TRANSCRIPT: Professor Adrienne Stone and Professor Eric Heinze

Gauri Pillai (0:11): You're listening to RightsUp!, a podcast from the Oxford Human Rights Hub. In today's episode, we talk to Professors Adrienne Stone and Eric Heinze about the human rights implications of the alleged free speech "crisis" in university campuses in Australia and UK, but also more globally.

(0:52) UK Education Secretary Gavin Williamson, on 12 May 2021, introduced the Higher Education (Freedom of Speech) Bill,[1] and the Bill claims to promote freedom of speech in UK universities to counter the chilling effect caused by unacceptable silencing and censoring on university campuses. Similar concerns about free speech and academic freedom on university campuses have also been raised in Australia. And it's important for us to remember that both of these are just manifestations of much larger debates, which are waging far beyond the borders of [the] UK and Australia individually.

(1:27) So to discuss the human rights implications of this alleged free speech crisis in university campuses, we have with us today Professor Adrienne Stone, Director of the Center for Comparative Constitutional Studies at Melbourne Law School, and Professor Eric Heinze, Professor of Law and Humanities at Queen Mary University of London.

(1:49) To begin, Professor Heinz, maybe you could briefly explain to our listeners what the 2021 Bill really proposes to do and how it claims to protect the right to free speech?

Professor Heinze (2:00): Yes, of course. The Bill was originally introduced in response to a number of controversies surrounding outside speakers who were brought into universities, sometimes against great opposition by students, or even by staff. In some cases this lead to proposals, at least, or attempts to have the speakers "dis-invited". This caused a lot of outrage in Government circles and so what the Government proposes to do is to promote a culture of free speech by limiting the ability of some members of a campus community to censor invitations issued by other members of the campus community to controversial speakers.

Gauri Pillai (3:00): How do you think that these issues that the Bill [is] seeking to target are reflective of the more global debates on free speech that are happening at the moment?

Professor Heinze (3:09): Well, this is not a controversy limited to Britain. As is commonly the case, these sorts of controversies tend to— tend to boil over in the United States, first, and then, for a few years, people think that these are just American problems, but little by little they tend to spread, and evermore quickly now in the age of the internet, where local problems often quickly become global problems— particularly American problems tend very quickly to become global ones. And so, lo and behold, these questions about campus speech, campus speech codes, about inviting outside speakers, are becoming more and more heated in a number of countries throughout the world. And of course, particularly in democracies that have certain traditions of free speech, and of open inquiry at universities... And so now, really, in a number of countries, certainly, for example, on the European continent, we're seeing these sorts of debates increasing year by year.

[1] Bill available at: https://bills.parliament.uk/bills/2862

Gauri Pillai (4:18): Professor Stone, maybe you could jump in here and tell us a little bit about Australia in this context, and especially the French Review, and whether you think that the debate in Australia has shaped up quite similarly to the UK and more globally, starting with the US?

Professor Stone (4:35): So I do think the debate has shaped up similarly. And I think that is at least as much because the debates seep from one country to another, even if the underlying problems don't. So I think that there is an extent to which there have been— there has been an eye on the United States here, and there has been something of an assumption that we might have the same problems in Australian universities as— as arguably exists in the US (and I'm a bit critical of that assumption).

(5:10) But— so let me just say a little bit about the Australian context. There have been a series of controversies. I think that it's pretty well established that they've been fairly limited in number and significance, but there have been a number of controversies, including instances in which I think speakers were subject, I think, to excessive opposition when they wanted to come onto campuses. There's been a lot of criticism of the universities, largely associated with the conservative Government — so, from the political right — and there was a review into free speech in Australian universities headed by a former Chief Justice of the High Court, Robert French.[2]

(5:53) And the findings of that review were, to summarise a long review: first of all, that there was no identified— there was no evidence of a free speech "crisis" in Australian universities; secondly, that Australian universities already had considerable mechanisms within the governing documents to deal with academic freedom and freedom of speech; and thirdly (and I agree with this as well), that they probably weren't specific and strong enough.

(6:21) The result was that there was a Model Code proposed.[3] It is not a Code that Australian universities have to adopt, but many of them have moved either to adopt it, or to, I think, improve their own free speech policies in the light of it. And it was a specific recommendation of the French Review that the Model Code not be compulsory, not be legislated, and that universities have some room to respond themselves. But relevantly, the Model Code in relation to controversial speakers takes the view [that] it should only be in circumstances where speakers might subject people within the university community to humiliation or intimidation, and that only in those circumstances would it be legitimate not to extend or— an invitation to a speaker who wanted to come onto campus.

(7:18) So that's approximately the best short summary I can give you of a complex situation.

Gauri Pillai (7:25): That's excellent, and that was very helpful, both of your responses. So, to pick up on something you said, Professor Stone, about empirically whether the claims of a free speech "crisis" are exaggerated or not. So, as in Australia, and as the French Review found in Australia, reports by the higher education regulator in the UK suggests that claims of [a] free speech crisis are exaggerated. To just give you an example, regarding "no-platforming"

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of speakers — of the 62,000 requests by students for external speakers at English universities in 2017-18, only 53 were rejected by a student union or university, which is less than 0.1% of the total.[4] And similar observations were made in a 2018 report by the Joint Committee on Human Rights in the UK.[5] So my question is to you, Professor Heinze — in light of these reports, how would you respond to the claim that there is a free speech "crisis" in universities?

Professor Heinze (8:25): I think there are a number of problems with this statistic. And incidentally, yes, whether there is a "crisis" or simply a problem— You know, nowadays, everything's a "crisis", it's an overused word... I certainly do think that there is a problem. And this statistic is extremely misleading, and I'm surprised that anybody uses it. Let's— let's take a close look at it. Right, it speaks of more than 60,000 requests for external speaker events. Now, overwhelmingly, the speaking events at universities do not involve major social controversies. An outside speaker might be invited to talk about a new astronomical discovery, a new discovery in biology, new information about Shakespeare's childhood... There are infinite numbers of speaking events that take place that are not— that simply don't have anything to do with general social controversies.

(9:28) So that number is useless, 60,000. What they needed to do was look at the number of speakers who— whose— who were taking somehow controversial positions on somehow socially controversial matters. That would have been much smaller at any given university, right? So the number would have to be reduced from 62,000 to, at most, a few 100 (and I'm not even sure it would go that high). When we look at it from that perspective, 53 is not a small number — quite the contrary, it's a very large number.

(10:05) And moreover, and perhaps this is the even more important point — human rights are not about projecting— protecting only problems that exist in high numbers. Human rights are often about protecting the small numbers of people — again, people who are dissenters. Dissenters often exist in small numbers. But I would say that again, however we want to construe this number of 53, it means that people were rejected because of their opinions, or because of their viewpoints, or standpoints, right, when it's precisely the function of the university to examine controversial views.

Professor Stone (10:50): So, you know, I absolutely agree that it's always a good time to talk about freedom of speech on university campuses, and I absolutely agree that a small number of instances is enough to justify a really serious discussion. I actually think that these kind of events are quite rare, but the effects of them can last a very long time, they can be very damaging to the university community. So I want to take them really, really seriously.

(11:19) The reason that I do insist on just getting a little bit of perspective on this is that I think we also have to realise that there's a very particular context in which criticisms are currently being launched at universities, and some of this is, I think, intimately associated with the rise of the populist right. And certainly, this is evident in Australian politics — that there is a

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[4] Richard Adams. "Campus free speech law in England 'likely to have opposite effect'" *The Guardian* (12 May 2021), available at: https://www.theguardian.com/education/2021/may/12/campus-free-speech-law-england-likely-opposite-effect
[5] Report available at: https://publications.parliament.uk/pa/jt201719/jtselect/jtrights/589/589.pdf

populist right that is deeply suspicious of elites, of any form of expertise, and of independent institutions that might hold Governments to account. And universities are all of those things. And so, in my view, the exaggeration of the crisis in university risks giving fuel to the populist criticism that seeks fundamentally to undermine the authority of universities.

(12:15) Now, I think that makes it all the more important that we make— take a small number of problems seriously. But I think it is also important to understand the context and get the perspective, because in my view Australian universities are forums where controversial ideas are discussed all the time.

Professor Heinze (12:35): In a sense, I certainly agree with you that there's— that there's a hysteria being whipped up on, you know, on the political right. Having said that, I think that there's a lot of hyperbolic rhetoric at both extremes, and I think within university departments, in particular, the politics are often very different from those of society as a whole. And so I would like to see, actually, both extremes, moderated a bit, and which— and I think, actually, free speech serves that cause.

Professor Stone (13:09): So perhaps I could just say that this is going to be no fun, Eric, if we continue to be in furious agreement all the time, but I will say that I couldn't agree more about the need for moderation on both— at both ends of the extreme here. I think a certain amount of passionate commitment and overstatement is, you know, part of campus life and part of political life. What I hope would be special about universities, and what I think universities and university academics ought to be doing is to be— have a special responsibility to promote genuine open-mindedness, reasoning, and evidence-giving— and evidence provision in the course of argumentation. And that a— that's a hard task, but it's one that I think would be worth exploring, because otherwise you're right, we're left with the culture war, and the feature of the culture war is, you know, a lack of reason and good motive on both sides a lot of the time.

Gauri Pillai (14:10): Well, I think that the agreement is fascinating, because it kind of shows that the extent to which the polarisation actually exists is also, in fact, exaggerated.

(14:22) So maybe we can now move onto the specific legislative proposals in the UK, and again, to go back to something we started with, it is important for us to remember that all of these issues which we talk about in the context of the UK or Australia have a lot of global resonance.

(14:40) My next question is, the supporters of the Bill argue that policies such as no-platforming, which the Bill targets, raise free speech concerns by clamping down on the free and open discussion of all ideas. And no-platforming, as I'm sure you're all aware, refers to the refusal to provide a platform to speakers who further marginalise disadvantaged or subordinated groups. So my first question is to you, Professor Heinze — you have argued that no-platforming is at the opposite— is at odds with the mission of higher education. Can you explain this claim and how no-platforming raises free speech concerns?

Professor Heinze (15:17): Yes, yes, gladly. Yeah, and here, I'm afraid I'm going to have to become just a little bit professorial, so feel free to interrupt me if you find yourself falling

asleep. We're in the habit of talking about liberal democracy, as if "liberalism" and "democracy" basically entail the same values. Sometimes they do — sometimes the phrase "liberal democracy" is useful. In the case of free speech, it's terribly confusing. The— Overwhelmingly, the arguments that we have about free speech have been framed within the vocabulary and the concepts of classical liberalism. What do I mean by that? The classical liberal view of free speech is that we need— or the classical liberal view of anything— is that politics should always optimise individual freedom — it should always allow as much freedom as possible, limited only by possible harms caused in the exercise of freedoms, right? That would be the outer limit of any given freedom, including free speech.

(16:29) Now, what does that mean, for universities? It means that we have to have, for each case, kind of "Platonic guardians" who are in the business of deciding how— of measuring out everyone's fair share of speech — how much freedom should everyone get? I think this is totally wrong. And so in my own work, I've argued that the liberal— this kind of liberal calculus, of freedom versus harm, gets us nowhere — it simply becomes another way of rephrasing the same old debates or, as Adrienne said, the same old cultural wars, and what we need is actually a democratic model, which is very different from a liberal model here. What do I mean by a democratic model?

(17:11) I would admit any speaker. What matters are the rules of the game, the rules of the discussion — how is that speaker then being invited? What kind of event is it? If you're going to invite speakers, what's important is that there is a platform — and this is very easy nowadays, in the era of the internet — where the whole university community is informed, you identify who's doing the inviting (whether it's an individual or a group), you advertise it to the whole university community, everyone's invited, no private meetings (you know, at least on, you know, state financed campuses, which are most of the campuses in Europe), and then there's always— the final rule is that there is always an opportunity for cross-examination. You don't have "gurus" who come, say what they want to say, and then leave. A lot of controversial speakers simply wouldn't come because they would know that they were being subject to cross-examination, and many of them don't like that.

Professor Stone (18:16): Oh, okay, so I'm going to be professorial for a moment and offer a competing frame (and this comes from my recent book, which I co-authored with Carolyn Evans).[6] So, I mean, my view, overall, about inviting speakers onto a university campus is that what is important to remember is that this is a university, and universities ought not be thought simply as forums for the politics that might occur in the society at large. They're special communities of research and teaching, and the way in which activity is conducted on a university campus — including the way in which speakers who are invited from outside, the way in which we respond to them, and decide who can come and who can't, and what circumstances — all of that has to be consistent, and really driven by fundamentally university values. Now, I think that universities ought to place a very high priority on having a very diverse range of speakers and absolutely permit the unorthodox and the uncomfortable idea to be expressed in campus. I think those are university ideals. But, um, I think universities should not be shy about curating the speech environment in a way that reflects what

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[6] Carolyn Evans and Adrienne Stone. *Open Minds: Academic Freedom and Freedom of Speech of Australia* (La Trobe University Press, 2021)

academic ideals are, and so we should be really rather insistent on things like the provision of an opportunity for response.

(19:56) Now, all that is said, I think where Eric and I differ is this. There are a very small number of speakers who I think having them on a university campus is inimical to the kind of community that you want a university to be. So, for example, I think, you know, the worst forms of, say, white supremacy. Now, in my country, those would be basically illegal anyway, but there might be some places where they're not. Or, for example, I think the most egregious forms of say, anti-vaccination activism, which actually operate, not only with a disregard of, but with a fundamental contempt for, the knowledge-seeking mission of universities.

Professor Heinze (20:09): See, I guess the problem is, I've heard at a number of academic conferences, and there are actually publications written also, to suggest that climate change deniers— we need to, you know, exclude them too. People, you know, who have differing views on the rights of trans people. Again, it always looks like a small exception, but you know, these exceptions, they don't stop, they just keep coming and coming, and each one has a passionate reason for it, and it's always just going to be a very narrow exception. Well, before you know it, particularly once you allow one group's exception, then it becomes harder and harder to disallow other exceptions. I don't think the question is— obviously nobody has a right to a university platform. Certainly no outsider has a right to it. But I don't think that's the question.

(21:03) Again, the question is, if some members of an academic community make the autonomous decision, like a student group, that they want to invite a speaker... Because then the question is whether other members of the academic community have any standing at all to censor that view, that's really what we're talking about, right? It's not— I don't think it is an abstract discussion about what are the values, or you know, the mission of a university, because again, that simply presupposes what often needs to be discussed. And again, it sort of pre-empts, it says, "Well, we've already solved this problem of what a university is and what its vision is, and so now we can move on." But— but who's made that decision, right? That ultimately becomes authoritarian.

(22:25) My last point would be that— and again, why I get nervous about a model about "academic values", again, whatever those are, and whoever they are... A university is not only actually about the pursuit of academic values. That's what happens in the classroom. That's what happens at the library. That's what happens in the laboratory. But a university community is also a community, and in a democracy, it means it's a democratic community within a democracy. Now, what student groups do when they invite speakers is not always meant to recapitulate what's going on in classrooms. It is an expression of them, of their community identity, and not simply their academic identity or allegiance.

Professor Stone (23:11): I think we have to remember, whatever approach we take here, there are costs, and there are risks. So if we take the view that every speaker is welcome on campus, let's remember that there are costs.

(23:25) One of the costs might be the co-option of the prestige of a university to a thoroughly unworthy cause, like say, intelligent design or eugenics, or something like this. Another thing

to remember is that, I think it's a mistake always to characterise an invitation to a speaker on campus as [if] members of a university community were genuinely interested in knowing what the speaker wants to say. Very often— or, not very often but at least in some circumstances, it's quite clear what you have is one group of students provoking, deliberately, another group of students, which is part of ordinary politics, but it's not quite valuable, robust, open discussion.

(24:08) And lastly, of course, there are the costs to members of the community who may be the subject of very, very hurtful and harmful kinds of speech. And we just have to remember that those don't fall evenly, you know? They fall on minority students more than they fall on the majority of students. They fall on women more than they fall on men.

(24:35) Now, I really think part of the point of a university education is to learn a certain degree of civic courage — that is, the capacity to hear the really horrible offensive idea and respond. I'm really interested in universities being able to work with their students in building up those values. But we shouldn't pretend that there are no costs and no risks to either kind of approach here. Um, and secondly, I'm just not as agnostic about what the values of a university are. I think that there are instances of universities worldwide that have done a brilliant job at, you know, self-consciously, as a community, engaging in a process of identifying university values — the Chicago Principles are one.[7] And, you know, I don't necessarily— wouldn't necessarily suggest every university adopt those principles themselves, but what's wonderful about them is how they have brought a university community into a dialogue about what that university is about. Other universities have done the same, and we detail some of them in our book. I think that it is within the scope of a university to create a conversation about university identity — that is a very productive way to go and can be the basis for, you know, a thoughtful approach to having a university environment that is both really open, but really, really respectful of the fundamental mission of the university.

Gauri Pillai (26:11): To actually pick up on the idea of costs to students from minority communities. So, another right that commonly comes into play in these debates is the right to non- discrimination of these students. And so, on the one hand, it is argued that forms of speech which discriminate against these students by perpetuating their disadvantage, or by violating their dignity, should not be protected as free speech. And on the other hand, the UK Government is very careful, or has been very careful, to emphasise that the new law would not legitimise hate speech, or the incitement to forms of violence and abuse — instead, it would only protect lawful forms of free speech, which the Government claims are currently being suppressed for offending the feelings of over-sensitive students. Professor Stone, in your opinion, is this a fair characterisation of the tension between the right to free speech and the right to non-discrimination?

Professor Stone (27:05): So I think there is a tension. I think there are circumstances in— that I can think of— that involve students' over-sensitivity. But there are also examples that I can think of that involve students making really pretty legitimate claims as to why they ought to— ought to be expected to suffer certain kinds, or really what is harassment and discrimination

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[7] See generally https://freeexpression.uchicago.edu/foundational-principles/

in their own campuses. The difficulty is drawing the line between the two. And I simply— I don't think that there is an easy way out here, and I don't think by just— it is really fair, just to say that every speaker should be allowed, precisely because at least some speech is going to really be harmful, and I don't think it's plausible to say that no speech causes a harm about which we should be concerned. It's difficult to get this right.

(28:06) I think we ought to remember, as well, that universities ought to be inculcating in their students an attitude of engagement and preparedness, to listen and to respond, and a confidence that will ultimately make them much less susceptible to this kind of discriminatory treatment. But I don't think we can just expect that university— that students turn up at university like that. So it's a process that we engage in over some years, I think, of encouraging our students to be more and more resilient in the face of this. The result is, and I can't put it any better than I already have — there are some, very few, very extreme forms of speech that I think it's not fair to allow to occur on a university campus.

Professor Heinze (28:59): Again, I think I am struggling a bit with, you know, with some of what Adrienne is saying, although I certainly appreciate those, you know— many of the concerns. Now, in addition to anti-vaxxers, people who question trans identities, or climate change deniers now, we've just added two more categories: intelligent design and eugenics.

Professor Stone (29:20): But those are your categories, not mine — I had said nothing about, trans identity, or—

Professor Heinze (29:26): But many people have, Adrienne, many people—

Professor Stone (29:28): And many of them are wrong.

Professor Heinze (29:29): But that's the point, that's the point, you see! Who— This is where we're setting ourselves up is as Platonic guardians. Society— You know, who's rational and who isn't? Standards of rationality are not constant. But let me— let me get to the more specific question about discrimination because I think it's important. And I absolutely agree that the question of power dynamics has to be taken into account, and here I disagree with many free speech advocates, who simply ignore it. So, here, I think Adrienne, you're entirely right to take— to take these into account— to talk in particular about, you know, a whole history of women being subordinated, not only in society, but in universities, as well as ethnic minorities, and you know, sexual minorities [...] I take that very, very seriously. The approach that I take in my writing, in my book and elsewhere, is that universities have many means of promoting diversity. And more and more they avail themselves of these sorts of means, right? Whether it's through freshers' initiation weeks, or other sorts of campaigns where we absolutely promote values of diversity, of pluralism, of ethnic difference, of women's empowerment, and so forth. I favour all of that. I think universities should have more of those programmes. And it can do those things without having to censor those who disagree. That's my only point. Because one thing is for sure: when you start censoring those who disagree, it doesn't make them go away — it provides just more fuel for their fire. Whereas if you let them go and you put them through a nice solid cross-examination, right, that is often far more effective.

Professor Stone (31:15): We can play this game all day, where you can point to the problem of where you draw the line, and therefore say, "Because of the possibility that we won't draw it in the right place, we mustn't draw it at all." If you're going to take that view, you need to squarely face the consequences of it. And that is, university life will become harder for some members of our community. It will be harder for them to be students. It will be harder for them to be academics. It will be harder for them to do what they come to the university to do, which is to learn and to pursue knowledge through academic inquiry.

(31:57) So my view is that there are exceptional circumstances in which we protect that activity. Now, they're very limited. But can I point out that, if you say to some nefarious group, "You can't come onto campus", you're not stopping them from taking their views to the steps of Parliament House, or Hyde Park Corner, or anywhere on the internet. You are simply saying, "This is our community, and in this community we want to prioritise some other activity."

Gauri Pillai (32:36): Professor Heinze, you talk about how bringing speakers in and subjecting them to, you know, very rigorous cross-examination is the best way forward, in, sort of, your democratic model. So Professor Stone, my question is, do you think that practically, viably, can universities students rigorously cross-examine a speaker that they have externally invited, taking into account the power imbalances that exists, which I think all of us are in agreement is important to consider?

Professor Stone (33:06): So, I mean, I'm very sympathetic to that idea, and I think that's an excellent model that I hope would prevail in most cases. Sometimes what is happening though, and I certainly can think of this happening in Australia, is what is happening is someone's coming onto campus, and they know that it's going to promote a huge reaction, and what they're actually wanting is the reaction, not the debate. So there's a certain amount, I think of... I think, a sort of over-optimistic, even naïveté in the idea that it's going to be possible just because the nature of some of these speakers is deliberately to stir up a melee rather than actually to have some kind of debate.

(33:57) And, you know, Eric, I think— if I could just perhaps lay down a little bit of a challenge to you— I think you really need to be able to say to those students who will be disadvantaged, who will be more disadvantaged than their peers, why it is that they ought to suffer disadvantage to allow a speaker onto campus who does nothing to advance their education, who does nothing to advance the research mission of a university, who does nothing to advance the civic life of the university, who is purely destructive— why that kind— why they should have to suffer that cost and others don't.

Professor Heinze (34:42): Just as a preliminary, just so there's no confusion. My position is not that we have to avoid line-drawing problems because they're difficult — that's not my position at all. My position is that we should not be in the business of line drawing — that is, as a matter of principle, illegitimate. So it's not that it's difficult to do, it's that we shouldn't be doing it at all. Um, but I think, more directly to Adrienne's challenge, you know, what would I say?

(35:15) First of all— my first response would be to answer the question with a question, which maybe Adrienne can pick up. Is it— Does Adrienne have a concrete example in mind of where a controversial speaker was invited and that caused one or more students to be unable to carry on as students, or staff members to be unable? Okay, now again, I'm not talking here about what— about how, you know, sort of, harassment in the more typical sense. Clearly, that is a problem, and that has to be combated, that has nothing to do with free speech (as I've written extensively)[8] — you know, simply using, you know, racist remarks, that sort of thing. I'm only talking about invited speakers and public platforms, okay? That's all I'm talking about. And I'm wondering if there's an example where an invited speaker in a public platform rendered it impossible, as opposed to just upsetting, to carry on. Again, I'm a member— I'm a member of two minority groups — I'm Jewish and I'm gay. I— I and many, like me, would not have problems with Holocaust deniers, or with anti-gay speakers — quite the contrary. According to the democratic model that I proposed, I would have them come over and I would grill them to the hilt.

Professor Stone (36:41): So I think you simply just put it too high. One— Can I point to one single event that made it impossible. I think these things are cumulative, number one, and number two, I don't think the standard should be impossibilities. I don''t see why it should become significantly harder for minority students to feel that they're part of a community and that they can take part in their classes because of the atmosphere of political discussion on campus. I think you just putting the bar too high there, to be fair.

Professor Heinze (37:17): Well, okay, but now, if we're going— if I'm putting the bar too high, and now if we're talking about all sorts of cumulative effects, well, again, where does that stop?

Gauri Pillai (37:27): Maybe a helpful way for us to summarise this would be to just think a bit about what the underlying conception of free speech is, that sort of lies underneath what the two of you are saying, and what the two sides of the debate kind of propose. So my question is — do you think that, even if we're not talking about the two extreme spectrums of the debate, the two sides are using the word "freedom of speech" very differently and in some sense, sort of talking past each other?

Professor Stone (37:56): Well, I certainly think we've been talking past each other, to some extent. Now, I know you've sort of raised this question — is there a common meaning that we can attach to freedom of speech which will allow us to resolve this? And actually, no there's not, and it's one of the beauties of being a free speech scholar, that this is a contested concept, and that we're also talking about, you know, "What are the values that this serves?" And you know, Eric and I both agree that freedom of speech is really important. It comes down to— I think we disagree on limited, very limited cases, where we think that— at the point of application to specific controversies, that's really where I think we disagree. And this is an endemic kind of argument that we have about freedom of speech.

(38:42) But here's a question that I take the view of. I think if you take a view like yours, Eric, then I would think you— it would affect— a separate but somewhat important question is:

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[8] For a list of publications, see: https://researchpublications.qmul.ac.uk/publications/staff/21263.html

What is the duty of universities to themselves speak out where, say, members of their community are targeted by a controversial speaker? So if you had a controversial speaker on a campus who, for instance, was at least arguably Islamophobic, my own view is that the price of allowing such a speaker onto the campus might be that the university itself ought to make a statement in support of its students — that is, to use its own power of speech to contradict those ideas which have come onto campus because of their effect on some parts of the community. But that's a controversial position — some people think universities ought not to take— make public statements of that kind, whereas I think it's actually entailed by your position.

Professor Heinze (39:52): Oh, absolutely, I'm so glad you said this. It's a lovely point of agreement. Let them speak and yes, let universities take strong positions, why not? Why— again, why put up this pretence? You put my point better than I could have made it. That's exactly right, that the better way to do it is let the speech go forward, but then let the whole academic community, however it wants to do it, and in 100 different ways, express its disagreement, rather than not even letting the debate ever take place.

Gauri Pillai (40:23): So beyond no-platforming, there are some other practices that have been subject to critique from a free speech perspective, such as providing trigger warnings or creating safe spaces for students from specific groups. So trigger warnings warn students that certain material might cause them to have a negative emotional response, while safe spaces provide students with specific groups an environment in which they are guaranteed that they will not be exposed to discrimination, or other forms of emotional or physical harm. Do practices such as being required to provide trigger warnings— Do you see them as restricting or impinging on academic freedom?

Professor Stone (41:03): I don't see them as restricting or impinging on freedom of speech. A trigger warning is a warning, right? It doesn't— You then have access to material, the material can be taught, there's simply a warning on it. Whether or not they're a good idea or not, I don't know, but I don't think that they restrict anyone's freedom of speech. I don't think that they are— I don't really have very strong concerns about them from an academic freedom standpoint either, because the most important thing for me, for example, is that the academic can then teach the content freely, and express the views about that material that he or she has, by virtue of their academic expertise.

(41:50) The reason I think they're controversial is that— I think they're seen to promote an idea that, you know, that students are somehow to be protected against things that they find difficult. I think that there is some material that would be disablingly upsetting. So I think we ought to be a little bit careful with some of our students who are going to be subjected to really difficult experiences. But I don't think that they should ever be widely— very widely used, precisely because I think, for the most part, university should be about getting to grips with things that are a little bit uncomfortable.

Gauri Pillai (42:36): Professor Heinze, do you have a response?

Professor Heinze (42:39): Yeah, yeah, um... I guess what would concern me is whether an academic is being required. If an academic simply wants to, yeah, I agree— then I agree with

Adrienne entirely — sure, why not? I like these kind of non-censorship ways of dealing with the problems, rather than censoring. I would, however, want to warn against teachers being required to have trigger warnings, because again, for me— then again— then we're starting to go down— that's only a step away from censorship. And again, I would be very loath to interfere with academics' choices about how they want to conduct a classroom discussion or presentation.

Gauri Pillai (43:30): So maybe I'll pick up on the point that both of you made about being over-protective towards students, and some authors, in fact, claim that practices like requiring trigger warnings or providing safe spaces coddle student minds. So Professor Heinze, my question is to you. You actually write that the policy of providing safe spaces, while originally innocuous, has now come to signify something altogether more alarming. I'd like to ask you why you think that is and how also do you respond to the argument on over-protection of students?

Professor Heinze (44:07): Yes, well, what I meant by safe spaces originally having been innocuous is that originally, as far as I know, a safe space simply meant a kind of a designated area for students to gather who were— who felt provoked by or offended by some campus event, right, where they could come together, right, and talk, and so forth. There again, because— that doesn't entail censoring anybody. So as far as I'm concerned that itself is also freedom of association, and it's entirely legit. It's also freedom of speech, really, right? Freedom of speech and freedom of association pretty much always go together. And so that original idea of the safe space, I have no problem with whatsoever— You know, again, that's for students themselves to decide if they want to do that. Why would one interfere with that, it's their own business?

(45:08) Where I think safe— the concept of the safe space started becoming more dangerous— and again, I've seen examples— I've written about some examples of this— is where it suddenly becomes declared that the whole university has to be a safe space, right? And therefore— again, we therefore have grounds for eliminating controversial speakers. So then safe space just becomes another term for censoring, and, you know, let's then at least be honest about it.

Professor Stone (45:39): Do you know, in my academic life I've never come across "safe space". I sort of regard them as almost urban myths within the universities — they're not a very common practice, and I certainly agree that the entire university shouldn't be a "safe space". But in principle I'm not opposed to measures that provide students with forums in which they can feel that, just at least for a time, and in a place, they're not subject to some of the rigors of being in a diverse community.

(46:19) I mean, I've been following on Twitter, very recently in fact, some Oxford academic, members of the Law Faculty, people of colour, who have been detailing some of their experiences as academics and students at university, that have impressed upon me just how very tiring it must be to be constantly correcting misapprehensions about yourself by virtue of your skin colour, to be constantly explaining that, yes, you are entitled to be in this place and know that you're not— yes, you are part of this class, and yes, you are a professor, and be constantly subject— you know, really quite— things that are casual in a sense, but also,

you know, deeply racist in another sense. Now, I think that giving— if we are going to encourage a lot of freedom within our university, precisely because, you know, it is going to be so much harder for some members of the community really to feel part of it than others, that whatever we can do to give some respite from that, you know, is basically a very good idea.

(47:37) Can I say that I'm mostly— most sympathetic with that in relation to students, and particularly students in their early universities— in the early part of the university experience, that we should be most solicitous of because I would hope as you go through university you will gain confidence in dealing with these really difficult situations and be less affected by it, and we should be committing ourselves to make sure that happens.

Gauri Pillai (48:07): So that brings me to my last question, which is actually something we started with, which is on the issue of backlash and implications. Some claim that these practices, which we've been talking about — which is no-platforming, and trigger warnings, and safe spaces — they foster separateness or polarisation on university campuses, and this leads to increased animosity between groups, which then sets us back on achieving human rights goals, such as racial and gender equality. How would the two of you respond to that? Professor Stone, would you like to start?

Professor Stone (48:41): I would want to see some evidence of that before I was prepared to embrace it. I think we shouldn't assume that that's going to be the result, and it's at least as plausible that a judicious use of those practices creates, on the one hand, an atmosphere of respect, and a kind of form of respite and support that makes living in a university community possible.

Professor Heinze (49:16): I mean, I agree with Adrienne, that evidence about this kind of claim, that these discussions are promoting polarisation... Yeah, it's, you know, it's hard to imagine even what would count as evidence— But let's just assume that, right, even if we're not sure. Well, you know, I'm not sure it's ever been proved that human beings are not to some degree tribal, that we don't somehow tend to gravitate toward those with whom we have affinities. Again, and why deny that, right? Why deny that? Once again, I would say, why would we want the illusion that a university community is going to be a Shangri-La? Yes, people will come with, you know, with identities of any different kinds, of a number of different kinds, and those identities will in turn shape their world views, and therefore shape disagreements with people who have other— who hold other worldviews. And so I can only repeat what I've said before — Let those discussions take place. Let's not be afraid of them.

Gauri Pillai (50:24): That seems to be an excellent note to end this on, and that's all from me as well. So thank you so much to the both of you for participating, and I loved being a part of this conversation, and I hope the two of you enjoyed it is well.

Professor Heinze (50:37): I've enjoyed it immensely.

Professor Stone (50:39): Thanks, Gauri. Thanks, Eric.

Gauri Pillai (50:51): RightsUp! is brought to you by Oxford Human Rights Hub. The Executive Producer is Kira Allmann. This episode was produced and hosted by Gauri Pillai and edited by Christy Callaway-Gale. Music for the series is by Rosemary Allmann. Show Notes for this episode have been written by Sarah Dobbie. Thanks to production team members — Mónica Arango Olaya and Natasha Holcroft-Emmess — for their valuable feedback in putting this episode together.

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