

Australia's federal court endorses academic cancel culture

Tim Anderson, 26 November

1. Overview

In a case brought against the University of Sydney by the National Tertiary Education Union of Australia (NTEU) and myself the Federal Court has decided to endorse 'academic cancel culture' where, after trolling by outside lobbies, university managers can give secret directions to academics to withdraw or modify not only their public comments but also their teaching and research materials.

Academic cancel culture works this way: (1) powerful lobbies use media allies to attack and abuse inconvenient academics, (2) corporate university managers, keen to protect their brand reputation, try to gag or modify the work of the targeted academic, and (3) conservative courts back the gag orders by reading down the right to intellectual freedom and reading up the right of managers to give orders.

In my case the issue was criticism of the endless Middle East wars, including the ethnic cleansing of Palestine. The Israel lobby was central to the pressure on university managers. No-one contradicted my excellent work record over 20 years. In the end all that mattered was 'offence' to Israel.

The court decided to read down the academic right to intellectual independence and read up the power of university managers to give secret orders to academics, treating them as simple 'employees'.

I have enjoyed more than 30 years of intellectual freedom at Australian universities, but I could not maintain the intellectual integrity of my work under this sort of secret censorship regime.

Federal Court judge Tom Thawley had basically two options: the easy way was to endorse and deepen what the Federal Court in the Ridd case called "an employer's common law right to give a reasonable and lawful direction" to employees; or a path that took a bit more courage, to say that an academic has the right to refuse management orders which interfere with his or her academic work.

Justice Thawley took the easy path. First, following the Ridd case (128), he rejected the idea that the 'intellectual freedom' clause of the Enterprise Agreement (USyd cl.315) created "an enforceable right to intellectual freedom", which exempted it from claims of "misconduct". Even in the case of "comments which were exercises of intellectual freedom", the EA clauses did not "immunise" the academic from misconduct processes by University managers (161, 163).

Second, he deferred to managerial prerogative, accepting the argument put by Kate Eastman, barrister for the University, that it was not for the court to decide on matters of actual misconduct. The judge wrote: "It is unnecessary for the court to state what conclusion it would have reached ... it is sufficient to note that the view taken by Professor Garton was open and that his actually being satisfied was not directly challenged or shown to be affected by some vitiating error" (227, 233).

Third, he said that the exercise of 'intellectual freedom' did not prevent the imposition of manager-determined sensibilities. In relation posting my own teaching material (some of which Provost

Garton disapproved) the judge said: “Even if the posting of the infographic was a genuine exercise of intellectual freedom .. it would not matter to the result ... It is open to the university to invoke the [misconduct] processes ... and to be satisfied that there has been “serious misconduct” where, in the context of an exercise of intellectual freedom, the standards required ... have not been met” (257, 260).

Finally, the judge relegated the academic role to that of an employee bound to follow orders. “An employee’s “duties” would include ... the implied duty of fidelity and to obey the lawful directions of the employer .. a refusal to follow lawful directions ... is capable of being “serious misbehaviour” of a kind that constitutes a “serious impediment” to carrying out one’s work (265).

The judgement does not seem easily reviewed and, in my opinion, without federal legislation, will do lasting damage to academic independence in Australia.

This decision does not affect me much. I can publish what I want and am invited to speak at universities around the world. I will resume online teaching soon. Those most affected will be the next generation of academics, especially those in controversial areas. They will have to worry that a manager may give secret censorship orders, fearing damage to reputation or finances.

Evidence produced in the case demonstrated that university reactions were driven by concern at ‘reputational damage’ and to control the political agenda. Knowing that I had publicly stated that there was “no moral equivalence” between the violence of the coloniser and the colonised, Provost Garton had insisted to me that I take an “even handed” approach to Israel and Palestine.

The final censure illustrates this well. A ‘Gaza Casualties’ graphics, demonstrating that most of the more than one thousand Palestinians killed by Israeli forces in a 2014 invasion were civilians, was singled out for its swastika fragment in the background which suggested that, in this racialised massacre, Israeli forces were acting like Nazis.

Provost Stephen Garton never acknowledged the slaughtered Palestinians; all that mattered was that those who slaughtered them would be offended. While the graphic showed how to find and use independent sources in a controversy, university managers falsely claimed that it had “no pedagogical value”.

My research article ‘The Future of Palestine’ was also attacked as another example of professional ‘misconduct’; but this claim was abandoned, as was the half-baked suggestion that my harsh criticism of Israel was “racial hate speech”. In the end the case relied on my persistent refusal to follow secret orders, to modify or remove my public comments, teaching materials and research.

That is where the Federal Court of Australia played its part, endorsing the ‘right’ of university managers to give secret orders to academic colleagues, even when that infringes on their teaching, research and public comment. This constitutes a serious blow to independent academic work. We can see the final stage of the ‘cancel culture’ campaign against my academic work in the judgement of Federal Court Justice Tom Thawley.

2. The colonial media intervenes

Since the early part of this century I have been writing critiques of the ‘New Middle East’ wars, launched by the Bush administration, and in which successive Australian governments have collaborated. I wrote on Australian war crimes in Iraq (Doran and Anderson 2011) and on my own university’s part in trying to repair the broken image of Washington by funding a US Studies Centre (Anderson 2010). With mostly government money, this Centre used Australia’s oldest university to push that partisan agenda.

In 2011 I became particularly concerned as much of the western anti-war movement died in face of the deceptive proxy wars (‘revolutions’) driven by the Obama administration against Libya and Syria. The corporate and state media helped mute public reaction to every successive war and intervention, leading me to refer to them collectively as a ‘colonial media’, effectively a lobby group committed to ongoing foreign intervention.

A former head of my Political Economy Department, Dr Evan Jones, also observed the entrenched neo-colonial view of corporate media on the Middle East. In early 2019 the Sydney Morning Herald wrote “the key to Middle East peace” was getting Palestinians to “say yes”. Evan interpreted this as agreeing “to their own ongoing suffering and displacement”. Alongside that, Iraq was dismantled, Libya destroyed, Iran was to be “obliterated”, Syria “partitioned and gutted”, Lebanon “subordinated” and Yemen “destroyed”. He went to cite the influence of the Israel lobby within the Australian corporate media (Jones 2019b). Veteran journalist Peter Manning similarly observed how “Australia’s pro-Israel media fights facts and ends careers” (Manning 2020).

As an academic who has always believed in practical action and popular education, I helped form the Sydney-based group, Hands off Syria, in 2012. By early 2016 I had published *The Dirty War on Syria*, a book which was eventually published in ten languages. For most of this time the corporate and state media in Australia ignored me, and others who opposed the relentless wars.

By this time the various social media platforms had emerged as new media on which campaigns and popular education could be carried out. As well as publishing research articles I made use of infographics to convey some realities of the contemporary wars. The graphic below, for example, shows the former US Ambassador to Syria, Robert Ford, with a leader of the US-backed ‘Free Syrian Army’, then that same FSA leader alongside an ISIS leader, after the two groups had taken over Syria’s Menagh airbase, in August 2013. Such graphics, when placed in context and corroborated, can convey important messages to a wider public. In this case, the message was that the US was behind the range of terrorist groups in Syria, so as to weaken and overthrow the Syrian Government. I documented that in my books *The Dirty War on Syria* (2016) and *Axis of Resistance* (2019).



However, by early 2017, as the US ‘deep state’ and the colonial media manoeuvred President Donald Trump to carry out his first missile attack on Syria (Gordon, Cooper and Shear 2017), based on another ‘false flag’ chemical weapons incident in Khan Sheikhoun (Idlib) (Ritter 2017), myself and my colleagues were apparently seen as an obstacle to the task. Seeing that I had organised a seminar at the University of Sydney called ‘After the War on Syria’, Murdoch’s Telegraph launched an unprovoked attack, to undermine my exposure of prior ‘false flag’ chemical weapons provocations.

Something similar had occurred a few years earlier. After returning from my first visit to Syria in December 2013, a Murdoch journalist carried out a very brief phone interview before publishing a 1,600 word personal attack (Kerr, 2014). Very little had to do with my visit to Syria; it was a smear story which simply attempted to ‘disqualify’ me as a commentator. University managers were approached for their response. When they saw I had been on annual leave and that my trip was self-funded, they said nothing particularly adverse. However Education Minister Christopher Pyne ‘reminded’ universities that he expected them to be ‘partners’ in the government goal to ‘build revenue ... by growing the international student market ... and ensure that their reputations support rather than hinder that ambition’ (Kerr, 2014). Minister Pyne presented a good summary of the commercial imperatives placed on the corporate university. Yet that commercialisation is regarded by an overwhelming majority of academics (84%) as at the root of a decline in the quality of Australian tertiary education (Evans, 2017).

Backing Trump’s 2017 missile attack on Syria, the Murdoch media made an attempt to ‘wedge’ University managers against the conference organisers, falsely suggesting that the University itself was part of what they called a ‘pro-Assad’ push. An abusive Daily Telegraph front page story headed ‘Sarin Gasbag’ showed a photo of me in Syria. I had certainly written that independent evidence did not support the claim that the Syrian Army had ever used chemical weapons; and several genuinely independent US-based experts had also rejected the accusations (Anderson, 2017b; Hersh, 2013; Postol, 2017; Ritter, 2017). I had also written that Presidents Bush, Obama and Trump were the ‘Masterminds of Middle East Terrorism’ (Anderson, 2017c), and I had published a great deal of evidence demonstrating that each successive Washington administration had been behind the financing and arming of al Qaeda aligned groups in Iraq, Libya and Syria (Anderson, 2016: chapter 12).



With several articles and support from then Education Minister Simon Birmingham, the Murdoch media tried to pressure the University to dissociate itself from me and to discipline me (Turnbull, 2017), simply for my expressed views. Simon Birmingham's response to the SBS report 'Academic accuses Australia of 'war crimes' in Syria' was a call for "the University of Sydney to check whether a pro-Assad academic has breached any code of conduct rules" (Turnbull 2017). Some other commentators observed that this politicised media attack was putting the university's stated commitment to free speech to the test (Head, 2017; Rundle, 2017).

University managers, for their part, showed great sensitivity to media pressure. They initially maintained a 'hands off' approach yet, when an opportunity arose, moved in to suppress the controversy. Their detailed reactions can be tracked through the public record and from emails released under my freedom of information (GIPA) requests.

On 10 April 2017 the media office informed the head of my School, the Faculty Dean and the Vice Chancellor that 'critical media coverage' of an academic was expected (O'Neill, 2017). The media office wrote to the Deputy Vice Chancellor saying that 'Tim Anderson's ... activity on Twitter has not subsided and given the newsworthiness of his views ... it has taken a while for anyone to ask'. The media office told managers that they had previously said: 'While the university does not endorse the statements expressed by Dr Tim Anderson, the University is committed to the expression and protection of free speech ... I assume nothing has changed and we should keep it as is?' (Andrews 2017b).

However, by the next morning, at least 30 university staff were on the case. All senior managers and a 'team' of 25 others, including lawyers and the media unit, were in communications (Andrews 2017c, 2017d). The media office wrote to Chancellor Belinda Hutchinson saying that the Minister of Education had had been 'critical of Tim Anderson' and asked 'we can expect ... negative coverage ... [but] does the University have to comment? This guy reckons Syria is in the right and that Donald Trump and Barack Obama as 'masterminds of Middle East terror' (Andrews, 2017a).

That same day several Murdoch media articles appeared, with these headlines: 'Sydney University academic claims US is the mastermind', 'Sarin Gasbag' and 'Assad situation for Uni Loonies'. Co-organiser of our conference, tutor and PhD student, Jay Tharappel, hit back on Twitter at Daily

Telegraph journalist, Kylar Loussikian. Seeing his Armenian surname, Jay called Kylar a traitor to the Armenian people (actually ‘traitorous scum’, an abusive term, which detracted from his message) for backing the false chemical weapons claim, made by Islamist groups against the Syrian Government. The historical reference was to Syria giving sanctuary to Armenians during and after the Armenian Genocide, a century ago. Kylar’s support for the false chemical weapons claims of al Qaeda sectarians in Idlib would certainly help in their attacks on Christian Armenians, such as the March 2014 attack on the Armenian-Syrian village of Kessab (Armenian Weekly 2014).

Within a matter of hours university managers had responded to complaints from the Daily Telegraph and the paper reported ‘Sydney University tutor investigated after racially-charged attack on Daily Telegraph reporter of Armenian descent’ (Godfrey, 2017). Now the Murdoch media played the victim. Their reports carried pictures and personal attacks on Jay. The paper reported a statement from the University saying that they had ‘commenced an investigation into the behaviour of a casual staff member who is alleged to have made offensive comments to a journalist ... [it is] examining whether any breaches of its Code of Conduct have occurred’ (Haywood, 2017). That university statement formed the basis of the Daily Telegraph’s front page story.

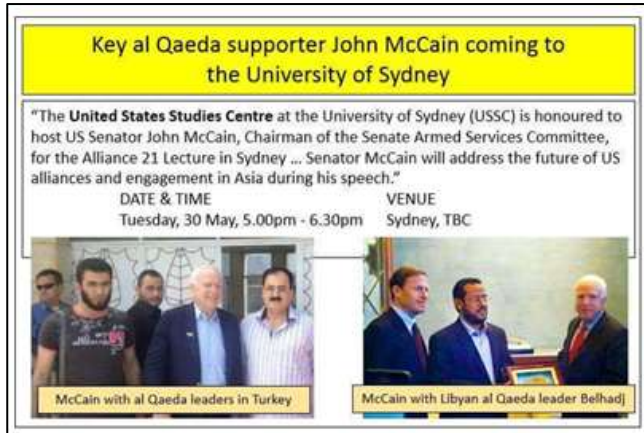


The university media release helps fuel a new round of media abuse, including absurd 'genocide threat' headlines.



Nine days later, on 20 April, Dean Annamarie Jagose presented Jay with a letter confirming that she was investigating his alleged misconduct. I privately criticised Annamarie for leaking in advance to the media this supposedly private ‘investigation’. In a 17 May letter the Dean said she had upheld all complaints against Jay, found ‘misconduct’ but not serious misconduct, issued a ‘warning’ and added that there would be ‘monitoring’ of his future social media posts.

I continued to publicly criticise journalists who spread false stories about the war, then made public my criticisms of the university's treatment of Jay. In early May I also criticised the invitation by United States Studies Centre for Senator John McCain to speak at the University (USSC, 2017). On social media I pointed out, graphically, that McCain was a high profile supporter of al Qaeda leaders in both Libya and Syria (see the graphic below).



During this period university lawyers were asked to prepare advice as to whether my 'public comments were inconsistent with the University's Code of Conduct and Public Comment Policy' (Stewart, 2018, s.15e,f). On 11 May Chancellor Belinda Hutchinson said in an internal message, 'I fully support academic freedom but there is also a need to act and speak respectfully. Does Tim have a counsellor who can counsel him?' Two hours later Vice Chancellor Spence told her: 'this is just to let you know that The Australian is going to run with [more] Tim Anderson stories' (Spence 2017b).

Soon after this Dean Jagose decided to lay misconduct charges against me. These were to do with my criticism of journalists, my criticism of the McCain invitation and my private criticism of her handling of the Jay Tharappel 'investigation'. Apprehending retaliation, and with the backing of my union (the NTEU), we had her stood aside for apprehended bias. The matter was taken over by Deputy Vice Chancellor and Provost Stephen Garton. He upheld the Dean's complaints, saying my criticisms of Murdoch journalists were 'intemperate' and 'derogatory' (Garton, 2017a).

One example of this was my criticism of former Murdoch journalist Rick Morton. Back in 2014 he had run a false story about chemical weapons in Syria (see graphic below). He falsely claimed that a UN report has "provided overwhelming evidence" of "the Syrian regime" committing chemical attacks. That report said no such thing, as I pointed out in my graphic. Then in 2017 Rick tried to cover up the Australian air force involvement in the massacre of more than 100 Syrian soldiers, which helped ISIS take over al Tharda mountain, behind Deir Ezzor airport. After Prime Minister Turnbull dismissed that carefully planned attack as a 'mistake', the Australian media said nothing more. However I went to Deir Ezzor and prepared a more detailed account, after speaking with survivors and eye witnesses and then reviewing the US investigation (Anderson 2017d). I engaged with him on this issue, on social media.



In my response (Anderson, 2017) I told Stephen that my public comments were conditioned by these principles: that criticism could be made of anyone if it were based on facts, in the public interest (i.e. not gratuitous) and with no abuse ('FPINA'). I also reminded him of provisions of the Enterprise Agreement on 'Intellectual Freedom'. They affirm the academic right 'to express unpopular or controversial views, provided that in doing so staff must not engage in harassment, vilification or intimidation'. The industrial agreement also specifically recognises the right of academics to criticise their own institution.

On 2 August Stephen upheld all his own charges against me, found 'misconduct' but not serious misconduct and issued a 'warning'. Two aspects of his 'findings' deserve attention. Firstly, he said: 'I do not agree that you are entitled to criticise journalists so long as they meet your own set of criteria ['FPINA'], in circumstances where you are an employee of the university and your Twitter and Facebook accounts identify that you are employed by the University' (Garton, 2017b). He stuck to his criticism about a lack of 'courtesy' and 'derogatory' remarks, but did not respond to my call for the university's obligation to defend academic freedom.

3. Trolling from the Israel lobby

Renewed colonial media trolling of the University, a year later, had nothing directly to do with any statement I had made. But they had learned in 2017 that university managers could be goaded into action, and they seized on a flimsy opportunity. This time Stephen Garton would go beyond trying to censor my public comment, he would intervene in my research and teaching materials. After struggling with various pretexts his final rationale for my dismissal would be insubordination, I would simply not follow his secret orders.

In late July 2018 as I and a small group of friends were traveling through China, on the way to a study tour of north Korea, I posted on Facebook a picture of friends at lunch in Beijing. I was on leave from the university and made no political comment at all on this particular post.

However Channel Seven collected some Israel lobbyists to attack this post with a complaint that, in the background of the photo on the jacket of doctoral student Jay Tharappel, there was visible the badge of Ansarallah, the embattled ruling party in Yemen. Amongst the Arabic slogans in badge is

“death to Israel”, a ubiquitous phrase in the Middle East. The Yemeni badge also carried the phrase “a curse on the Jews”. So seizing on that background fragment Chanel Seven ran a television ‘report’ that suggested I and my friend were somehow racist against Jewish people.

To back this obvious smear story the Chanel Seven reporter Bryan Seymour (I had never met him and he made no attempt to speak to me about the story) used Vic Alhadeff, the former CEO of the NSW Jewish Board of Deputies, a prominent Israel lobby group. Vic was also formerly chair of Multicultural NSW, until forced to resign after widespread protests over his abuse of Palestinians (Clenell 2014). Bryan Seymour also gave a platform to Jamal Daoud, a Jordanian-Australian who has pretended to represent the Arab or Muslim community in Australia, but has repeatedly acted in support of the Israel lobby. He has publicly abused more than 25 international supporters of Syria, was banned from entering Lebanon in 2015 (Daoud 2018) and is wanted for questioning in Syria after he smuggled high profile Israeli propagandist Jonathan Spyer into the country, in 2017 (FreeSuriyah 2017). The owners of Channel Seven itself have deep links with Israel. They are dealers in much of Australia for Caterpillar, which “makes the bulldozers Israel has used to demolish thousands of Palestinian homes in the West Bank” (Brull2016).



Because of Jay’s show of support for Yemen, Bryan Seymour’s story claimed that Jay and I were propagating anti-Jewish racism, that Jay’s wearing the badge might even be illegal under Australian laws against “inciting violence based on race” and that both Jay and I were “fervent supporters of communist dictator Kim Jong Un” (Seymour 2018).

This was a pathetic smear story, manufacturing its own ‘outrage’ for its headline ‘University student sparks outrage’ and blatantly dishonest, since neither Jay nor I had written anything about the Korean leader. I considered not responding at all, but then thought that my silence might be seen as somehow consenting to the false claim that I support “communist dictator King Jong Un”.

Rather than dignify the story with any lengthy reply I posted a brief comment, denouncing it. Giving a link to the story I wrote, “Colonial media promotes ignorance, apartheid and war. Channel 7’s Bryan Seymour accuses Indian-Australian student of ‘racism’ for siding with Yemen and other Arab states against #ApartheidIsrael. Also lies about those in solidarity with #Korea #DPRK” (Anderson 2018d). Any honest person who has read my work will know that I consistently say that solidarity is always with a people, not with any particular political figures.



That same day I received an email from Dean Annamarie Jagose, demanding that I take down both the ‘lunch photo’ and my post criticising Bryan Seymour. In a secret letter of 3 August 2018 Annamarie said: “I am formally directing you to remove these [two] social media posts. The university has serious concerns that the social media posts have the potential to bring the university into disrepute ... Should you not comply with the dictions in this letter, I note that disciplinary action may be taken against you.”

Far from sympathising with me about an outrageous tabloid smear, or accepting my right to defend myself, she had become focused on me as a problem for the university. Since I had never before experienced this sort of secret intervention, which I saw as abuse, and since I saw no basis for it in university culture or rules, on 4 August I rejected her demand with this email: “Dear Annamarie, I never respond favourably to secret demands and threats. You should know that you have no right to demand any censorship of my social communications”. Your claim for secrecy of communications is also rejected.”

However I did consider, for a moment and separately, the issue raised. Was there something disgraceful which should make me think of removing the lunch photo? I myself would not have worn that badge, and I considered the phrase “a curse on the Jews” as rude, but in context not much different to Aboriginal people in Australia cursing ‘whitefellas’ for taking their land. I saw no good reason to remove it, and certainly not because the colonial media was again trolling the university.

A catalogue of fresh professional ‘misconduct’ charges followed, a week later. They had to do with my refusal to take down the two social media posts and my criticism of the Chanel Seven report. As these new allegations came from a manager (Annamariee) who had been stood aside for apprehended bias the year before, before I responded, on 15 August I made an official complaint to Workplace Relations of bullying. I complained of the “trivial, vindictive and vexatious against me”, saying that Annamarie “seems to believe that intimidating me into silence will somehow lessen the tabloid media attacks (and consequent perceived adverse publicity for the university); yet these attacks persist due to the substance of my work.”

On this matter the contractor who reviewed my complaint never got back to me, reporting instead to Provost Stephen Garton. He, in turn, refused me a copy of the report on my complaint, just saying that it was not substantiated.

As I was about to depart for Latin America on study leave, on 22 August 2018 and before my bullying complaint was resolved, I wrote a detailed response to Annamarie's allegations to the Workplace Relations Director. I anticipated that the matter would again be taken out of her hands.

Each time new accusations were drawn, after media goading, university managers would announce them to the media and direct me to remain silent. Managers breached their own confidentiality norms publicly and privately. For example in August 2017, Stephen Garton had written to Daily Telegraph reporter Kylar Loussikian, telling him privately the details of the 2017 "investigation" into my "misconduct". Stephen wrote: "The University has found that Dr Anderson has breached the University's Code of Conduct and Public Comment Policy ... and has issued a warning to Dr Anderson ... [he] has been reminded of the requirement to exercise good an ethical judgement in any public comment [etc]". After three such paragraphs he concludes, without a hint of irony: "The University has treated this on a confidential basis, including the fact that you were a complainant in this matter. Results of investigations are normally confidential".

The same double standards returned in 2018. On 17 August I was asked for comment by Sydney Morning Herald journalist Michael Koziol on his tip that the university was "investigating [my] conduct" in relation to the lunch photo. I did not respond. Two days later he posted on Twitter and at his paper "Exclusive: senior lecturer Tim Anderson defended "death to Israel" badge worn by a Stalinist former colleague with whom he recently visited North Korea" (Koziol 2018).

This was the same practice for which I had harshly but privately criticised Annamarie Jagose in 2017, that she had fed a story to the Daily Telegraph which allowed smear stories against my then tutor, Jay Tharappel. That private criticism became another complaint of 'misconduct'.

As a result, on 24 August 2018, Simon Kempton of the National Tertiary Education Union (NTEU), on my behalf, wrote to Stephen Garton challenging these double standards. In the letter titled "University release to the media of details regarding investigation into Dr Anderson" he said: "The NTEU has long held the position that it is not appropriate for the university to demand staff silence when they are being investigated ... the NTEU has generally advised our members to respect these requests, as we understood that they came with mutual obligations on the University. It seems from your email that either you do not understand the requirement or have chosen to ignore it in this instance".

On 8 September I sent a concerns notice under the Defamation Act to the university Vice Chancellor, Michael Spence. Such notices are a requirement to seek conciliation, before any defamation action is started. I told the Vice Chancellor that, "by colluding with media outlets to publicise false claims about my alleged 'promoting [of] racial hatred and/or racism", the university was responsible for defamation, in circumstances when they "knew full well I had not engaged in any racial abuse".

On 14 September Michael Spence wrote to me defending the media releases and saying there was "no basis" for any defamation. However on 9 October, apparently in response to the letters from the NTEU and myself, Stephen Garton wrote to me with a modified form of confidentiality requirement. While saying that my bullying complaint had been dismissed and that the misconduct allegations

would proceed, he said “Your claim of a ‘practice of abuse by press release’ is without foundation ... your rights to defend yourself against any perceived defamation of you and to pursue your research speciality are not incompatible with your obligations as an employee”. In his subsequent letter of 19 October, which upheld the misconduct charges over the lunch photo and my response to Bryan Seymour, he added: “You are entitled to comment on the stories reported on you relating to the posts, provided you do so in a manner that is consistent with the obligations that apply to you” under university rules.

The 2018 ‘misconduct’ complaints, which began with Channel Seven’s trolling over the lunch photo, had moved quite rapidly from criticism of my public comment into attempted censorship of my research and teaching.

Annamarie had made a formal complaint that I had used the term ‘colonial media’, while criticising the smear report by Channel Seven. It was my conceptualisation of a media which supported every war and intervention. She charged that “Colonial media promotes ignorance, apartheid and war” was “derogatory and/or offensive in nature” and was also “derogatory of the journalist Bryan Seymour”, to whose story my comment was linked. This phrase was a conceptualisation, of the sort expected in academic analysis. Stephen Garton upheld Annamarie’s allegation.

In the next round of allegations Stephen would demand that I dissociate some teaching materials in a slide set on ‘Reading Controversies’, which was my most recent pedagogical initiative. That was a slide about a massacre of Palestinians, but which Stephen felt was offensive to Israel.

In September I published a short article ‘Supporters of Apartheid Israel Abuse Sydney Anti-War Student’, critical of this colonial media and of a wider pro-Israel bias at the university (Anderson 2018e).

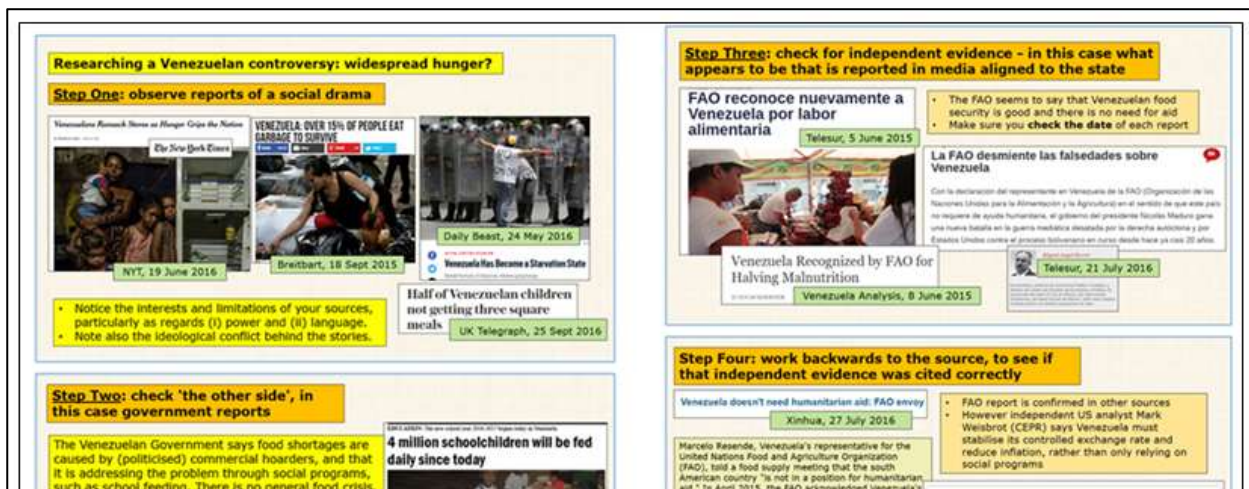
4. Massacre of Palestinians becomes ‘a Swastika image’

However the claim that I had posted a ‘Nazi swastika’ over an Israeli flag was the trigger that led to my dismissal. This complaint and the misrepresentation of my teaching work arose in an unusual way.

In fact the slide was about the 2014 massacre of Palestinians by Israeli forces which had invaded Gaza. The first version of this graphic was from 2015, after I had found some relatively independent media sources to demonstrate the asymmetry of the ‘conflict’ (massacre) and to question false ‘moral equivalence’ arguments put out by many, amongst them the then UN Secretary General Ban Ki Moon. The Israeli flag is altered in the background to help illustrate the asymmetries of this conflict-massacre. The background graphic reinforces the evidence in saying that these Israeli forces were acting like Nazis. I posted this Gaza Casualties graphic (titled ‘Double Speak in Gaza’) on social media but did not use it in class, mainly because I was not teaching on Palestine.



However as I was teaching on Venezuela, I began to develop methodological material on how to read current controversies about that country. So my initial material for class had to do with the claims about food security in Venezuela (2015-2018). The four slides shown below set out a process to identify both sides of a controversy, then look for independent sources, including by checking primary sources. I later set out this method in a conference paper 'Reading International Controversies through Postcolonial and Forensic Principles' at a conference on Pedagogy (Anderson 2019a).



There were many other examples which could be linked to this method. The repeated massacres in Gaza (often wrongly referred to as simple two sided 'conflicts') lent themselves well to this sort of analysis. Israeli-Palestinian relations are one of the peak international hotbeds of controversy and I had been looking for a useful teaching method into the area.

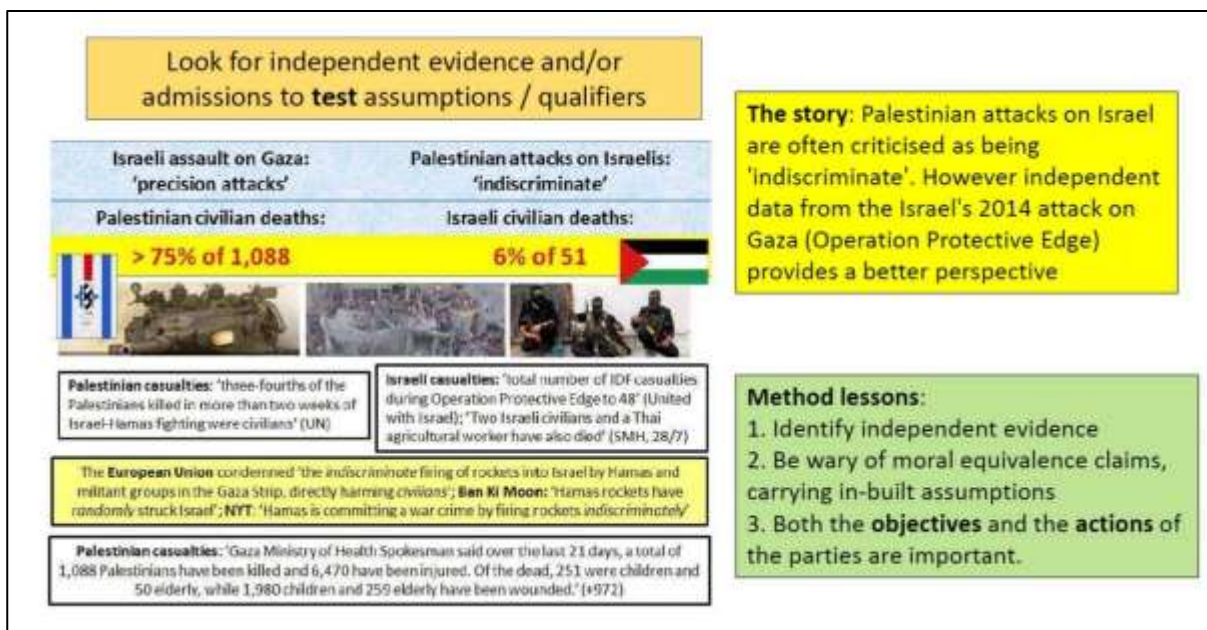
I had that in mind as I adapted a second version of my Gaza casualties graphic for the 'Reading Controversies' method module, which looked at several international controversies. This was the one that appeared too 'controversial' for Stephen Garton. He was clearly concerned about its substance, not just the fragment of a swastika buried in the background. At the Review Panel in February 2019

he said that I “should have been even handed” in my commentaries about Israel/Palestine. I responded “Even handed to Apartheid Israel?” He retorted “Well you can cite studies that it is apartheid Israel and I can cite just as many to show it is not”.

Below is the untitled Gaza Casualties infographic about which much has been written but which was rarely shown in media reports. Its main themes are these:

- (1) the core of the original graphic is there, to show the asymmetry of this ‘conflict’ (hence a massacre) and the false equivalence, both in scale and in civilian casualties, between the ‘two sides’;
- (2) the text at the top and on the right draws attention to the use of sources, urging a search for more independent sources and caution about moral equivalence claims.

In my opinion this ‘reading casualties’ was one of my most important teaching initiatives. Academics often stay away from great contemporary controversies; few teach a method of reading them.



In his letter of 19 October 2018, which confirmed the ‘misconduct’ allegations over my ‘lunch photo’ and my response to the Channel Seven smear, and giving a “final warning”, Stephen Garton added this postscript.

“The University is aware of other posts ... in particular I refer to a Facebook post of a presentation in a ‘Reading Controversies’ Seminar. The post was made on 23 April 2018 and shows a cropped swastika superimposed over the Israeli flag ... Given the period of time which had elapsed ... a decision was made not to include it in the allegations. In the circumstances the University will not raise this post with you formally. However in my view, a reasonable person would regard the superimposition of a cropped swastika over the Israeli flag as offensive. Please immediately add a disclaimer ... [so] that the presentation is not connected in any way with the University of Sydney”.

Through an obsession with the fragment of a swastika in the background (about which I had forgotten) Stephen steadfastly refused to acknowledge that the graphic was about a massacre of Palestinians, mostly civilians, by Israeli forces. Frankly, I was outraged by this wilful blindness. Further, he was trying to secretly direct me to dissociate my teaching materials from the university. He did not realise, at first, that this seminar and the materials were attached to my undergraduate unit of study 'Human Rights in Development' (ECOP3017).

The figures in the graphic are outdated; we now know that more like 2,200 Palestinians and 70 Israelis were killed in this 'Operation Protective Edge'. However the proportions remain much the same: more than 90% of the Israelis killed were acknowledged as military while, according to the UN, 25% or less of the Palestinian were combatants. This was not a simply conflict where "both sides" committed equivalent crimes.

I had no intention of complying with Stephen's demand, which I considered as illegitimate gatekeeping for the Israel lobby, and an intrusion into my teaching responsibility. No University manager had ever before interfered in my work in this way and not even the head of my department had ever given me directions over which teaching materials to use. I could not have complied with Stephen's increasing demands and maintained the intellectual integrity of my work.

I posted the graphic again on Facebook and Twitter, on 19-20 October, even before I had replied to his letter, to demonstrate in a practical sense my rejection of his hectoring. He had not actually demanded that I take it down, but he had expressed his displeasure. I posted it again linked to some comments and to my online research article 'The Future of Palestine' (now a chapter in my 2019 book *Axis of Resistance*) which, amongst other things, discussed some parallels between Nazi and Israeli racial violence. This article also cited the important report by Richard Falk and Virginia Tilley (2017), which categorised Israel as an apartheid state.



It is not as if Israeli leaders are unaware of their own apartheid. Two former Israeli Prime Ministers (Olmert and Barak) had warned that the 'Jewish state' will be widely branded as an apartheid regime if the decades long illusion of a parallel Arab state disappears (McCarthy 2007; Kaplan Sommer 2017).

Remember that Stephen's comments were in a secret letter, so few other than he and I knew that this repost had occurred in response to his letter. I considered 'outing' him in the post (along these lines: 'look at this post which was called "offensive" by a university manager; what do you think?'), but decided against it.

My comment on another post was “Revision: how to read the colonial media, and untangle false claims of ‘moral equivalence’. The colonial violence of #Apartheid #Israel neither morally nor proportionately equates with the Resistance of #Palestine.

Stephen took a strange approach to this line of complaint. First his complaint about the ‘swastika image’ extracted that element from my background graphic, while refusing to acknowledge both context and the graphic’s central meaning. Then he made specific complaints about the context I posted, that is, The Future of Palestine article and my comments on false moral equivalence.

Finally, in a letter of 26 October, having decontextualised my graphic and then objected to the additional context, Stephen announced that “there is no legitimate academic or intellectual purpose served by the inclusion of the altered image of the Israeli flag” in my posted graphics. By this time I had lost patience with his demands, which had stretched over more than a year. I saw no chance that he would change his view, and he was now acting as star-chamber (secret) prosecutor and judge.

In that same letter he made separate complaints about the posting of my research article linked to the Gaza Casualties graphic as “derogatory and/or offensive”. He said: “You posted as a comment ... ‘On the future of Palestine’ [URL] which included a hyperlink to the Centre for Counter Hegemonic Studies website ... the Facebook post and the twitter post (due to the fact it included the altered image of the Israeli flag) are derogatory and/or offensive in nature ... [and] can be reasonable seen as racist towards or seeking to target and/or offend Israelis and/or Jewish people and/or Jewish victims of the Nazi regime”. So now he was objecting my research work and joining in the notoriously false claim that criticism of Israel was “anti-semitism”.

At the federal court hearing in October 2020 barrister Kate Eastman for the University had argued that the fragment of my graphic was “objectively offensive”; but this was contradicted by Stephen, in his evidence. In answer to the NTEU’s barrister Siobhan Kelly he Stephen agreed that the use of a larger, clearer version of the same image (a partial swastika altering the Israeli flag) was not offensive when used by Israeli advocate Dr Andre Oboler (2013). Stephen’s reasoning was that, in the Oboler article the graphic was used to depict anti-semitic practices and defend Israel; so much for “objectively offensive”. At no stage did Stephen recognise that my Gaza Casualties graphic was about a massacre of Palestinian civilians; to mention a racial massacre might have led him to recognise that Israeli forces were acting like Nazis.



I replied that same day, on 26 October, from my study leave in South America, saying I had had enough of his “clumsy, unprincipled attempts to act as political censor of my public comments”. I cited the intellectual freedom provisions of the university’s Enterprise Agreement, his departure from the specific boundaries set out for controversial work (“harassment, vilification or intimidation”) and

his substitution of vague ideas of ‘offensiveness’. I criticised his and Annamarie’s half-baked smears of ‘racism’ (anti-semitism, for criticism of Israel) and their double standards by making media releases while they tried to swear me to secrecy. I complained about his direct intrusions into my work, by making professional misconduct complaints about my research and teaching materials. My letter ended with the message “If you insist on continuing with this abuse, take it to an independent tribunal”.

5. The path to dismissal

Stephen wrote again on 3 December, while I was still on leave, to suspend me from work. The central complaint was the publication and republication of my Gaza Graphics info-graphic, which he had never acknowledged was about a massacre of Palestinians by Israeli forces. He did not subsequently develop the idea that my criticism of Israeli forces was ‘inciting racial hatred’, nor did he pursue the complaint about my research article ‘The Future of Palestine’.

The better informed observer of this case will correctly infer that I was dismissed from the University for insulting Israel. Stephen revealed this most obviously when he told me, at the Review Panel, that I “should have been even handed” as regards Palestine and Israel. However the political substance of the complaints was hidden and the final rationale was one of insubordination.

At the federal court hearing Stephen claimed university managers were not concerned about the media but only with “the way in which Dr Anderson responded”. He said this to maintain a focus on his ‘misconduct’ story; however the claim was false and Stephen was dissembling. The substance of the case was the embarrassment my political views was causing the university and its brand.

In his 26 November briefing note for the Senate (for their information only, they were not asked to decide) Stephen listed a catalogue of twelve “complaints against Dr Anderson”, most of which led to no action. The inclusion of unsubstantiated complaints against me to the Senate was presumably to show that managers had shown forbearance in the past, in the name of ‘academic freedom’. However it indicates mounting pressure based on the substance of my work. The first complaint listed was a January 2014 letter from “various members of Federal parliament” which complained about my December 2013 visit to Syria and my views (correct paraphrased) that “Iran and Syria are vital bulwarks against western imperialist ambitions in the Middle East”. That note showed managers were very concerned about politically motivated media pressure. Stephen spelt that out, saying that he considered it “highly likely that Dr Anderson will engage in similar conduct in the future, exposing the university to ongoing risk of reputational damage and possible legal claims”.

That same media sensitivity was shown in April 2017 when two dozen admin and managerial staff sought to manage the Murdoch media assault on our conference, and again on 3 August 2018 when Dean Annamarie Jagose asked me to remove my response to a Channel Seven smear, claiming my response had “the potential to bring the university into disrepute”. Media management and brand damage was uppermost in the managers’ minds, and the tabloid media knew it.

The rationale for dismissal was ‘serious misconduct’, which was defined in the University’s 2018 Enterprise Agreement (p.10) as “serious misbehaviour of a kind that constitutes a serious

impediment to the carrying out of a staff members duties or to other staff carrying out their duties, or a serious dereliction of duties”. No manager ever claimed I did not carry out my work well.

In my last peer review session (Academic Planning and Development), signed off on 28 September by my colleague Associate Professor Damien Cahill, had been very positive. Damien wrote “Tim continues to make a string contribution to the department and to the University more generally. His research outputs are well above what would be expected of someone at his level of appointment [I was working half time] and he has made a significant contribution to debate on matters of enormous public importance through his research, community engagement and media interviews”.

In late 2017, I was one of a number of staff elected to the University’s Academic Board. I had run for election with the promise to help monitor the compromises of the corporate university including, at that time, a proposal from the wealthy Ramsay Foundation to teach favourably the history of ‘western civilisation’ Further, in later 2017, I became one of a number of staff elected members of the Academic Board. However in December 2018 my suspension interrupted that mandate.

In his submissions to the February 2019 Review Panel Provost Garton said (par 44): “Dr Anderson has had a lengthy career at the University and during much of his employment he has been a controversial figure who has contributed actively to public debate on a range of political and social issues.”

However in his 26 November 2018 briefing note to the University Senate Stephen stressed: “It is clear that Dr Anderson is unwilling to accept the University’s authority and conform to the behavioural expectations and requirements for all staff ... he does not accept the authority of the university or its right to determine whether his behaviour complies with his employment obligations and university policies”.

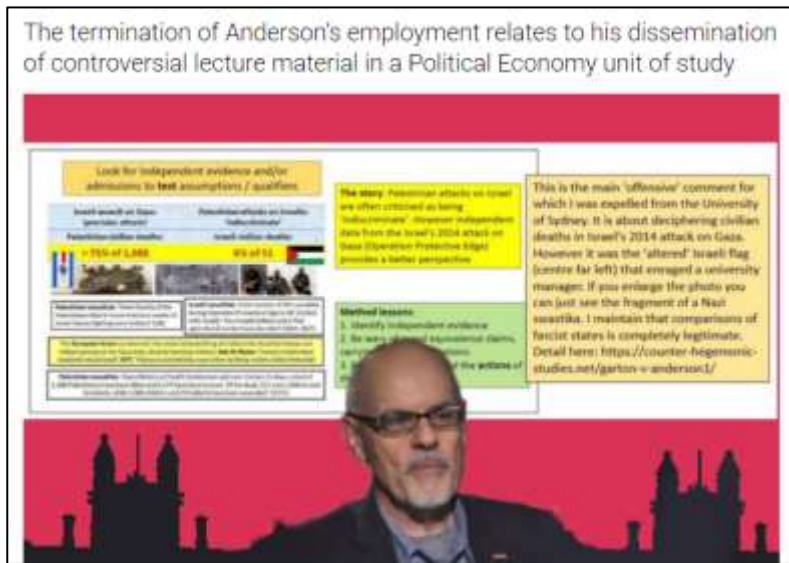
Stephen was right, I did not join the academy to follow arbitrary orders and I consistently rejected his attempts to give me directions on public comment, research and teaching. This had never happened before in my more than 30 years working at Australian universities (including 20 years at the University of Sydney), and I could see no good reason for it in university rules.

There were agreed standards, under the intellectual freedom provisions of the Enterprise Agreement, but Stephen never accused me of “intimidation, harassment or bullying”. The reversion to shifting claims of ‘offensive’, ‘inappropriate’ and ‘derogatory’ ultimately collapsed into the final complaint that I would just not follow his secret orders. At the internal Review Panel into his decision to kick me out of the university, Stephen complained: “Dr Anderson ... has demonstrated a contempt for the authority of the university and for the relevant decision makers” (6.8). I would say that I rejected the over-reach of university managers and stood up to their bullying, on behalf of a powerful lobby.

My first line of appeal from Stephen’s decision to suspend me was an internal Review Panel, which was held in February 2019. By a two to one majority (the staff member dissenting) they upheld the decision to dismiss. Then began a long legal process before the federal court, in which the NTEU made itself a party so as to defend me as a member but also to defend the intellectual freedom provisions of the industrial law the union had helped create. This culminated in a federal court hearing in October 2020 and a decision by Justice Tom Thawley on 26 November 2020.

I first freely wrote about this matter in late 2018 (Anderson 2019b). I had said little publicly, between April 2017 and December 2018. Other academics also wrote, notably historian Jeremy Salt in his piece ‘The attempted silencing of Tim Anderson’ (Salt 2018) and ‘McCarthyism at the University of Sydney’ by political economist Evan Jones (2019a).

The media side was predictably shallow, simply reproducing the line run by university managers. So far as I am aware the only media report which actually carried the Gaza Casualties graphic image was the University of Sydney’s student newspaper, Honi Soit (Verity and Syed 2019).



Misinformation persisted, after I had left the university. In March 2019, at an open University forum on 4 March, and in response to a question, Vice Chancellor Michael Spence said that my Gaza graphic:

“had absolutely nothing to do with his opinions about the politics of Israel-Palestine ... it had to do with ... the removal of an image from teaching materials that had no pedagogical value and was inflammatory and potentially constituted an act of racial hate speech. That's a totally different thing ... absolutely nothing to do with the politics of Israel-Palestine.”

I consider it highly unlikely that Michael Spence knew anything about my Reading Controversies method materials; on the other hand it is almost certain that he knew that my work had upset some Israeli donors, as well as sections of the media. I had lawyers send him a concerns notice under the Defamation Act, after which (without admitting blame) he took his speech down from the internet. I did not proceed any further as, by then, I had federal court proceedings underway.

7. Finally

The Federal Court of Australia (FCA) has endorsed academic cancel culture, initiated by an outside lobby (in this case the Israel lobby) and enacted by corporate university managers who fear reputational damage and are not prepared to defend academic freedoms.

The FCA in my case and one earlier case (Ridd 2020) read down the right to intellectual freedom and read up the standard employer role of university managers. Academics are now on notice that they must follow secret censorship orders, even when it affects their academic work. This will have a chilling effect on all academics, especially the new generation.

When it comes to war and foreign relations, academic cancel culture is part of a wider, xenophobic political and media censorship - including new, partisan 'foreign influence' laws - which aim to intimidate and stifle debate.

In my case the prime movers of this cancel culture were the Israel lobby and the colonial war media, which have backed multiple wars and interventions as part of Washington's failing attempts to gain control of the entire Middle East region.

The moves against me were to remove a source embarrassment to the university brand, they had nothing to do with any real 'professional misconduct'. However the FCA decided that managers can act as they see fit, on any trivial pretext (such as 'lack of courtesy'), to gag active academics.

I have enjoyed more than 30 years of intellectual freedom in Australian universities, but I could not maintain intellectual integrity with managers giving secret gag orders each time a powerful lobby complained. So I will continue with publishing and speaking at other universities, and by resuming online teaching in 2021. Academic independence matters.

I would like to add a few comments on the use of social media. Public debate these days often demands concise or summary comments, including judgements on the actions of public figures. In my view there is no special problem in such summary judgements, if they are backed in substance, are in the public interest and do not degenerate into abuse.



Graphic: October 2020, French President Macron denounces 'Islamic terrorism'

I have been asked to make such comments in interviews over the Middle East, two or three times per week for the past five years. In my view criticism of public figures can be harsh but should remain proportionate to the circumstances, focussing on a person's actions, rather than the person.

Yet corporate university brand managers can always find a pretext to censor, when their financial interests are at stake, and can easily claim that commentaries 'lack courtesy' or are 'offensive'. Unfortunately the ongoing fear of 'reputational damage' will continue to drive managerial censorship, within the corporate university. As the courts are increasingly endorsing their role as 'employers', able to give orders to their academic 'employees', then academics will continue to be gagged, on a range of issues, being treated as government employees.

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