OPINION

Free speech on Australian campuses: Hidden barriers

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Speech at Australian universities is restricted in various ways. A few of them, such as student protests against visiting speakers, receive lots of attention. Others seldom do, such as defamation threats and cyber harassment. Self-censorship may be more significant than overt censorship. Those who want to raise awareness of hidden limitations on speech can learn from the methods used to raise the alarm about student protests.

Keywords: free speech; academic freedom; censorship; self-censorship; dissent

Introduction

On 11 September 2018, Bettina Arndt, a social commentator and former sex therapist, was scheduled to give a talk at the University of Sydney. Student protesters, opposed to Arndt's views about rape on campus, blocked access to the venue, and police were called to enable the talk to proceed. Protest organisers from the University's Wom*n's Collective were quoted as saying that "Giving Bettina Arndt a platform on this issue has the potential to cause a great deal of harm to students and survivors of sexual assault, who are having their experiences questioned by her tour" (Roberts, 2018). On the other hand, supporters of Arndt presented the protest as a threat to free speech on campus (Devine, 2018; Fernando, 2018; Sammut, 2018).

More generally, some commentators see protests against visiting speakers as a manifestation of toxic political correctness, in which demands for protection from disturbing ideas are stunting the expression of diverse viewpoints on campuses and beyond (e.g., Kinsella, 2018; Lesh, 2018a; Merritt, 2018). Much of this commentary sees Australia being infected by the same kind of intolerance as in Britain and the US (Fox, 2016; Lukianoff and Haidt, 2018).

Because much of this commentary is impressionistic and draws on anecdotes, ironically it is very far from a scholarly assessment of free speech on campus. Although there is a vast body of research on censorship (Jones, 2001), scholars have not agreed on a consistent and comprehensive way of judging and comparing different types of constraints on speech, on campus or elsewhere. There are challenges galore. Whose speech is at risk: students, academics, non-academic staff, visitors? To whom are they trying to communicate? What are they trying to say? How are they trying to say it? What media are they using? There is a huge difference between an academic writing an article for a scholarly journal and a student making a comment on Twitter.

Though some scholars say only states can censor speech, in practice any group with a near-monopoly on power can do so, for example corporations (Jansen, 1988). Students lack this sort of power, but they can still act like censors, as in the protest against Arndt.

In the study of censorship, there is an even greater challenge: some speech is inhibited. When people deeply absorb limits to discourse, there are things they never even consider saying. Self-censorship is very hard to document compared with overt censorship.

Another complication is that there are several legitimate and widely accepted constraints on speech. Rules against serious verbal abuse, as in cases of bullying, are an example.

Given the definitional and methodological difficulties in assessing free speech, my limited aim here is to outline some of the barriers in universities that receive relatively little public attention. This is an exercise of highlighting what is sometimes overlooked, not to make a definitive assessment. I briefly discuss a variety of constraints or inhibitions, and then examine them in light of methods of making censorship backfire. This is not to dismiss those concerns that do receive attention – some nuanced and wide-ranging treatments are available (Ben-Porath, 2017, King, 2013, Knox, 2017, Lesh, 2018b) – but to point to issues that usually dwell in the shadows.

In an academic context, free speech is valued for its contribution to the creation and dissemination of knowledge. This includes research to promote and examine knowledge claims, teaching to enable learning of knowledge and skills, and informed contributions to public issues. The focus here is on structural barriers that compromise these activities, in other words that hinder the core mission of the university.

Research agendas

Quite a bit of academic research is funded by outside bodies, primarily corporations and governments. Some research funded this way is unencumbered, with no constraints or expectations on outcomes or publications. However, quite a bit is subject to formal conditions, affecting not just what is studied but also when, how and to whom findings are communicated.

Academics and research students whose work is funded by outside bodies may be subject to agreements restricting what, when and how they can publish their findings (Kypri, 2015; Resnik, 1998; Ries & Kypri, 2018), and otherwise be subject to efforts to suppress results (Yazahmeidi & Holman, 2007).

Most large universities have associated commercial wings, and in some fields much contract research is subject to constraints. The scale of this sort of research is unclear, as is the impact on academic freedom. In many instances, universities become outposts for governments, militaries and corporations whose own research is subject to stringent controls over topics and outcomes.

A bigger issue is the effect of external sponsorship on research agendas (Dickson, 1984; Krimsky, 2003; Proctor, 1995). Coming up with findings unwelcome to a sponsor means further contracts are less likely, so there is an incentive to please the sponsor. More generally, academic fields may become oriented to the agendas of external funders, so some topics become fashionable and others lower status. In this way, funding shapes research priorities through rewards for compliance rather than through overt censorship.

Suppression of dissent

Occasionally, an academic speaks out on a topic or in a way that threatens or offends some powerful group, leading to action against the academic. There are various triggers for adverse actions, including:

- Challenging a university administration, as in the famous case of Sydney Orr, dismissed from the University of Tasmania in the 1950s (Eddy, 1961).
- Questioning a senior colleague's research, as in the case of Michael Spautz, dismissed from the University of Newcastle in 1980 (Martin, 1983).
- Questioning assessment practices, as in the case of Ted Steele, dismissed from the University of Wollongong in 2001 (Martin, 2002).
- Questioning orthodox views, as in the case of climate sceptic Peter Ridd, dismissed from James Cook University in 2018 (Alcorn, 2018).

Most such cases are highly complex, with a variety of views expressed about whether the actions by the academics and their critics were justified. Some commentators interpret the events as involving attempts to silence scholars.

Dissent can be risky, but it is not always clear what is safe and what is not. Jacqueline Hoepner began her PhD at the Australian National University on the topic of the health effects of wind farms but could not even begin interviewing before attacks by non-university wind-farm opponents made it impossible for her to continue. Changing her topic, she interviewed scholars in several English-speaking countries who had experienced attacks as a result of their investigations. One of her conclusions is that it is very difficult to know in advance where the boundaries are between what is safe to study and what can lead to reprisals (Hoepner, 2017).

Though there are quite a few publicised cases of suppression of academic dissent (Delborne, 2008;

Dreger, 2015; Martin *et al.*, 1986; Moran, 1998), these directly affect only a tiny percentage of scholars. Because information about many cases never enters the public record, for each well-known case there may be dozens of other instances.

In some cases, scholars feel obliged to fill a gap in knowledge or public discussion, even though they personally have little stake in the issue: they are reluctant dissenters. It is ironic when such scholars come under attack for seeking to pursue the mission of the university.

Defamation and other discouragements

In Australia, defamation law is an important barrier against free speech (Pullan, 1994; Walters, 2003). Using the law is expensive and drawn-out, and places the onus on defendants, who are assumed guilty unless they can prove otherwise.

More generally, there are many examples of powerful groups using legal actions to silence critics, for example in Strategic Lawsuits Against Public Participation (SLAPPs) (Ogle, 2009; Pring and Canan, 1996). SLAPPs can be effective even when they have no chance of success in court.

Physics academic Alan Roberts wrote a book review, published in 1980, in which he said "I object to the author's lack of moral concern." After several court cases, the book's author was awarded $180,000 (Bowman, 1983).

However, relatively few defamation cases involving academics receive publicity, in part because most complaints are dropped or settled before entering court. The impact of defamation law on academic work is probably less by actual suits than by discouraging investigations and commentary.

Journal and book editors can be extra cautious. In one instance from my own experience, a journal editor, presumably to reduce the risk of a legal action, removed some names from an article of mine without telling me. In another instance, lawyers took a year to approve an article, which was published with changes and a disclaimer.

Since the 1990s, I have posted on my website documents about corporate healthcare provided by Michael Wynne (2008). Several companies threatened to sue the University of Wollongong over some of these documents, though none ever initiated legal action. Separately, Wynne (2017) has written about the risks of speaking out.

Academic researchers are supposed to obtain approval from a research ethics committee before carrying out any project that can cause harm to animals or humans. This includes seemingly innocuous activities such as interviewing members of the public. Because approval processes are slow, bureaucratic and time-consuming, they discourage some researchers from some projects.

Although there has been some concern about the impact of research ethics processes (Haggerty, 2004; Shea, 2000; Stanley & Wise, 2010), there seems to have been no systematic study of how research is affected. It is plausible that requirements prevent some poor and damaging research but also, by the expansion of coverage and regulations, discourage research on certain topics, for example ones where powerful subjects might object, such as the study of corruption, or where there might be adverse media coverage (e.g, Valentish, 2018).

For Australian academic researchers, obtaining research grants is a path to productivity and advancement. Because the success rate for prestigious peer-reviewed grants is so low, many academics play safe in the projects they propose, thereby self-limiting the range of topics studied. This form of self-censorship is aggravated when the Minister of Education vetoes grants on ideological grounds.

Copyright, patents and other forms of intellectual property are supposed to foster creativity and innovation, but in practice the effect is often to stifle them (Halbert, 1999). However, there are few studies of the impact of intellectual property on speech and research at Australian universities.

Australian government laws concerning national security certainly affect academic work. For example, research into corruption in intelligence organisations would face enormous obstacles, in part because whistleblowers and journalists are subject to criminal sanctions. There are few studies of the impact of national security controls on campus speech.

Campaigns of abuse and vilification via mass and social media can have a devastating effect on targets. Online harassment is a widespread and serious problem, especially for women with a public profile (Citron, 2014; Poland, 2016). Emma Jane (2014, 2017) has examined the problem in Australia, but there seems to be little other research on the impact of cyber harassment on speech on university campuses. Other restraints include campus policies that restrict the diversity of ideas (Lesh, 2018b), fear of having work plagiarised, hate speech laws, confidentiality rules, university codes of conduct concerning public comment by staff, and freedom-of-information requests. There are few studies examining the impacts of these restraints.

Self-censorship

In overt censorship, there is clear evidence of pressures to keep quiet, to avoid certain research topics or to modify

findings. Commercial contracts, reprisals for speaking out and defamation threats are overt forms of censorship and control. More insidious is self-censorship: due to a fear of the consequences or a desire to conform in order to fit in or obtain advancement, a person chooses not to speak out, avoids sensitive topics or changes their comments.

Witnessing reprisals against others can provide a warning to avoid doing anything that might trigger similar attacks. It is plausible that the biggest impacts of suppression cases are not on the targets but on those who, seeing what happened to a colleague, decide to play it safe. Thomas Mathiesen (2004) describes several methods of "silent silencing" of opposition within organisations. One of them is "normalisation," making quiescence seem normal. Self-censorship is most effective when it is just the way people behave, without conscious reflection.

Self-censorship can discourage scholars from investigating topics or using perspectives seen as unorthodox, fringe or dangerous. In international relations, the study of pacifism is marginalised (Jackson, 2018); in psychology, the study of parapsychology is usually off the agenda (Cardeña, 2015; Hess, 1992); in physics, those who question relativity or quantum theory are usually dismissed out of hand (Campanario and Martin, 2004).

Self-censorship is related to what is called "forbidden knowledge" (Kempner *et al.*, 2011), in which discouragement of dissent from dominant views or the views of powerful groups – these may not be the same – pervades the thinking and discourse of entire groups. When there is a chilly climate for dissent, fear of rocking the boat steers research choices, perhaps especially for those who are untenured or seeking career advancement (Hoepner, 2017, p. 41).

Although some commentators – I am one of them – say self-censorship is more important than overt censorship, there is little evidence behind this assessment. This is because it is exceedingly difficult to measure the extent of individual self-censorship or the effects of a chilly climate for dissent.

Censorship backfire

Sometimes censorship is counterproductive: it leads to greater awareness of the thing being censored. In 2003, celebrity Barbra Streisand became upset about her Malibu mansion appearing among a series of online photographs of the California coast, and sued the photographer and publisher for $50 million. Her legal action triggered outrage and, importantly, great interest in the photo. Prior to the legal action it had been downloaded only six times; after publicity, hundreds of thousands of times. When online censorship counterproductively increases attention to the censored object, this is now called the "Streisand effect."

However, censorship does not always backfire. Censors and their allies regularly use several types of methods to reduce outrage: hiding the censorship (censorship of the censorship); devaluing the targets of the censorship; reinterpreting actions by lying, minimising the impacts, blaming others, and reframing; using official channels to give an appearance of justice; and intimidating and rewarding people involved (Jansen & Martin, 2015). For example, when McDonald's sued two members of London Greenpeace for defamation over the leaflet "What's wrong with McDonald's?," it used all of these methods for reducing outrage, though in this instance McDonald's' efforts failed spectacularly (Jansen & Martin, 2003).

This backfire framework for analysing struggles over censorship can be applied to various restraints on free speech on campus. Several of the restraints receive little or no attention, including those due to suppression clauses in contract research, defamation, research ethics requirements, and self-censorship. In these areas, restraints and inhibition have such low visibility that there is little need for additional action to reduce public concern.

In two areas involving free speech on campus, the full range of methods of outrage management more commonly become apparent. The first is prominent dismissals of tenured academics. For example, in the dismissal of Ted Steele from the University of Wollongong, management used the methods of cover-up, devaluation, reinterpretation, official channels and rewards (Martin, 2005). In both the Steele case and the Orr case, the dismissals generated extensive adverse publicity for the universities. In as much as the dismissals targeted critics of the universities, they were hugely counterproductive, being instances of censorship backfire.

The second area where outrage-management techniques are apparent is in student protests against visiting speakers. Student protesters do not try to cover up their censorship efforts. On the other hand, they commonly denigrate the targeted speakers, reinterpret their own campaigning as protecting students, and use intimidation to enforce their views. However, these censorship efforts have often been counterproductive, giving greater attention to the views of the visiting speakers than would otherwise have been the case. Supporters of the speakers, including portions of the mass media and some politicians, have stoked outrage by publicising the censorship, validating the speakers, interpreting the protests as censorship, mobilising support and resisting intimidation.

Student protesters apparently do not recognise, or perhaps do not care, that their actions give the speakers greater visibility or that there are effective alternative ways of responding to the expression of disliked views. A possible explanation is that activists are driven more by opportunities to express their feelings and mobilise students than by a long-term strategy to promote their preferred views. Furthermore, perhaps student activists, on campus for only a few years, have a shorter time horizon than academics and administrators who bear the longer-term consequences of counterproductive actions. Whatever the explanation, student protests against visiting speakers are one of the few facets of on-campus censorship that receives much attention. Meanwhile, other forms of silencing remain in the shadows.

Conclusion

Sociologists have long argued that social problems are not inherent in social conditions: for something to be labelled a social problem depends on "claims-making" by various interested groups (Spector & Kitsuse, 1977). For example, drink driving had to be turned into a problem (Gusfield, 1981). Those who agitate to turn a social condition into a social problem – that is, make the condition be seen by others as a problem – are the claims-makers. They act to raise awareness, create alarm and mobilise action. This sort of activity is seen in a wide range of areas, from concerns about sexual harassment to calls for war.

To say that social problems are socially constructed is not to say they are unimportant or artificial. Claims-makers, when they are successful, can help create a social movement (Mauss, 1975), and social movements have been responsible for many of the changes that today are seen as advances, such as abolishing slavery and emancipating women. One value in looking closely at how social problems are constructed is noticing how some things become seen as problems whereas others are not. Some of the neglected issues may be, by certain criteria, as much or more important than the ones in the limelight.

On Australian campuses, speech is inhibited, constrained or suppressed in various ways. Only a few of these have been turned into social problems. Student protests against visiting speakers are seen, in some quarters, as a serious threat to free speech. Occasionally, dismissals of tenured academics become public issues. Otherwise, though, restraints on speech are mostly accepted or ignored, including restraints associated with commercial and military research, defamation concerns, research ethics requirements, research orthodoxies and self-censorship. Each of these restraints in turn can be connected to conditions in universities, including job insecurity, commercial imperatives, disciplinary conformity, and fear of dissenting.

For those who believe that some of the less visible constraints deserve more attention and action, there is much to learn from the issues that have become prominent. Student actions against visiting speakers have become a cause for concern due to campaigning efforts of those speakers' supporters, especially in the mass media and by some politicians. These efforts involve publicising the protests, validating the speakers, labelling the protests as censorship, mobilising support, and continuing to organise talks in the face of intimidation.

The very same techniques can be used by those who are concerned about less visible restraints on speech. It is important to remember that free speech on campus does not happen automatically or by passing regulations, but is the result of struggles in which people speak out and join together in support of their goals.

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