

# The Struggle for Free Speech in Universities

## It is Happening Now

In 1974, Herbert Marcuse was asked whether he thought the New Left was history. He replied: 'I don't think it's dead, and it will resurrect in the universities.'<sup>1</sup>

And so it came about, more or less.

If you read James Mildred's article in the February 2021 edition of *The Bulletin* entitled *The Challenge of Free Speech in the UK* and/or Melvin Tinker's article *The Challenge of Cultural Marxism* in the July issue, then you will realise that Christians have a problem. It has its origin in New Left thinking and it is working out in postmodernism. The particular issue we have now is the curtailment and possible closing down of the ability to express freely biblical truth and its implications. It has been happening for years and is palpably getting worse; Christians and the wider church need to recognise the problem and decide what they will do about it and how. This article focusses on the situation in our universities.

It is important to note that this is not just a problem for Christians and it is not just they who are pointing out, grappling with, and seeking to overcome the challenge. This is a problem for anyone who believes in the importance of being able to present, examine and discuss competing ideas and views in a civil manner. Witness, for example, the writings of Douglas Murrey (*The Madness of Crowds: Gender, Race and Identity*), Gad Saad (*The Parasitic Mind: How Infectious Ideas are Killing Common Sense*), Stephen R. C. Hicks (*Explaining Postmodernism: Skepticism and Socialism from Rousseau to Foucault*, including the essay, 'Free Speech and Postmodernism'), Iain McGilchrist (*The Master and His Emissary: The Divided Brain and the Making of the Western World*) and Jordan B. Peterson (*Postmodernism and Cultural Marxism*)<sup>2</sup>

The situation in our universities reflects wider society in a more concentrated way and is summarised in this extract from a letter from the Dean of Students at Chicago University to new students in 2020:

*Once here you will discover that one of the University of Chicago's defining characteristics is our commitment to freedom of inquiry and expression. Members of our community are encouraged to speak, write, listen, challenge, and learn, without fear of censorship. Civility and mutual respect are vital to all of us, and freedom of expression does not mean the freedom to harass or threaten others. You will find that we expect members of our community to be engaged in rigorous debate, discussion, and even disagreement. At times this may challenge you and even cause discomfort.*

*Our commitment to academic freedom means that we do not support so-called 'trigger warnings', we do not cancel invited speakers because their topics might prove controversial, and we do not condone the creation of intellectual 'safe spaces' where individuals can retreat from ideas and perspectives at odds with their own.*

*Fostering the free exchange of ideas reinforces a related University priority – building a campus that welcomes people of all backgrounds. Diversity of opinion and background is a fundamental strength of our community. The members of our community must have the freedom to espouse and explore a wide range of ideas.*<sup>3</sup>

This points to what is being lost both abroad and in our own universities. It might be read as, around us there is a fear of censorship of speech, writing, listening, challenging and learning; but not so here. In many

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<sup>1</sup> Hicks, Stephen R. C., *Explaining Postmodernism: Skepticism and Socialism from Rousseau to Foucault* (Expanded Edition), 101, Ockham's Razor, Kindle Edition.

<sup>2</sup> <https://www.youtube.com/watch?v=wLoG9zBvvLQ>

<sup>3</sup> <https://www.insidehighered.com/news/2016/08/25/u-chicago-warns-incoming-students-not-expect-safe-spaces-or-trigger-warnings>

of our institutions civility and mutual respect have given ground to hysteria and persecution, but we believe these hitherto longstanding characteristics are vital conditions for rigorous debate. We expect this will result in, on occasions, challenge and discomfort, but all for your greater good. Trigger warnings (notices that material may offend) are prevalent but they are unhelpful and restrictive; de-platforming is common but unacceptable; safe spaces can be unsafe and are unnecessary; freedom of speech is paramount. We have set ourselves against key tenets of postmodernism and against pre- and post-Marxist philosophical principles and their contemporary implications for the freedom of expression in the sphere of education.

Good for them! May practice mirror proclamation.

Here in the UK, Oxford University says it is committed to freedom of speech but Selina Todd, professor of modern history at the university, reports harassment and intimidation over several years following her suggestion that being transgender was a modern phenomenon. Academics and students signed a letter labelling her as 'transphobic'. She reports her reputation and research is constantly smeared and undermined and that the situation is critical.

Bristol University says it is committed to freedom of speech and to the rights of students and staff to discuss difficult and sensitive topics. Raquel Rosario Sanchez, a researcher in women and violence at the university, is taking the university to court after it dropped an investigation into a complaint she made of bullying by a transgender student. She faced abuse and masked protestors when she attended complaint hearings to give evidence.<sup>4</sup>

In a letter to The Sunday Times of 17 October 2021, 240 academics from a wide range of universities, including those at London, Oxford, Cambridge, Essex, Manchester, York, Durham and the Open University, called on Baroness Falkner as Chair of the Equality and Human Rights Commission to undertake a review of policies and practices in UK universities that impose a radical gender orthodoxy and discriminate against those who recognise that sex matters. The letter was under the banner of the organisation Sex Matters,<sup>5</sup> set up 'to reestablish that sex matters in rules, laws, policies, language and culture'. The organisation has currently logged over ninety news reports of bullying, harassment and no-platforming at UK universities since 2016 relating to those who question transgender orthodoxy. The list excludes academics who cannot speak freely. Thirty-nine cases are so far recorded for 2021, 15 in 2020, 20 in 2019, 16 in 2018, 2 in 2017 and 2 in 2016.

Also, in October this year, over 220 legal academics signed an open letter in support of Sussex University's defence of academic freedom, following the much-publicised case of Kathleen Stock.<sup>6</sup> A similar open letter of support for the university's stance was signed by 240 UK philosophers.<sup>7</sup> Kathleen Stock, a professor of philosophy at the University of Sussex, does not believe people can change their biological sex, an opinion she has been vocal about in her academic work and on social media. Critics have accused her of being transphobic.<sup>8</sup>

## Postmodernism Summarised

This article began with a quotation from Herbert Marcuse from 1974. By that time the terror tactics of the Left which were so evident in the 1960s and early part of the 70s – exemplified, for example, by the Baader-Meinhof Gang – had all but been defeated. The wider socialist vision was in ruins as communism collapsed.

But not quite. A new weapon emerged: meaningless words.

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<sup>4</sup> <https://www.thetimes.co.uk/article/200-academics-tell-of-death-threats-and-abuse-as-battle-rages-for-free-speech-hp99fnzjh>

<sup>5</sup> <https://sex-matters.org/>

<sup>6</sup> <https://openlettertosussexfromuklegalscholars.uk/>

<sup>7</sup> <https://openlettertosussexfromukphilosophers.wordpress.com/>

<sup>8</sup> <https://www.thetimes.co.uk/article/kathleen-stock-the-sussex-university-professor-in-trans-row-urged-to-get-bodyguards-2khmgzk98>

Stephen Hicks comments:

*...postmodernists need not believe much of what they say. The word games and much of the use of anger and rage that are characteristic of much of their style can be a matter – not of using words to state things that they think are true – but rather of using words as weapons against an enemy that they still hope to destroy.<sup>9</sup>*

The enemy is capitalism and its political and social bedrock.

The argument for free speech as described in John Stewart Mill's 1859 essay *On Liberty*, is an often-quoted and powerful articulation of the need for this freedom:

*If all mankind minus one, were of one opinion, and only one person were of the contrary opinion, mankind would be no more justified in silencing that one person, than he, if he had the power, would be justified in silencing mankind. Were an opinion a personal possession of no value except to the owner; if to be obstructed in the enjoyment of it were simply a private injury, it would make some difference whether the injury was inflicted only on a few persons or on many. But the peculiar evil of silencing the expression of an opinion is, that it is robbing the human race; posterity as well as the existing generation; those who dissent from the opinion, still more than those who hold it. If the opinion is right, they are deprived of the opportunity of exchanging error for truth: if wrong, they lose, what is almost as great a benefit, the clearer perception and livelier impression of truth, produced by its collision with error.<sup>10</sup>*

For the postmodernist this statement has no meaning or value for them and is simply the attempt of a particular section of the elite to maintain their very patriarchal position of power. On this basis it can be rubbished and rejected.

Postmodernists recognise that this stance contradicts their own statements on postmodernism. For example, they believe all truth is relative, but they also believe postmodernism tells the truth as it is. But contradictions do not matter because words to them are verbal bullets, not vehicles of meaning. A contradiction is simply something that doesn't make sense in a framework of reference that postmodernists reject. If someone says, as Kathleen Stock mentioned above has done, that someone cannot change their sex, the postmodernist approach is to deny the validity of this view and label the purveyor as, say, transphobic – and if this fails to silence them, then use harassment.

At a deeper philosophical level postmodernists believe that:

- our thinking, our processes of reasoning, are socially conditioned and therefore reason is not a way of knowing reality. (Christians recognise reason has its limits and is subject to sin, but is nevertheless a God-given faculty for arriving at truth);
- speech is a form of social conditioning that is instrumental in making us who we are. (Christians believe we are made in the image of God, that fundamentally and crucially we share attributes and characteristics of God and that we carry a God-given conscience within reflecting godly standards, although marred and distorted by sin);
- egalitarianism and altruism are universal principles that should be applied across society. (Christians recognise God made us different in a myriad of ways as well as having characteristics in common – this is beneficial – and that we answer to God individually on the basis of what we are given and what we have done with it. While we have sympathy with aspects of altruism, what it means in the postmodern context is the egalitarian redistribution of advantage to the disadvantaged in order to ensure an (unobtainable) equality of outcomes. This is applied to speech as a need to limit the speech of stronger groups, or strengthen the speech potential of weaker groups, in order to equalise the overall power of speech.

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<sup>9</sup> Hicks, *Explaining Postmodernism: Skepticism and Socialism from Rousseau to Foucault*, 110.

<sup>10</sup> Mill, John Stuart, *On Liberty*, 18, Amazon Classics.

All this translates into the view that speech is a form of social power, fairness in speech is having an equal ability to speak, that this ability is unequal across races, sexes and so-called minority gender groupings and that stronger racial, sexual and other groups use their superior ability to speak to the disadvantage of other races, gender groups and women. As a consequence, speech, as noted earlier, is a weapon and not a tool for free individuals to communicate and gain insight, knowledge and understanding. For the postmodernist 'debate' is about the accrual of power.

Consequently, for postmodernists, speech (or freedom of expression) codes, which set the rules of the speech 'game', are crucial and necessary to render the game fair. Added to this, postmodernists regard speech as a form of physical action and as such it is, they argue, capable of harm – physical harm. Therefore, the rationale goes, there are circumstances in which beating with words must be curtailed as beating with a stick would be.<sup>11</sup>

The following section looks in particular at the implementation of speech codes in universities and the effects on free speech.

### Headlines and Data

The spectrum of views on free speech are strongly linked to political ideology. Right wing media typically portray the threat within our universities as 'dire'<sup>12</sup>, while those on the left commonly take the view that it has been a 'right wing myth for 50 years'<sup>13</sup>. A number of organisations have attempted to get to grips with the scale of this issue to determine which of these positions is nearer the truth.

In March 2018, the Joint Committee on Human Rights, comprising members from both sides of the House of Commons and the Lords, produced a report on 'Freedom of Speech in Universities'. Their conclusions on the scale of the problem were:

*Any inhibition on lawful free speech is serious, and there have been such incursions, but we did not find the wholesale censorship of debate in universities which media coverage has suggested. There are real problems which act as disincentives for students to put on challenging events and whilst most student union officers who responded to our survey (comprising 33 responses in all) say they are confident that they and their companions can speak freely, such disincentives could be having a wider 'chilling effect', which is hard to measure. A much broader survey of students' opinion would be needed to assess levels of confidence amongst the student body as a whole.*

For reference, there are just over 140 universities in the UK, so the 33 responses represent about 23% of the total. The Committee also took evidence from a range of other sources. It noted that,

*We also found that many of the incidents in which free speech is restricted often revolve around discussion of key controversial or divisive issues, which can stir up strong emotions. Amongst the things around which there is emotional debate are speech which is thought to incite or support terrorism; pro-life or anti-abortion views; Transgender issues; Islamophobia; Israel/Palestine conflict; right wing vs left wing views; and Humanist/secular groups critiquing religion.*

Civitas, generally regarded as a right-wing think tank but said to employ those from the left-wing of the political spectrum, published a report in December 2020 entitled *Academic Freedom in Our Universities: the Best and the Worst*<sup>14</sup>. Their review covered 137 registered UK universities over the period 2017 to 2020. This followed 'a new and unique approach, methodology and data to measure restrictions on free speech'.

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<sup>11</sup> <https://www.nytimes.com/2017/07/14/opinion/sunday/when-is-speech-violence.html>; [http://susanbrison.com/files/B.16.-speech\\_harm\\_and\\_the\\_mindbody\\_problem\\_in\\_first\\_amendment\\_jurisprudence.pdf](http://susanbrison.com/files/B.16.-speech_harm_and_the_mindbody_problem_in_first_amendment_jurisprudence.pdf)

<sup>12</sup> e.g., Andrew Doyle for the *Daily Mail*, 17 December 2020.

<sup>13</sup> Evan Smith, *The Guardian*, 22 February 2020.

<sup>14</sup> <https://www.civitas.org.uk/publications/academic-freedom-in-our-universities/>

They ranked universities into three groups: Most Restrictive (to free speech); Moderately Restrictive and Most Friendly.

**Most Restrictive:** 48 of the universities (35%) – including the three highest ranked UK universities – are performing badly on free speech and the government should take some action to resolve the issues by a change of policy and legislation.

**Moderately Restrictive:** 70 of the universities (51%) are not performing as well as they should, and the Office for Students (OfS) should tell the university how it could improve.

**Most Friendly:** 19 of the universities (14%) have allowed some restrictions to free speech in its actions and regular policies but not at the level which might warrant external intervention.

Headline findings include:

- That speech could be curbed by perceived transphobic episodes in up to 65% of the most restrictive universities, just under half (47%) of moderately restrictive universities, and just over a third (36%) of even the best-ranked (most friendly) universities
- That curbs to free speech due to a ‘cancel culture’ of open letters and or petitions remains relatively high across the spectrum of institutions – evidenced in 69% of the most restrictive universities, 48% of moderately restrictive universities and 47% of the most friendly universities;

They identified that,

*although 73% of the most restrictive universities, 74% of moderately restrictive universities, and 58% of the most friendly universities do have a Free Speech Policy, this has not only set out multiple curbs to free expression but the Education Act of 1986 explicitly requires one in each university. If universities do provide a Free Speech Policy, it can often have little significance for their overall Censorship score.*

They also noted that equalities regulation had restricted free expression, for example, bullying and harassment policies are able to curb free speech by imposing on average 182 restrictions in the most restrictive universities, 90 in the moderately restrictive universities and 15 in the most friendly universities.

The online magazine *Spiked*, supported by the Joseph Rowntree Foundation, produced a report in December 2018 which ranked free speech in universities. One hundred and fifteen institutions were covered over a four-year period and they found:

- 54% [62] of institutions were ranked Red, meaning they actively censor speech by banning certain views from being expressed on campus and / or ban specific texts, speakers and groups from campus on the basis of their content / views.
- 40% [46] were ranked Amber, meaning they chill speech through unnecessary regulation, burdensome speaker-vetting procedures or guidance warning students against engaging in vague categories of expression – for example, ‘offensive’ or ‘provocative’ speech.
- 6% [7] were ranked Green, meaning they place no significant restrictions on speech, as far as we are aware.<sup>15</sup>

The *Spiked* report also noted that, ‘In 2018, religion policies were the most prevalent category of censorious policy we found, with 48% of institutions warning students and speakers away from offending faith groups, or placing conditions on faith-based societies and events.’ They also found, ‘transgender policies were among the most prevalent category of censorious policy we found, with 46% of institutions

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<sup>15</sup> The report is no longer available.

holding policies that either ban transphobia outright, urge or require students to use transgender pronouns, or otherwise regulate discussion of transgender issues.’

In 2019 the Policy Institute at King’s College, London noted that,

*Universities increasingly face criticism over freedom of expression, from a perceived increase in regulation, such as safe-space policies and no-platforming, to claims they are succumbing to demands of a new generation of “snowflake” students. Yet the extent of this commentary is often disproportionate to the number of instances where freedom of expression has actually been violated – and, more importantly, is seldom informed by what students themselves actually think about the issue.*

In July/August of that year they carried out an online survey of a representative sample of 2,153 students asking whether they agreed or disagreed with a list of 27 statements. Over the same period they carried out a parallel online survey of 2,179 members of the public for comparison. Some of the results are interesting, others seem loaded and crafted to produce particular outcomes.<sup>16</sup>

For example,

- ‘Universities are taking seriously the need to protect students from hatred so that everyone can enjoy an equal right to express themselves freely.’ (14% disagreed, 80% agreed). Hatred is not defined and who would not want to enjoy an equal right to express themselves freely? The issues in this situation are, what constitutes hate speech and what level of discomfort and challenge should be tolerated? Both are difficult to address.
- ‘University officials have the right to ban persons with extreme views from speaking on campus.’ (33% disagreed, 62% agreed). ‘Extreme’ isn’t defined.
- ‘Universities should be able to establish policies that restrict expressing political views that are upsetting or offensive to certain groups.’ (37% disagree, 51% agree). As noted here and elsewhere, much of the debate around freedom of expression hinges on the effects of the policies put in place in universities, which depend on the interpretation of words such as ‘upsetting’ and ‘offensive’.
- “‘Safe space” policies and a culture of “safetyism” in universities is threatening freedom of expression’. (48% disagree, 35% agree).
- ‘If someone is using hate speech or making racially charged comments, physical violence can be justified to prevent this person from espousing their hateful views’. (66% disagree, 25% agree). There appears to be no mention of harassment or intimidation or whether violence includes so-called speech violence.

The report opens with a long statement which is used by King’s and its Students’ Union and which is said to be inspired by the ‘Chicago Principles’. These principles are summarised in the extract from the Dean of Students letter to students starting at The University of Chicago in 2020, cited earlier in this article. The statement reads:

*Intellectual inquiry necessarily involves ideas that are in dispute, that may cause controversy, that may cause offence and that may provoke a reaction amongst audiences in the university community and beyond. Universities should be committed to a safe and civil environment for the exchange of ideas and the cultivation of knowledge. This commitment will at times see universities serving as places in which intellectual, moral, or political disputes come to the fore. At such times, the role of a university is to ensure that all parties feel confident and safe in expressing their views except when this speech discriminates based on race, class, disability, sex, age, gender, identity, transgender status, religion or sexual orientation.*

<sup>16</sup> <https://www.kcl.ac.uk/policy-institute/assets/freedom-of-expression-in-uk-universities.pdf>

81% of students surveyed in the King's study agreed with this statement. However, despite being based on the Chicago Principles it isn't as clear as the Chicago letter cited earlier, nor is it clear that it is actually protecting free speech rather than, for instance, simply nodding to the concept and some of its associated ramifications. It appears to depend on how the term 'discriminates' is understood and applied. In the Civitas report King's College London was characterised as Moderately Restrictive and appeared as one of the 62 worst institutions for freedom of expression ranked Red in the Spiked report. In contrast, the canvassed views of 37,000 students ranked The University of Chicago the second highest open environment for student free speech and open inquiry out of 159 US colleges.<sup>17</sup>

### **How Does the Data Speak?**

We can see that policies and rules affecting freedom of expression have made substantive inroads into universities and students' unions in recent years and that free expression policies which are intended to protect it often do not. We can see that transgender issues, which have arisen overnight, have displaced centuries of biological understanding of sex differences with a form of biophobia. They have the flimsiest of ideological foundations but have become a major battle ground. Since the rules of the free expression game are being imposed to various degrees, substantially so in many, perhaps the majority of our universities, it is reasonable to conclude that the threat to free expression is high – it is certainly not myth.

The Joint Committee report concluded that the restrictions on freedom of expression in our universities were less than the impression that might be gained from media reports. This is not surprising as in general the reaction that media reports on topics such as this provoke is the reaction which such reports are, at least in part, designed to provoke, namely, the grabbing of attention and the generation of concern. This 'grabbing of attention', coupled with concern and fear is also at the heart of the strategy of those who desire a postmodernist clampdown on freedom of expression. It might well be true that the situation is less than dire as pointed out by the Daily Mail, but then again dire is an extreme condition.

The Joint Committee went on to note the difficulty of trying to obtain a measure of the chilling effect of anti-freedom of speech policies and activities. This effect manifests itself as removing the motivation to contest or promote an issue or viewpoint, avoiding conflict and, in the extreme, becoming apathetic. Consequently, if this is the case and the chilling effect is increasing, we might well expect to see, at some stage, a decrease in the numbers of freedom of speech incidents, since people will have been 'chilled' into apathy and inactivity. It is perhaps obvious that the numbers of such incidents are a balance between the increasing numbers of rules which limit free speech and the reaction to their interpretation and implementation. We might, therefore, in the short term be happy to see an increasing number of incidents as a measure of the push back to anti-freedom of speech policies and activities.

In November 2020 the committee launched another inquiry which, amongst other matters, focused on how the situation has changed in universities in the two years since the committee's last report on the issue. Affinity along with other organisations including Christian Concern and The Christian Institute submitted evidence. The deadline for written submissions concluded in January 2021 and the committee is yet to report.

In May this year the government introduced The Higher Education (Freedom of Speech) Bill which will if approved bring in new measures that will require universities and colleges registered with the Office for Students to defend free speech and help stamp out unlawful 'silencing'. The Bill, which is the implementation of an election manifesto commitment, includes a requirement that the governing body of a registered higher education provider must promote the importance of '(a) freedom of speech within the law, and (b) academic freedom for academic staff of registered higher education providers and their constituent institutions, in the provision of higher education'. In addition, a students' union at a registered higher education provider '...must take the steps that, having particular regard to the importance of

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<sup>17</sup> <https://rankings.thefire.org/>

freedom of speech, are reasonably practicable for it to take in order to achieve the objective of securing freedom of speech within the law for (a) members of the students' union, (b) students of the provider, (c) staff of the students' union, (d) staff and members of the provider and of its constituent institutions, and (e) visiting speakers.'

The Bill is currently at the report stage in the House of Commons. Those in the media on the left of the political spectrum see no requirement for a bill of this kind since they maintain there is no significant issue to address. The Bill may be a positive thing (the concern for freedom of speech is encouraging) and it may have beneficial effects as intended but, it may also simply transfer some battles from the campus to the courtroom. We wait to see its effects should it become law.

### **What Can We Do?**

It behoves Christians to be informed about the issues surrounding freedom of expression and to understand what this means now (for example, the Christian Legal Centre received 895 enquiries from Christians in 2020, a significant number of which came from those who were facing or had faced disciplinary action in relation to homosexuality and gender identity) and what it may well mean in the future for their ability to proclaim, discuss and represent biblical truth and views. They should seek to challenge this decline of common sense graciously and persuasively, picking their battles wisely and supporting those who need to challenge cases in the courts. Christian leaders and churches should gear up to the threat and act accordingly. They should not leave themselves open to the charge of inattention and inaction as they were when the 1967 Abortion Act was passed.

*The above article was submitted by an independent, bona fide contributor, who, for professional reasons, has asked to remain anonymous. We are happy to agree to this request.*