2025

https://council.science/blog/universities-freedom-of-speech/

In this blog, Robert French explores the limits of lawful expression, the role of universities in resisting intolerance, and why the scientific community must help uphold public debate.

As recent events have shown, free speech can come at a heavy price. It also comes with qualifications – even when seemingly protected by constitutional guarantees, or international law, or both.

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Robert French, former Chief Justice of Australia, has served as Chancellor of both Edith Cowan University and the University of Western Australia. In 2019, he authored a **report on freedom of speech in Australian higher education providers**. He currently serves as Chair of the Constitution Education Fund Australia and is a member of the **ISC Committee for Freedom and Responsibility in Science**.

Article 19(2) of the International Covenant on Civil and Political Rights ("ICCPR") provides:

2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

However, this right is not unlimited. Article 19(3) qualifies it as follows:

3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others;

(b) For the protection of national security or of public order (ordre public), or of public health or morals.

The freedom is further qualified by Article 20 which prohibits propaganda for war and advocacy of national, racial or religious hatred constituting incitement to discrimination, hostility or violence.

These qualified guarantees are echoed in many national constitutions and international instruments. Such qualifications are not necessarily inconsistent with the principle of free speech, since no freedom is absolute. Still, beyond these legitimate constraints, freedom of speech today is under pressure. This pressure is in part a manifestation of societal polarization and a tolerance of aggressive exchanges between groups of people with differing views.

These pressures on freedom of speech reflect broader trends in public discourse and trust. The **Edelman Trust Barometer** a long-running global survey on levels of trust in societies around the world.The 25th Annual Survey, conducted through 30-minute online interviews with over 33,000 respondents in October and November 2024, revealed a shift from fear to polarization and to grievance. As the Chief Executive Officer of Edelman **noted**:

We now see a zero-sum mindset that legitimizes extreme measures like violence and disinformation as tools for change.

One of the key factors underpinning what the Edelman Report calls 'grievance' is confusion over credible information. 63% of respondents said it was becoming harder to determine whether news comes from a respectable source or from attempted perception.

The Edelman results also yielded the following troubling observation:

Alarmingly, four in ten respondents – 53% of those aged 18–34 approve of one or more forms of hostile activism to bring about change, which includes attacking people online, intentionally spreading disinformation, threatening or committing violence, and damaging public or private property.

Constitutional and international conventions protective of freedom of expression and public order qualifications may be ineffective in the face of a polarized societal culture in which sections of the population cannot tolerate a diversity of perspectives. Antipathy to other people's opinions or beliefs can reach across ideological and political boundaries. Neither the 'right' nor the 'left' has a monopoly on intolerance. The strident grievance of some so-called conservatives is matched by the unctuous judgmentalism of some so-called progressives.

The sciences, both natural and social, have important roles to play in this context. They must resist capture by polarizing cultures. They must eschew intolerance of heterodox views and their expressions.

Universities, which are natural theatres of the sciences, have a special role to play. They can set examples of vigorous discourse between people of diverse and opposing views, whether they be visitors to the university or students or staff on campus. They must make sure that their rules of conduct for staff and students and visiting speakers are not able to be weaponized against expressions of opinion simply because they result in some people feeling offended or even insulted.

While respectful discourse should be promoted, the term 'hate speech' should not be so broadly defined that it can be used as an instrument to suppress speech merely because some sector of the university regards it as offensive or as crossing some informally prescribed redline. Criticism or even mockery of a set of religious beliefs may be offensive to believers but is not thereby an expression of hatred of them. On the other hand, to call adherents to a particular faith deluded fools who ought to be shunned by right-thinking people, would cross the line. Sharp criticism of a scientific hypothesis may be seen as insulting to those who advance it. It is not on that account hate speech. However, to allege that somebody holding to a particular scientific hypothesis is either dishonest or a fool may cross the line to gratuitous personal abuse.

It is a social reality that constitutions, national laws and regulations, and university rules and codes, however tightly drawn, can never trump culture. A culture of chronic antagonism, between societal groups rooted in different world views, is a slow and sometimes not so slow poison against social cohesion.

That does not mean people have to agree. Their disagreements can be emphatic and values-based. Beliefs and opinions can be attacked. Beliefs and opinions have no

rights. However, people do have a right to recognition of their basic human dignity and not to be subject to personal denigration or imputation of impropriety or unfitness simply because of the lawful expression of their opinions.

While freedom of speech on campus is a paramount value, it is qualified by a general duty to foster the welfare and safety of staff and students. Universities should be able to impose measures to ensure that staff and students are not subject to unfair, adverse discrimination or threatening or intimidating behaviour. But that duty does not justify measures designed to protect any person from feeling offended or shocked or insulted by the lawful speech of another.

Universities can be exemplars in which open and vigorous debates can take place between those of differing perspectives. A demonstrated culture of tolerance and respect for individuals, even if not for their opinions, can provide a socially valuable example. It can also inform the world view of graduates and their capacity to engage constructively with diverse opinions in the wider global society.

The International Science Council has published a **Statement of Principles** which are particularly directed to the enjoyment of freedom of expression and the exercise of responsibility in relation to it in the sciences. Relevantly to freedom of expression, the Principles **include**:

iii. Freedom to promote and communicate science for the good of humanity, other life forms, ecosystems, the planet and beyond.

That freedom is associated with relevant responsibilities:

iv. Responsibility to promote science in ways that are equitable and inclusive of human diversity

[...]

vi. Responsibility to share accurate scientific information generated through theoretical, observational, experimental, and analytical approaches.

The ISC, in July 2024, also published a **Position statement on the role of universities** in enabling responsible discussion and upholding rational debate in times of crisis. That Statement asserted:

The ISC believes that university management should strive to enable responsible discussion and rational debate within campus communities without inhibiting peaceful activism or interfering with the exercise of freedom of speech by community members.

In so saying, the ISC stated that expressions of racist abuse and hate, including expressions of antisemitism and Islamophobia should not be tolerated.

The Principles and the Position Statement reflect the connection between freedom of scientific expression and its responsible exercise. It applies in the case of scientific freedom. It applies to both natural and social sciences. It cannot be isolated from governmental and societal cultures which may be supportive of the freedom or antagonistic to it. A culture adverse to open civil discourse must not be allowed to constrain the scientific enterprise.

A related issue in which universities, among others, have a role to play which cannot be disentangled from issues of polarization and intolerance of diversity of views, is that of civics education. That is a basic understanding of how societies work. Ignorance or misunderstanding of the essential infrastructures of society provide rich soil for the vendors of divisive misinformation and disinformation which is now pervasive in social media and beyond. The effective exercise of scientific freedom requires scientists to understand the societies of which they are part and to which they speak.

No one can have cause for complacency about their own society. None are immune from the effects of entrenched disadvantage, grievance, polarization, misinformation and disinformation. Social cohesion with a tolerant culture supported by strong programs of civics education are important global objectives. Scientists have the responsibility to play their part in supporting a culture in which their freedom can be exercised effectively and responsibly.