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President's Report

**Annual General Meeting
25 November 2018**

WORK OF THE COUNCIL

This year's executive consisted of:

Vice Presidents: Terry O'Gorman; Angus Murray

Secretary: Emma Lewis

Treasurer: John Drew

Auditor: Kate Barnett

Executive: Roger Byrom; Chris Main; Eugene O'Sullivan; John Ransley; Daemon Singer, Tina Riveros and Kane Steuer

I want to thank all the members of the executive for their hard work and support throughout the year.

I want to particularly acknowledge the work of Angus Murray, who has contributed enormously to the organisation of this year's events, particularly those that we co-sponsored with other organisations.

I also want to thank Julie Jansen, who, despite not being a member of the formal executive, has continued to contribute behind-the-scenes to the organisation of our events, particularly on social media.

I thank our University of Queensland interns Nikita Aganoff, Alex Ladd and Amye Fairbairn for their hard work this year, helping us produce a number of high quality submissions.

I also acknowledge the pro bono support of Kate Barnett of Bentleys (our auditor) and the printer of the newsletter Shotz Print.

A YEAR TO CELEBRATE

I thought for a while about this title. We didn't win everything this year. It was not a year of unalloyed joy for civil libertarians, as I will relate. But I decided we should celebrate our wins.

And big wins they are.

Firstly, we saw the passage of the Termination of Pregnancy Act, which largely implemented the position for which we have been arguing since 2010.

Then, on 31 October, the Attorney General introduced the Human Rights Bill. A reference to Eddie Clarke's history shows that our first President Jim Kelly first set out the case for Bill of Rights in 1968. In 2005 we

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changed our policy to support a Human Rights Act.

The government's Bill is by no means perfect, but again it represents substantially our position.

The Act will contain a set of fundamental rights that nobody could reasonably object to: the right to life, freedom of speech, freedom from torture, privacy, the right to private property and equality before the law.

A Human Rights Act is not a panacea, ultimately only an active citizenry can protect our rights and liberties. However, the Act will provide a new tool that citizens of this State can use to protect themselves.

The Act will act as a restraint on all politicians by making them justify their decisions against a standard and it will improve government decision making by requiring decision makers to respect the individual dignity of each citizen.

The QCCL congratulates the government on this bold reform.

ANTI-TERROR LAWS

But as has been the case with every report I have given as President, I have to report the continuing challenge to our basic liberties by the latest cascade of anti-terror laws.

Once again this year, we usually combined with other Australian Councils for Civil Liberties to oppose these laws.

The most recent Bill is the Telecommunications Assistance and Access Bill which allows police and security agencies to direct service providers to assist them to get access to encrypted data found on devices. It should be noted that those subject to the Bill are not just behemoths like Apple but includes any old webmaster or small ISP.

The Joint CCLs' major concerns were:

- a) the high risk that the proposed actions to gain access to encrypted information on a case-by-case basis will introduce systemic weakness/vulnerability into encrypted applications;
- b) that these actions and risks will be secret and individuals and others relying on these applications for the security of their data and protection of their privacy will not be informed even when the need for operational secrecy has passed;

- c) that there is inadequate judicial oversight of the decision-making process and limited independent expert oversight of the process and the actions taken by the providers in each particular case;
- d) the extent of immunity available to providers in relation to their actions and to the intelligence agencies in relation to their requests/requirements from providers
- e) and the paucity of public reporting required.

Another joint submission, dealt with the Identity-Matching Services Bill. This Bill provided for the sharing of information between the States and the Commonwealth, particularly the aggregation of the various State drivers' license photograph databases. The legislation clearly contemplates the use of facial recognition technology to search the database for suspects or to identify individuals present at events. This is despite the fact that such technology has been shown to have an error rate in the vicinity of 15%.

The Commonwealth government introduced a law giving the police at airports the power to ask a person to identify themselves when they considered that it was, "on reasonable grounds necessary to identify that person to safeguard aviation security." The QCCL made its own submission on this Bill in which we characterised this power as being so vague, that it authorised random searches of innocent individuals. The power was sought in the context of the Behavioural Assessment and Security Questioning tool being developed by the Department. Our submission pointed out that these tools have been found to have no basis in science.

Another submission was made by the QCCL to the Crime and Corruption Commission, review of the Queensland *Terrorism (Preventative Detention) Act*. The submission continued our in principle opposition to preventive detention regimes. It made a series of recommendations for reform to the regime, if it were to continue.

MY HEALTH RECORD

The QCCL opposed the MyHealth record and recommended that people opt out, for a number of reasons. Firstly, referring to the history of poor IT performance by the government which raises security questions. Secondly, questioning the benefits, which will flow from what is nothing more than a non-searchable PDF summary of records and not actual records. Thirdly, and perhaps most importantly, opposing the creation of a centralised database when the same objectives can be achieved by facilitating local health

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practitioners place their records on an electronic system through which they can, with the consent of the patient, share data with other health practitioners when appropriate.

PRIVACY

We supported the introduction of an offence in relation to the nonconsensual sharing of intimate images as promoting the right to privacy. However, we did express concerns about the absence of legislation which prevented minors from being charged with child exploitation material offences. We noted that the current policy of relying upon police discretion is unsatisfactory. The Council supported following the Victorian model of introducing specific defences and exemptions from those laws when it involved the sharing of materials between minors.

RIGHTS OF THOSE OF DIVERSE GENDER

We made a submission in relation to reforms to the Births Deaths and Marriage registration system to recognise the rights of those of diverse gender.

The application of the principle that the expression of gender identity is fundamental to who we are and the concomitant obligation to remove barriers to its expression, would lead to the conclusion of principle that each person should be entitled to identify their gender as they wish. However, we would also recognised that there are other social interests that may impinge upon the rights of individuals to identify their gender without restraint.

As was noted by the South Australian Law Reform Institute (SALRI) in its report *Legal registration of sex and gender and laws relating to sex and gender reassignment*, sex is a fundamental demographic characteristic used in social and population analysis. It is a core cross-tabulation for practically all social statistical topics such as employment, education, and health. Sex, along with age, is also essential to the production of population estimates and projections.

So that Institute, accepted that there should continue to be a requirement to register the sex or gender of a child at birth. However, the Institute found significant support for the use of the word 'non-binary' as a third category.

We also argued that there should be no need for a person who wishes to alter their gender to undergo a procedure or to show they are unmarried.

We agreed with the SALRI that the BDMR Act should be amended to introduce a process for a

person to apply for their registered sex and/or gender to be changed, based on the current provisions relating to change of name to allow a person to change the gender by which they are identified by reference to the categories discussed above.

POLICE POWERS

We produced a fact sheet in relation to the special Commonwealth games powers.

DANGEROUS DRIVING

We did not oppose increased penalties in relation to dangerous driving offences, though we noted our position that they were unlikely to make any difference to tragedies on our roads. However, we did oppose mandatory license cancellations.

ESPIONAGE

A joint submission was made with the other CCLs in relation to the Commonwealth espionage and foreign interference legislation. That submission took the view that the legislation contained some appropriate modernising of existing offences. But there were many aspects which were unjustified overreach and overall the Bill would be extremely damaging to many core aspects of Australia's democracy and open society. Of particular concern, were the expanded secrecy offences.

FOREIGN DONATIONS

A joint CCLs submission was made in relation to the electoral funding and disclosure reform legislation, Commonwealth. The submission did not oppose the ban on political parties and campaigners receiving foreign donations over \$250, so long as it was amended to ensure that large charities are not captured as political campaigners. It opposed the extended definition of "associated entities" of political parties" which would have the effect of extending political donation disclosure laws to a wide range of organisations, which are not sufficiently connected with the political process to warrant it.

EVENTS

We ran two very well attended and interesting events.

The first event, we had was a panel discussion on the surveillance society. The panel members were Phil Green, Queensland Privacy Commissioner, Liam Pomfret from the Australian Privacy Foundation and the Norwegian academic Samson Esayas. The session was most ably chaired by Vice President Angus Murray. At think everybody who attended founded a most stimulating discussion.

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More recently the Derek Fielding Memorial Lecture was a thought provoking presentation by David Marr.

We also co-sponsored some other events, which I will leave to Angus Murray to report on.

THE FUTURE

It seems to me that this year's results should remind us that the political system can work. These results have been brought about by work within the political process. Politics is by no means perfect but any alternative must result in the end of pluralism and most likely a substantial portion of liberty.

I am announcing today that this is the last time I will stand for Presidency of the QCCL. I have held this position for 12 of the last 13 years. It is time for someone else with a fresh approach to take over this fascinating but at times demanding post. I hope that 12 months will be enough time to find a successor and, selfishly, will allow me to see the end of the Human Rights Act process.

Thank you

MICHAEL COPE

PRESIDENT of the QCCL, 25/11/18 ■

Vice President Report 2018



Angus Murray

This has been another big year for the Council and it is my privilege to provide this report to the membership. We have continued to grow in 2018 and we have recently seen the introduction of a long-awaited (and overdue) *Human Rights Bill 2018*. This follows the recent abortion law reform and I wish to express my recognition of the tireless work of Beryl Holmes and the Council.

This year I have focused on collaboration with other organizations with similar objectives to increase the volume and clarity of civil society. We have had an event or speaking position in almost every month since February this year, starting

with the Queensland Surveillance State event with the Privacy Commissioner, Mr Samson Esayas and Liam Promfret on 15 March 2018.

We had an incredible presentation by David Marr at the Derek Fielding Memorial Lecture and hosted Human Rights in Queensland (and beyond) Public Lecture with Prof. George Williams at QUT in September.

We have contributed to two Internet Freedom Hackathons, supported made numerous submissions to parliamentary committees including the *Termination of Pregnancy Bill 2018*, *Criminal Code (Non-consensual sharing of intimate images) Amendment Bill 2018* and *Telecommunications and Other Legislation Amendment (Assistance and Access) Bill 2018*. We have also made a comprehensive collaborative submission to the Human Rights Commissioner's Issues Paper on Human Rights and Technology and attended a round table to discuss these issues. We have prolifically appeared on local TV and radio to discuss civil liberties issues and continued to raise the profile of the Council in Queensland.

We have also hosted a movie screening for "Pre Crime" in collaboration with the NSWCCCL and other civil society organisations. This was a great success that was able to be run with no cost and achieved getting members of the community together to discuss civil liberties issues in a novel forum. I hope that we are able to continue to screen films for the community into the future.

In the year ahead, I hope that this collaborative spirit can continue with my goal being to create more in person events in Queensland for our membership to grow the organization. This collaborative approach has helped with keeping the cost of events down; however, it is important that we remain able to fund the Council's paid events and the membership's generous donations are greatly appreciated.

Finally, I thank the rest of the executive for their guidance, mentorship and support over the past year. This truly is an important organization and I am proud to say that the people here today have helped shape me into the person I am today.

A fuller list of our events follows:

15 March 2018 - A Queensland Surveillance State: What it Means for You" with the Queensland Privacy Commissioner, Mr Philip Green, Samson Esayas and Liam Pomfret moderated by Angus Murray.

20 – 22 April 2018: Internet Freedom Hackathon where I provided an opening presentation about algorised justice, privacy and the panopticon in

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a dual capacity as a Vice President of the Queensland Council for Civil Liberties and the Chair of Electronic Frontiers Australia's Policy Team.

11 July 2018 – Letter to the Queensland Fixated Threat Assessment Centre regarding the scope of its power.

28 August 2018 – Derek Fielding Memorial Lecture with David Marr.

30 August 2018 – Letter to the Department of Home Affairs in support of Chelsea Manning's intended visit to Australia to present about whistleblowing.

5 September 2018 – Submission in relation to the *Termination of Pregnancy Bill 2018*.

7 September 2018 – Submission in relation to the *Criminal Code (Non-consensual sharing of intimate images) Amendment Bill 2018*.

10 September 2018 – Submission to the Department of Home Affairs in relation to the *Telecommunications and Other Legislation Amendment (Assistance and Access) Bill 2018*.

12 September 2018 – Screen of Pre-Crime at ThoughtWorks in Brisbane, Sydney and Melbourne.

14 September 2018 – Human Rights and Technology Roundtable meeting with the Human Rights Commissioner, Mr Ed Santow.

19 September 2018 - Human Rights in Queensland (and beyond) Public Lecture with Prof. George Williams

2 October 2018 – Joint Submission to the Human Rights Commissioner's Issues Paper on Human Rights and Technology.

14 October 2018 – Joint Councils for Civil Liberties Submission to the Parliamentary Joint Committee on Intelligence and Security in relation to the *Telecommunications and Other Legislation Amendment (Assistance and Access) Bill 2018*.

19 October 2018 – Evidence before the Parliamentary Joint Committee on Intelligence and Security in relation to the *Telecommunications and Other Legislation Amendment (Assistance and Access) Bill 2018*.

23 October 2018 – Australian Institute of International Affairs Panel Discussion on "A World Without Privacy" with Angus Murray, Dr Monique Man and Lemm Ex.

31 October 2018 – Focus (ABC Radio) on Privacy with the Queensland Privacy Commissioner, Mr Philip Green, Angus Murray and Dr Gavin Smith.

9 – 11 November 2018 - Internet Freedom Hackathon where Angus Murray provided an opening presentation about intellectual property, trade secrets and transparency in a dual capacity as a Vice President of the Queensland Council for Civil Liberties and the Chair of Electronic Frontiers Australia's Policy Team. ■

The Minutes of the QCCL AGM

held on 25th November 2018 at the McIlwraith Croquet Club, Auchenflower, Brisbane were provided by the QCCL Secretary, Emma Lewis. The Editor of the Newsletter has abridged these in places.

Present: Michael Cope (Chair), Terry O'Gorman, Emma Lewis, Julie Jansen, Angus Murray, John Ransley, Eugene O'Sullivan, Matt Foley, John Drew, Peter Bridgman, Rod Thomson, Chris Main, Beryl Holmes, John Holmes, Andrew Popple, Pam Wilson, Helen Kerr, Roger Byrom, Tina Riveros, Katherine Gough, Michael Henry, Edward Clarke, Brendon Jowles.

Apologies: Betty Mason, Charlie Bagley, Erik van Keulen

Agenda Items:

President's Report – presented by Michael Cope

Treasurer's Report – presented by John Drew who also expressed the need for austerity measures in 2019.

Vice-Presidents' comments – Terry O'Gorman noted he is stepping down from the role of President of the Australian Council for Civil Liberties.

Junior Vice-President comments – Angus Murray spoke of the success of the two events organised by QCCL in 2018, and the two events Angus participated in and on behalf of QCCL.

Secretary comments – Emma Lewis spoke about her transition to the secretary's role, and issues regarding the functionality of the QCCL website and plans to reconcile these in 2019.

Nominations for QCCL Executive – All current office bearers, with the exception of Tina Riveros to continue in their roles in 2019 with Katherine Gough elected to replace Tina Riveros.

Special Resolution (Uluru Statement) – Eugene O'Sullivan moved a motion for QCCL to adopt the Uluru Statement as QCCL Policy regarding recognition of indigenous Australians as first nations peoples. Eugene noted that the Uluru Statement at present, was the most appropriate policy position for QCCL to adopt. Angus Murray endorsed the Uluru Statement as an express recognition of indigenous culture and heritage of the first nations people. Michael Cope noted that while the Uluru Statement was the best thing on the table at the moment, it was not

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a final conclusion as to the way forward for recognition of first nation's peoples. The motion was carried without opposition. Statement).

7. Special Resolution (donations from tech companies) - Eugene O'Sullivan moved a motion for QCCL to alter its policy of not accepting donations from commercial interests to accepting donations from tech companies on the proviso any financial donation is done so transparently and without affecting QCCL's capacity to criticise or critique that same organisation. Michael Cope reiterated the long-standing QCCL policy not to accept money from commercial corporations, and the importance of remaining an independent voice on civil liberties that is not seen to be compromised in any way by commercial interests. Similar views were expressed by Angus Murray, Roger Byrom, John Ransley and Matt Foley. John Drew supported the motion for reasons that donations do not necessarily compromise QCCL's independence and donations are a potential way to keep the QCCL afloat financially.

A majority (12 to 6) were against accepting the Special Resolution (donations from tech companies). ■

Guest Speaker Aimee McVeigh Campaigner for Queensland Human Rights Act



Aimee McVeigh is Director of Disability Law Queensland, a non-profit law firm that assists people with disability and their families to plan for the future, assert their rights and access justice. Aimee is the coordinator for a Human Rights Act (HRA) for Qld Campaign. Aimee has worked very hard on this campaign for four years with 40 community organisations to protect the rights and dignity of individuals especially the disadvantaged.

At the outset of her talk she explained that she was passionate about the need for Human Rights, especially for those with disabilities and other vulnerable people. The starting point was that Queenslanders do not have rights enshrined

in a single instrument or Act. We do have some protections scattered across a number of laws but the coverage is patchy.

She continued on providing the following points and information (not in the following order): The Queensland Bill of Human Rights now before the Queensland Parliament is modelled and an improvement of the Victorian Act, e.g. it has added a right to education and a right to health. While the Queensland Bill has a complaints mechanism it does not have a stand-alone cause of action in the form of rights to compensation.

She wanted to state that our campaign for a HRA has been organized by ordinary individuals and organisations, and is an opportunity to put better protections in place for Queensland citizens, especially vulnerable people who should be treated with dignity and with respect.

During the campaign one MP said while the ballot box can be seen as the voice of people in the democratic process, our campaign shows that people can be more powerful than that and a HRA will strengthen our ability to be heard into the future.

A HRA offers uniform protections in our dealings with government – like a contract with government – so each arm of government and people are all involved.

One striking example of the enforcement from one of the states which has a HRA was when it was enforced to stopping the eviction of a single Mum into homelessness.

Concerns have been expressed by advocates for older people about the clear lack of protections for people living in aged care facilities. As we know, the Premier has recently noted the special needs of this group of Queenslanders, noting aged care is a 'major concern and it's an issue that touches every single Queenslander'. There is an opportunity for the Bill to be strengthened, including by amending the definition of public entity to include registered aged care providers and ensuring that the definition of functions of a public nature include the provision of public aging services.

Next steps:

Get the support of your local MP and encourage him/her to support the Bill which will be presented early next year.

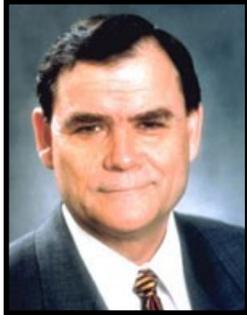
Go to our webpage

www.humanrights4qld.com.au so that you can hear updates and opportunities to continue to support the Bill. ■

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Speech at QCCL Derek Fielding Memorial Lecture 28 August 2018

Introduction to Guest Speaker, David Marr, by Matt Foley



Matt Foley, current member of QCCL and Past President, 1985-1987

I join in acknowledging the Turrbal and Jagera peoples and pay my respects to the Aboriginal traditions of law and justice in this land over many millennia.

This evening's lecture is in memory of Derek Fielding, President of the QCCL from 1975-1979. I pay tribute to the current President Mr Michael Cope and to former Presidents Jim Kelly, Lew Wyvill, Terry O'Gorman, Stephen Keim and Ian Dearden. It has been one of the great honours of my life to have served in that role between 1985 and 1987. I pay tribute to the many fine contributors to the work of the Council too numerous to list, but certainly including Beryl Holmes, Peter Applegarth, Tony Macklin, Roger Byrom, Paul O'Shea and Fleur Kingham. I honour the profound and ongoing contribution of Terry O'Gorman. Terry taught us to put our case directly to the people, not merely in learned submissions easily ignored by legislators.

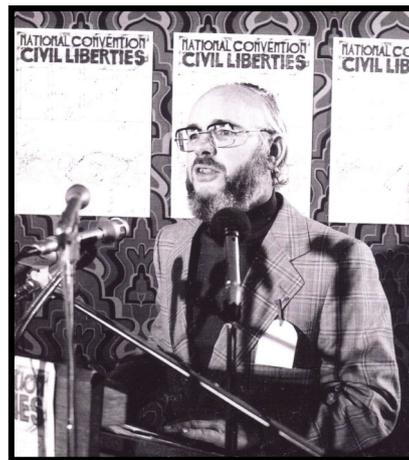


Author David Marr

We are here tonight to continue the discussion of law and justice in this land. We shall soon hear the acclaimed author David Marr address us on the need for a Bill of Rights or a Human Rights Act.

David graduated from the University of Sydney in arts and law and was admitted as a barrister and solicitor. Somehow David escaped the clutches of the legal profession to work as a journalist. He has authored many books and scholarly articles over the past four decades including on former Chief Justice Sir Garfield Barwick, the novelist Patrick White, the treatment of refugees and asylum seekers under the Howard Government, and the roles in public life of Kevin Rudd, Tony Abbott, Bill Shorten and Cardinal George Pell. David has been no stranger to controversy. His voice is a voice of conscience.

Derek Fielding's voice spoke also to conscience. Derek was born in Belfast in 1929. After the early death of his parents he was educated at the Masonic Orphan Boys' School in Dublin from 1939-1947. Aged only 10 when the Second World War broke out, he spent his childhood and teenage years in a Masonic school in Catholic Dublin. He graduated from Trinity College, Dublin in 1951 with an M.A. in modern history and political science. He served as Deputy Librarian at the University of Auckland and then the University of Western Australia.



Derek Fielding at the National Convention held in Brisbane, 1977

In 1965, aged 36 Derek became the University Librarian at the University of Queensland. That is where he made such a profound impact for the cause of civil liberties during the dark years of repression under the Bjelke-Petersen Government. Derek's diplomatic skills enabled UQ to permit student protests on campus, including an all-night sit-in in the Walter Harrison Law Library.

I well recall Derek chairing meetings of the QCCL Executive in the late 1970's at the University Li

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brary - the gentle lilt of his diction, his welcoming approach, the sweet reason of his analysis. It was an exercise in evidence and logic – designed to elicit not mere rage but the voice of conscience.

Ten years after Derek's birth in Belfast, another son of Northern Ireland came into this world – the poet and Nobel Laureate Seamus Heaney was born in 1939 not far from Derry. Seamus wrote a poem entitled "From the Republic of Conscience" of a frugal republic in which "public leaders must swear to uphold unwritten law". I can think of no better way of honouring Derek's legacy and of introducing our guest speaker than to read a few words from that poem

*When I landed in the republic of conscience
it was so noiseless when the engines stopped
I could hear a [curlew](#) high above the runway.*

*At immigration, the clerk was an old man
who produced a wallet from his homespun coat
and showed me a photograph of my grandfather.
The woman in customs asked me to declare
the words of our traditional cures and charms
to heal dumbness and avert the evil eye.
No porters. No interpreter. No taxi.
You carried your own burden and very soon
your symptoms of creeping privilege disappeared...*

*At their inauguration, public leaders
must swear to uphold unwritten law and weep
to atone for their presumption to hold office –...*

*I came back from that frugal republic
with my two arms the one length, the customs
woman having insisted my allowance was myself.
The old man rose and gazed into my face
and said that was official recognition
that I was now a dual citizen.
He therefore desired me when I got home
to consider myself a representative
and to speak on their behalf in my own tongue.
Their embassies, he said, were everywhere
but operated independently
and no ambassador would ever be relieved.*

**Ladies and Gentlemen, please make welcome
our guest speaker Mr David Marr ■**

Universities should tolerate 'offensive' ideas

By Adrienne Stone 15 October 2018

[Professor Adrienne Stone](#) is director of the Centre for Comparative Constitutional Studies at the [University of Melbourne](#).



It goes without saying – or at least it ought to – that freedom of speech should be a core value of universities. As a scholar of freedom of speech and a university academic, it has been gratifying to see so many vice-chancellors (and a former chief justice of the High Court) take it so seriously.

Bettina Arndt's campus tour met with rowdy and obstructive demonstrations. This attention to freedom of speech is a response to recent controversies on campus. Bettina Arndt's university tour met with rowdy and obstructive demonstrations. Students have accused each other of bullying and censorship. And last year, La Trobe University academic Roz Ward was briefly suspended for misconduct for controversial views on Australia's flag in a Facebook post.

Temperatures are running high enough that universities have occasionally been forced to cancel controversial speakers for fear of the disruption caused by protesters. These controversies are not new, but it's high time for universities to think very carefully about freedom of speech and they should prevent speakers from speaking only in very rare cases.

One thing to consider is that there is no context in which freedom of speech constitutes an absolute right to say anything at all. All serious thinkers about freedom of speech and all legal systems – even the US, which has the strongest protection of free speech in the world – recognise some limits. The difficult question is where those limits properly lie.

It's also important to remember universities have

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a special responsibility for the attainment of knowledge and for the education of students. These goals require a high level of intellectual freedom, including freedom of speech. It enables researchers and students to discover new things, communicate and test their ideas, and foster and develop critical thinking skills.

But freedom of speech in universities is a means to that end, not an end in itself.

Because of this responsibility, universities should be guided by four fundamental free speech principles.

1. Unorthodox ideas should be welcomed and offensive ideas must be tolerated.

The proper advancement of knowledge and learning requires a high degree of freedom of speech. It's very important orthodoxies can be challenged and ideas subject to debate and criticism. It's through freedom of speech, for example, that women and minorities challenged established ideas about their supposed inferiority.

A university community is necessarily one in which people disagree and will often do so in deep and unchangeable ways. Those disagreements mean sometimes public debate on campus will be highly offensive and upsetting. Even so, offensive ideas must be tolerated.

The protection of protest is just as important as protecting the expression of unorthodox and unpopular ideas.

Our willingness to extend the right to people we disagree with is at the heart of freedom of speech. After all, popular or mainstream ideas generally need no protection. There is no question, for example, that Arndt should be permitted to speak on university campuses, as should those who oppose her.

2. Protest is crucial to the proper exercise of free speech rights on campus and should be permitted and facilitated.

The protection of protest is just as important as protecting the expression of unorthodox and unpopular ideas. Protest – whether by environmentalists or anti-abortion activists – is an important means for the expression of unorthodox and unpopular ideas, as well as for a response to them. We should expect protests to be part of university life and universities should both permit and facilitate them.

Obviously, universities will be in the middle of

fierce disputes between opposing elements of the community and working out a balance of interests will be difficult. If there are loud and chaotic protests that require significant security, it will also be expensive.

But it's not fair to place the cost of security entirely on those provoking the protest (giving protesters an effective heckler's veto). Nor is it fair to place it on those protesting (given the importance of protest as a mechanism for free speech).

If governments are serious about protecting freedom of speech on campus, they should fund universities in a way that makes it possible for them to balance free speech and protest. A free speech fund for each university seems a small price to pay for something so fundamental.

3. The university must protect the pursuit of knowledge.

Because universities have a responsibility to promote the attainment of knowledge and education, they also need to protect those activities from people who blatantly disregard evidence, research and scholarly standards of inquiry.

Universities should not be required to give a platform to those who peddle nonsense – especially dangerous nonsense. Universities are quite within their rights to deny anti-vaxxers, Holocaust deniers, flat earthers and others from the use of their facilities.

The line between the unorthodox and nonsense can, of course, be blurry and universities should be very careful about how they exercise this power. They might choose instead to permit such speakers but to ensure a platform for their critics that's at least as prominent.

Free speech scholar and Columbia University president Lee Bollinger provided a good example of this kind of action when he permitted the appearance of then president of Iran Mahmoud Ahmadinejad on Columbia's campus but personally introduced him with a series of sharp challenges. Universities should support freedom of speech, including unpopular ideas, but not without challenging them.

4. The university's intellectual climate must be inclusive.

Universities can't be sure they have the best researchers and students unless everyone has an equal opportunity to attend and participate in university life. For this reason, universities need to take seriously the concerns of students and staff who are affected by the exercise of the free

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speech rights of others.

Students who claim controversial ideas threaten their safety have been widely condemned. Hurt feelings themselves provide no good reason to take action against speech or speakers. But these students are [often arguing](#) that ideas perpetuated by these speakers are a barrier to their equality and can lead to discrimination or violence.

At least in public forums on campus, a university should very rarely prevent speakers from spreading their message. But students concerned about their equality and safety should not be ignored or ridiculed.

Universities need to engage with their students about their concerns, take steps to protect their physical safety and wellbeing, and ensure these students can respond on their own behalf. In serious cases, where students are subject to unfair and abusive commentary, the university ought to use its own powers of speech to defend them publicly.

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Telecommunications and Other Legislation Amendment (Assistance and Access) Bill 2018

Lurking within the wording of this innocuous sounding Bill is a serious attack on civil liberties.

In August the Federal Government Department of Home Affairs provided an Exposure Draft of the [Telecommunications and Other Legislation Amendment \(Assistance and Access\) Bill 2018](#). Eight organisations put in a joint submission to this Draft. One of the contributors was Angus Murray, Vice President of the QCCL. The joint submission dealt with each provision of the Bill. The main points of the joint submission are as follows:

Overview

We welcome the opportunity to comment on the Department of Home Affairs' Exposure Draft of the Telecommunications and Other Legislation (Assistance and Access) Bill 2018 (the Assistance and Access Bill).

Although the Government has chosen to allow an extremely limited period for review of the relative-

ly lengthy Bill, its content and the significant issues that exist within its terms, has caused many Australians to be concerned about the future of their rights and freedoms.

Introduction

On 14 August 2018, the Department of Home Affairs released an exposure draft of the *Telecommunications and Other Legislation Amendment (Assistance and Access) Bill 2018* ("the Bill"). By gaining access to an exceedingly broadly defined class of 'designated communication providers' and encrypted data, the Bill aims to limit the exploitation of communications technology by terrorist organisations, child sex offenders and criminal organisations.

Whilst the protection of the Australian community is obviously important, it is incumbent on Government to ensure that this is achieved in a manner which is necessary and proportionate.

This Bill creates extremely broad powers with almost no oversight without any substantive justification. The possibility that such powers might be needed in future is not a proper basis for the making of laws. Among other things, the Bill effectively enacts insecurity by design, which will almost certainly create additional obstacles and exclusions for Australian companies seeking to operate in EU markets.

We recommend that members of the Australian Parliament reject the Bill wholesale, as this is the most appropriate response to the exposure draft in the opinion of the authors of this submission. The remainder of this submission should be read with this recommendation in mind.

We have numerous serious concerns with this Bill, in particular that it:

- Introduces a seemingly scopeless definition of "designated communication providers";
- Increases the obligations on communication providers to assist with law enforcement agencies;
- Introduces covert computer access warrants enabling law enforcement to search computers and electronic devices without an individual's knowledge; and
- Increases the powers of law enforcement to use and apply the currently available search and seizure warrants.

The Bill grants the Director-General of Security, the chief officer of an interception agency and the Attorney-General additional powers to issue new types of orders. These include, directly and indirectly, forcing communications and technology

Who's watching them while they're watching you?

companies to provide information about how networks are built and how information is stored, or to directly access encrypted data if they have a key. Taking this further, the Bill also grants the power to compel companies to engage in actively building new tools and mechanisms at the request of law enforcement agencies.

There is no warrant or oversight process proposed other than that these orders must be "reasonable and proportionate." While the government has pointed to the potential for people to challenge in the courts, there is no outline of what this process will be or how the courts will be equipped to handle them. Indeed, this would require knowledge of the use and deployment of these new powers and, within the ambit of the Bill, it seems unlikely that this would be possible for end-users affected by the operation of this Bill. The powers within the Bill prevent people from revealing any information about any order they receive – with fines and jail time for those who do speak out.

The legislation also does not seem to be limited by what "assistance" organisations can be ordered to do. The government claims the legislation specifically forbids activities that would provide a 'systemic weakness or vulnerability' into an encrypted system. However, the kind of operation that the government is planning doesn't require an active creation of a weakness, instead opting for an end-point activation.

Most encrypted services allow you to have multiple devices such as a phone and a computer, which can be end-to-end encrypted between all endpoints. If the government could secretly add a new device to that conversation without your knowledge, it would be building a new door into that encrypted communication.



An organization, whether Australian or not, that fails to comply with a notice can be fined \$10,000,000. An individual can be fined up to \$50,000 and, depending on the circumstances, can face up to 10 years in prison. The Bill's wide remit means companies with even minimal connection to Australia could be subject to notices and the corresponding punishment. ■

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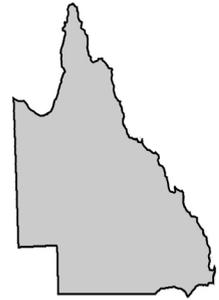
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The Queensland Council for Civil Liberties is a voluntary organisation concerned with the protection Of individual rights and civil liberties. Our aims are to:

- Be vigilant in matters affecting civil liberties and to safeguard and develop respect for human rights and freedoms.
- Expose abuses of civil liberties; publicly opposing laws and actions that undermine civil liberties.
- Educate citizens and inform them about threats to their rights and liberties; encourage public discussion on civil liberties issues.
- Seek solutions to problems relating to civil liberties, including prison reform, anti-terrorism, sedition, rights of minority groups, abuse of police powers and women's rights.



BEQUEST FORM

One of the ways that members can assist the Council is by considering leaving a bequest in their will. Set out below is an appropriate form of words:

“I give..... to the members of the Queensland Council for Civil Liberties (an incorporated body) at my death for the benefit of the Council and I direct that the receipt of the secretary for the time being of the Council shall be sufficient discharge to my executors.

If, at my death, the Council has incorporated or amalgamated with another body, the gift shall be construed as a gift to the incorporated body or to the members of the body with which the Council is amalgamated and the receipt of the secretary or the treasurer for the time being of the incorporated body or amalgamated body shall be a sufficient discharge to my executors.”

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