

LEGISLATING THE SHIELD

A POLICY FRAMEWORK FOR PROTECTING ACADEMIC FREEDOM FROM THE FAR-RIGHT IN AOTEAROA NEW ZEALAND:

A LEGISLATIVE PROGRAMME, UNIVERSITY DUTIES AND
THE UNION, GROUNDED IN THE CULTURE-CENTERED
APPROACH AND TE TIRITI O WAITANGI

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ABOUT CARE

The Center for Culture-Centred Approach to Research and Evaluation (CARE) at Massey University, Aotearoa New Zealand, is a global hub for communication research that uses participatory and culture-centred methodologies to develop community-driven communication solutions to health and wellbeing. Through experiments in methods of radical democracy anchored in community ownership and community voice, the Centre collaborates with communities, community organisers, community researchers, advocates and activists to imagine and develop sustainable practices for prevention, health care organising, food and agriculture, worker organising, migrant and refugee rights, indigenous rights, rights of the poor and economic transformation.

Prof Mohan J Dutta is the Director of CARE and author of books such as *Neoliberal Health Organizing*, *Communicating Health*, and *Voices of Resistance*.

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EXECUTIVE SUMMARY

Academic freedom in Aotearoa New Zealand is under a form of attack that the statute protecting it was never designed to meet. Section 267 of the Education and Training Act 2020, like the section 161 of the Education Act 1989 that it carries forward, imagines the threat to academic freedom as coming from inside the institution or from a government acting through it. The attacks that now land on academics in this country come from outside and from below at the same time: from far right extremists who intrude into conferences and threaten the homes of scholars, from online hate networks that coordinate pile-ons across Telegram and X, from digital influencers who feed decontextualised clips of lectures into algorithms that reward outrage, from organised watchlist projects modelled on Turning Point USA and Campus Watch, and from politicians and political parties who have learned that a screenshot from a lecture hall can be turned into a press release, a parliamentary question, a statutory complaint and a regulation. The Education and Training Amendment Act 2025 has added a statement-and-complaint architecture that hands this pipeline a lawful endpoint, on a policy record whose own officials conceded that the evidence of a freedom of expression problem was limited and anecdotal (Naepi & Davis, 2025).

This white paper sets out a framework for protection that begins from the culture-centered approach (CCA) and from Te Tiriti o Waitangi, and that reads academic freedom as a question of justice. It draws on the international literature on academic freedom from the American Association of University Professors' 1915 Declaration through Finkin and Post, Scott, Reichman, Bérubé and Ruth, Butler (2015) and Darian-Smith; on the research on targeted harassment of scholars; on the AAUP's investigative reports on Florida, North Carolina, Muhlenberg and pandemic governance; and on three decades of New Zealand scholarship, from Keith, Kelsey, Olssen and Jones, Galvin and Woodhouse on the statutory settlement and its neoliberal enclosure, through Hook, Zepke and Sutherland on the changing profession, to Stewart, Johnson, Couch, Devine and Naepi and colleagues on the collision between academic freedom and Te Tiriti in the present culture war. The CCA reads the attack through structure, culture and agency, and its concept of communicative inversion supplies the theoretical register in which the far right's deployment of academic freedom against academic freedom can be read without conceding its terms: a liberal value is borrowed, the positions of the powerful and the marginalised are reversed, and the reversal is then instrumented as a complaint, a policy or a statutory clause so that the institution performs the silencing itself. Eight such inversions are set out in Table 2, each matched to the provision that answers it. The justice framework that follows names four dimensions along which protection must be designed: epistemic, distributive, procedural and relational. Section 3.4 traces the transmission belt that produced the New Zealand statute: the office of a "free speech commissioner" now urged on this country was designed in a 2020 Policy Exchange report as a Director of Academic Freedom at the English regulator, enacted in the United Kingdom's Higher Education (Freedom of Speech) Act 2023, and then urged on the United States through the Manhattan Institute and on Canada through the Macdonald-Laurier Institute by the same author, before arriving here through the Free Speech Union franchise network. Section 3.5 sets out what the New Zealand policy record shows. The drafting supplied to officials by Minister Seymour's office in October 2024 states that its council duties could be adopted from the United Kingdom's

Higher Education (Freedom of Speech) Act 2023, transposes that Act's duty, premises rule, academic freedom definition and security-costs rule, and proposes a schedule containing a model freedom of expression resolution published by the Foundation for Individual Rights and Expression. The Ministry itself stated the distinction between freedom of speech and academic freedom that this paper asks Parliament to enact, and identified as one of five concerns that universities were failing to protect academics from harassment and abuse, a concern the Act answers nowhere. The measure originates in the National-ACT coalition agreement rather than in any identified problem; Universities New Zealand told Parliament that the United Kingdom regime had produced a weaponisation of the complaints process and a chilling effect, and identified the correctives the United Kingdom had adopted; and Parliament enacted section 281B without the merit threshold, vexatious-complaint filter or anti-doxxing provision that the United Kingdom had by then put in place. The framework adopts paragraph 27 of the UNESCO Recommendation of 1997 as the operational definition of academic freedom, and writes it into the proposed section 267B. Section 4.6 examines the Act now in operation, where universities have adopted freedom of expression statements pairing the critic and conscience role with institutional neutrality, built single pathways handling both freedom of expression and academic freedom disputes, and become subject from 2026 to statutory duties to survey staff and students and to report complaint counts annually. Section 5 documents the harm the debate leaves unmeasured: the chilling of scholarship, the psychosocial injury recorded across the research literature, the independent damage done by complaint investigation, and the coronial findings in the deaths of Professor Stefan Grimm and Dr Malcolm Anderson, which connect informal and unresolved institutional processes to the deaths of academics. Section 4 assembles the domestic case record, from the Hindutva-aligned campaign against the author and the du Fresne series on communication and media studies, through the Free Speech Union's survey instruments, to the Israel Institute of New Zealand's use of Official Information Act requests to extract lecture content and its published rosters of named academics across four universities, and shows that in each case the language and machinery of academic freedom are the instruments of the attack. Section 3.4 also maps the network behind the belt: Policy Exchange's undisclosed donor base and its American fundraising arm's anonymous millions, the publication of the model's evidence base by a think tank founded by a writer for white supremacist outlets, the Free Speech Union founder's resignation from the Office for Students over eugenics disclosures, Peter Thiel's three-decade presence in the genre from The Diversity Myth to his patronage of the anti-university right, and the Fisher lineage connecting the Institute of Economic Affairs, the Manhattan Institute and the Atlas Network to the Taxpayers' Union vehicle from which the New Zealand franchise was incorporated.

The paper proposes a five-bill legislative programme with indicative draft clauses. Its centrepiece is an Education and Training (Academic Freedom Protection) Amendment Bill enacting: a positive duty on councils to protect academic staff from external targeting (new section 267A); a distinction provision settling the relationship between academic freedom and freedom of expression, under which academic freedom is the governing standard in teaching, research and other protected academic spaces and cannot be overridden by a free speech claim (new section 267B); a schedule of protected scholarly subjects grounded in Te Tiriti; a statutory definition of coordinated targeting; reform of the section 281B complaints mechanism so that content grievances are declined or referred to peers and campaigns are screened as campaigns; an annual statutory protection report from every university, tabled in Parliament (new section 281C); a prohibition on retaliation against targeted academics and those who defend them, with the onus reversed for twenty-four months (new section 267C); and safeguards on change proposals that would close protected scholarly subjects, requiring a published academic freedom and Te Tiriti impact assessment (new section 281D), since the most efficient way to end troublesome scholarship is to disestablish the discipline rather than discipline the scholar, and this is the route through which the Project 2025 programme is realised in Aotearoa without needing legislation. The programme is completed by an Academic Freedom and Te Tiriti Commissioner Bill, replacing the "free speech commissioner" favoured by the lobby that produced the 2025 amendments, a Protection of Academic Gatherings Bill, and amendment bills to the Harmful Digital Communications Act and

the Employment Relations Act. For universities the paper specifies a Chief Safety and Academic Freedom Officer reporting monthly to the academic board as well as to the executive, an academic freedom oversight committee elected from every college with published membership and a field-competent member on every complaint investigation panel, a non-retaliation register and undertaking, a named statement of support within 72 hours, an express provision that institutional neutrality cannot be used as cover for silence, and guaranteed legal, technological, security, research and wellbeing support; and it delineates a fully specified advocacy role for the Tertiary Education Union across every one of these points. Section 12 builds the defence at the scale of the attack: solidarities across Māori, Pacific, ethnic migrant, Muslim and LGBTQI+ communities, community advisory groups with governance standing, working relationships with the AAUP, the Knight First Amendment Institute, Palestine Legal, Scholars at Risk, the ACLU, the NAACP Legal Defense Fund and the international education unions, use of the United States litigation record from *Pernell* to *AAUP v. Rubio*, and standing academic freedom committees in disciplinary associations on the model of the NCA task force.

1. THE SHAPE OF THE ATTACK

1.1 *Academic freedom and the threats it was built for*

The modern doctrine of academic freedom was articulated in the American Association of University Professors' 1915 Declaration of Principles as a freedom held by scholars for the common good, justified by the public interest in knowledge produced free of the pressures of trustees, donors and politicians (AAUP, 1915). The 1940 Statement of Principles, with its 1970 interpretive comments, made the doctrine operational through tenure and through the requirement that judgements about academic work be made by academic peers under disciplinary standards (AAUP, 1940/1970). Finkin and Post (2009) show that the core of the doctrine was always this second element: academic freedom is a freedom of the profession to govern the production of knowledge by its own standards, and it is distinct from, and in important respects narrower than, the individual freedom of speech. Scott (2017, 2019) draws the same distinction and warns that collapsing academic freedom into free speech disarms it, because free speech makes every utterance equal while academic freedom depends on the authority of disciplined judgement. Post (2017) describes the classic First Amendment tradition as coming under stress precisely when it is applied to the university without this distinction, and Bérubé and Ruth (2022) argue that the confusion has been productive for the political right, which has learned to invoke free speech in order to demand that the university host what its own standards would reject. Reichman (2025) offers the most comprehensive recent statement of the doctrine and of the institutional architecture, including shared governance, on which it depends (see also AAUP, 1966; Bérubé & Ruth, 2022).

The doctrine was built for a particular set of threats, and the historical record is a record of their recurrence: the dismissal of economists and sociologists at the behest of trustees in the founding period; the loyalty oaths and the McCarthy-era purges that Schrecker (1986) traces across a century of AAUP engagement with political repression; the post-September 11 campaigns against Middle East scholars and against critical pedagogy that Giroux (2006) analysed as an attack on the university's capacity to form critical citizens; and the corporate and political pressures that O'Neil (2008, 2016) examined under the heading of academic freedom in the wired world. The threats were understood as coming from employers, governments and donors, and the protections, tenure, peer review, due process and shared governance, were designed to hold them at bay.

1.2 *The new pattern: targeted, networked, organised, mainstreamed*

The dominant pattern of attack on academic freedom across the liberal democracies in the past decade has a different shape. The research literature on targeted harassment of academics describes a pattern that has been stable since Ferber (2018) documented it. A scholar, disproportionately a woman, a person of colour, a queer or trans academic, or a scholar working on race, gender, colonisation, Islam, Palestine or climate, says or writes something in the ordinary course of academic work. A fragment is extracted, stripped of context and circulated

by an outlet or an influencer whose business model depends on outrage. A networked audience then descends: emails, phone calls, social media pile-ons, threats of rape and death, contact with the scholar's family, calls to the employer demanding dismissal. Gosse and colleagues (2021) found that a majority of scholars subjected to this pattern reported lasting effects on their mental health, their willingness to engage publicly and their sense of safety at work, and that institutional responses were typically absent or actively harmful (see also Veletsianos et al., 2018). Marwick's work on morally motivated networked harassment shows how participants experience the attack as righteous enforcement of a norm, which is why they are so difficult to deter and why the language of "accountability" and "free speech" sits so comfortably in their mouths (Marwick, 2021; Marwick & Caplan, 2018).

The pattern has been organised. The Professor Watchlist launched by Turning Point USA in 2016 exists to publish the names, photographs and institutional affiliations of academics accused of "advancing leftist propaganda". Campus Watch, established in 2002 by the Middle East Forum, began by soliciting students to submit dossiers on professors teaching Middle East studies, a campaign that Butler (2015) situates within a longer history of endangered scholarship and that O'Neil (2008) analysed at the time as a threat the existing protections were not designed to meet. Canary Mission, since 2015, has built searchable profiles of students and scholars who support Palestinian rights and circulated them to employers and immigration authorities. The AAUP has called on institutions to treat targeted harassment as an attack on academic freedom rather than as a public relations problem (AAUP, 2017), and Kamola (2019, 2024) has traced the financial and organisational infrastructure that turns a single classroom moment into a national story, showing that the outrage is manufactured rather than spontaneous.

The pattern has been mainstreamed into the state. The AAUP's special committee report on Florida documented how a governor, a legislature and appointed trustees converted the culture-war grievance into statute, board policy and the removal of faculty from decisions about curriculum, tenure and hiring, in what the committee described as a politically and ideologically driven assault without recent parallel in the United States (AAUP, 2023). Its report on the University of North Carolina system showed the same pattern operating through board appointments and the denial of tenure to Nikole Hannah-Jones, and named institutional racism as a governance problem (AAUP, 2022). Its pandemic report documented how emergencies were used to suspend shared governance and remove faculty from the decisions that most affected them (AAUP, 2021). Its 2025 investigation of Muhlenberg College, where a tenured anthropologist was dismissed over social media commentary on Palestine following an organised complaint campaign, shows the pipeline completing itself inside a single institution in a matter of months (AAUP, 2025). The American Studies Association's resolution on the attacks on critical race theory recorded the spread of classroom gag laws across state legislatures (ASA, 2022). Darian-Smith (2025) and Douglass (2021) place these developments in a global frame of neo-nationalist and antidemocratic policing of higher education, and Popović, Matei and Joly (2022) show that the pattern is neither confined to the United States nor new to the global South.

1.3 Aotearoa is inside the pattern

Aotearoa New Zealand is now inside this pattern, and the evidence is documented. The 2020 infiltration of the Fat Studies conference convened by Dr Cat Pausé at Massey University by far right participants who entered the online gathering in order to disrupt it and record it remains the clearest domestic instance of organised intrusion into an academic space (CARE, 2026c). The sustained harassment of Associate Professor Siouxsie Wiles and Professor Shaun Hendy for their public health communication during the COVID-19 pandemic ended in the Employment Court, which found in *Wiles v University of Auckland* [2024] NZEmpC 123 that the University had breached its obligations to Dr Wiles, that her public commentary fell within the scope of her employment, and that the institution had failed in its duty to protect her health and safety. The 2021 "Listener letter" controversy, in which seven academics declared that *mātauranga Māori* "is not science", produced a second wave of targeting aimed at the Māori scholars and allies who responded; Stewart (2022) names the episode

as whiteness masquerading as academic freedom, and Johnson (2023) reads it as a struggle over the myth-histories of the nation in which the claim of academic freedom was mobilised against the decolonisation of the university. In July 2026 a sitting ACT Member of Parliament, Dr Parmjeet Parmar, published to a party Facebook page the content of a first-year law lecture given by Professor Treasa Dunworth at the University of Auckland on the Treaty Principles Bill, reproducing the American student-complaint pipeline at the level of the governing coalition (CARE, 2026a).

The 2025 amendments to the Act arrived in this context and made it worse. The statement of freedom of expression that each council must adopt under section 281A, the complaints mechanism under section 281B, and the annual reporting of complaints to the Minister were drafted on a policy trail that CARE has analysed in detail (Dutta, 2026). That trail shows the Free Speech Union appearing in the Ministry's documents more often than Māori, disabled people and the Tertiary Education Union combined; official dissent from within the Ministry falling to zero once Cabinet had decided; and the drafting lineage running from the United Kingdom's Higher Education (Freedom of Speech) Act and the Foundation for Individual Rights and Expression through the UK Free Speech Union to its New Zealand franchise. The complaints mechanism has no merit threshold, no means of recognising that a hundred complaints about one lecturer in one week are one campaign, no role for peer judgement, and no provision for the protection of the academic while the complaint is processed. A regime built in the name of "freedom of expression" has created the most efficient pipeline yet available in this country for moving a far right grievance into an institutional proceeding.

2. THE NEW ZEALAND SETTLEMENT AND ITS ENCLOSURE: A GENEALOGY

The New Zealand literature on academic freedom is older, richer and more directly relevant to the present crisis than the current policy debate acknowledges. Read in sequence, it describes three phases: the statutory settlement of 1989 and its immediate enclosure by neoliberal restructuring; the consolidation of audit and metric governance and the transformation of the academic profession; and the arrival of the imported culture war, in which the claim of academic freedom was turned against Te Tiriti and against the scholars whose work gives the Treaty effect in the university. Figure 1 lays out the genealogy; this section reads the sources.

2.1 Phase 1: the statute and its enclosure

Section 161 of the Education Act 1989 gave academic freedom statutory form for the first time, and section 162(4)(a)(v) made the role of "critic and conscience of society" a defining characteristic of the university. Keith (1998), writing from the bench and from a background in international law, argued that academic freedom mattered for New Zealand because a small country with a single public university system has no redundancy: if the universities cannot test received wisdom, nobody will, and he located the freedom within the state's obligations under the International Covenant on Civil and Political Rights and the UNESCO Recommendation of 1997 (UNESCO, 1997). Jones, Galvin and Woodhouse (2000), writing for the Academic Audit Unit, made the crucial institutional move: the critic and conscience role is a duty of the university as an institution, and academic freedom is the instrument through which the institution discharges it. On their account the university that silences its staff to avoid controversy has abandoned a statutory function, and the protection of academic freedom is owed by the institution to the public as much as to the academic.

The settlement was enclosed almost as soon as it was made. Kelsey (2000), in the Troubled Times collection that assembled the sector's response, argued that the market reforms of the 1990s, the conversion of students into customers, the competition for enrolments, the contracting of research and the managerialisation of governance, were hollowing out the statutory guarantee from within, so that academic freedom was needed "now more than ever" at the very moment its material conditions were being dismantled. Olssen (2000) provided the theoretical account: neoliberal policy appropriated the language of accountability and reframed

research as a performance to be measured, making academic freedom a residual category that survived where it did not conflict with institutional strategy. Both read the threat as structural and as coming from the state and the market acting together, and both anticipated that the university would become an unreliable defender of its own staff. That prediction is the premise of the present paper.

2.2 Phase 2: audit, metric and the changing profession

The Performance-Based Research Fund, established in 2003, completed the turn that Olssen described. Zepke (2012) asked what future academic freedom had in a system governed by outputs and found the answer in the erosion of the time, security and collegial authority on which the freedom depends. Sutherland (2017) documented the transformation of the profession itself: casualisation, the growth of fixed-term and teaching-only roles, intensified performance management, and the particular exposure of early career academics who hold the least protection and carry the most teaching. The international literature on contingent faculty reaches the same conclusion. Reichman (2019) argues that adjuncts hold academic freedom in name only because the protections of tenure and due process do not reach them, and the AAUP (2021) shows how their exclusion from governance compounds the problem. The relevance for the present framework is direct: targeting lands hardest on those with the least security, and a protection regime indifferent to employment status protects the wrong people.

Hook (2008), in MAI Review, raised the question that would define the third phase. Writing on cultural relativism and academic freedom within the universities of New Zealand, Hook examined the place of Māori knowledge in institutions that defined their standards in universal terms, and argued that the exclusion of mātauranga Māori from the category of knowledge was itself a constraint on academic freedom, since it foreclosed lines of inquiry and silenced the scholars who pursued them. The argument inverted the frame in which academic freedom had been discussed. The freedom was no longer only a shield against the market and the state; it was also a claim on the university to recognise knowledge it had been built to exclude.

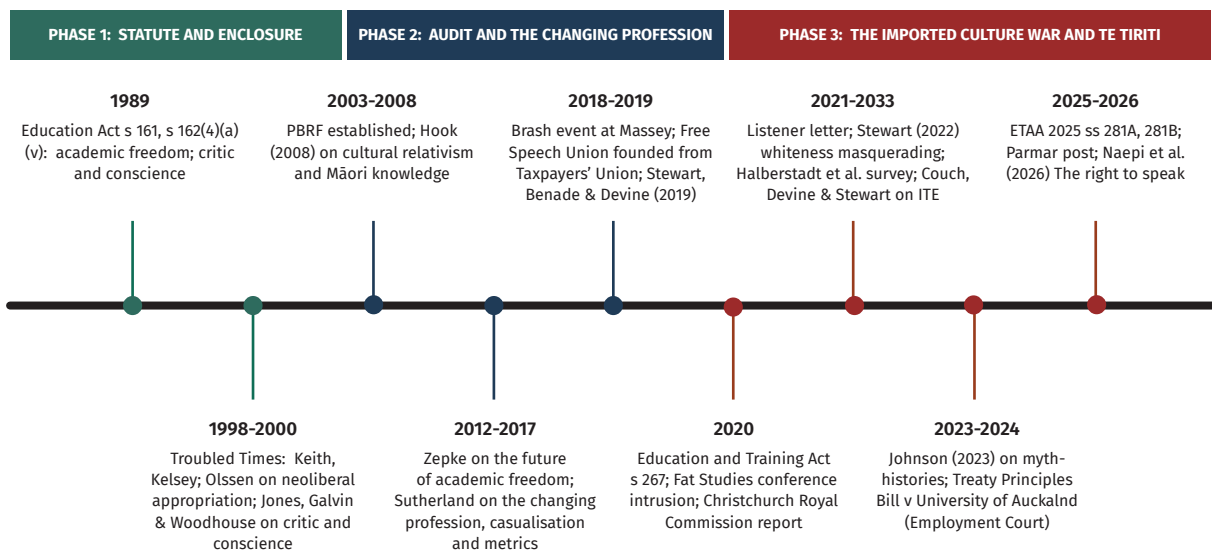
2.3 Phase 3: the imported culture war and the turn against Te Tiriti

The third phase began with the cancellation of a Don Brash speaking event at Massey University in 2018, the founding of the Free Speech Union out of the Taxpayers' Union in the same year, and a sharp reframing of academic freedom in public debate as a problem of left-wing censorship. Stewart, Benade and Devine (2019) responded in the New Zealand Journal of Educational Studies by distinguishing freedom of academic speech from the generic free speech claim and by asking who, in the Aotearoa context, is free to speak and at what cost. Couch, Devine and Stewart (2022) extended the analysis to initial teacher education, where the Teaching Council's standards were used to construct a false binary between professional compliance and academic freedom, and where the people most constrained were the teacher educators working to bring Te Tiriti into the curriculum.

The Listener letter of 2021 made the collision explicit. Stewart (2022) argued that the letter, and the defence of its authors as victims of cancellation, represented whiteness masquerading as academic freedom: the invocation of a freedom that belongs to all academics in order to protect the authority of a particular, racialised account of what counts as knowledge, and to position the Māori scholars who answered as the threat. Johnson (2023) traced the same episode into the history discipline, showing how contests over the myth-histories of the nation, over whether colonisation is to be taught as settlement or as dispossession, were reframed as academic freedom disputes in which the decolonising scholar was cast as the censor. Halberstadt and colleagues (2022) published a survey of perceived freedom of expression at New Zealand universities that reported widespread self-censorship; the survey was taken up in the policy trail that produced the 2025 amendments (Dutta, 2026). The survey is a document of the third phase in two senses: it measures a perception the framework here takes seriously, since self-censorship is real and is the principal effect of targeting; and it leaves aside the question of who is doing the silencing and who is silenced, which is the question the CCA puts first. Naepi and

colleagues (2026) then put the statute itself on trial. Comparing academic freedom controversies before and after legislative protection was introduced, they find that unclear definitions, inadequate guidelines and the neoliberal restructuring of higher education have produced persistent difficulty in distinguishing individual expertise from opinion and institutional from individual responsibility, and they conclude that legislation alone is insufficient protection without clear operational guidelines and processes. Who occupies the academy that the statute protects is documented in the workforce snapshots: Māori academics hold roughly five percent and Pacific academics under two percent of the academic workforce, concentrated in the most precarious roles (McAllister et al., 2019; Naepi, 2019), so the freedom the Act guarantees is exercised from sharply unequal positions of security.

The genealogy yields three conclusions that organise the rest of the paper. The university in Aotearoa has, since 1989, been structurally unreliable as a defender of its staff, for reasons Kelsey and Olssen described and the Employment Court in Wiles confirmed. The academic profession has been reorganised so that exposure to attack and protection from it are inversely distributed. And the claim of academic freedom has itself been captured, so that the defence of Te Tiriti-based scholarship is now routinely described as its violation. A framework for protection has to answer all three.



Source: CARE, 2026. The literature moves from defending academic freedom against the market (Phases 1 and 2) to defending it against the culture war, and in Phase 3 against the claim that academic freedom itself licences the attack on Te Tiriti.

Figure 1: A genealogy of academic freedom in Aotearoa New Zealand, 1989 to 2026, read through the New Zealand literature. The statute is reworked across all three phases; the scholarly problem moves from the market to the culture war, and in the third phase to the capture of academic freedom itself.

3. THE MANUFACTURED CONFUSION: FREE SPEECH, ACADEMIC FREEDOM AND THE WEAPONISED COMPLAINT

3.1 Two freedoms with different grounds

The policy failure at the centre of the 2025 amendments is a category error, and the error is load-bearing. Freedom of expression, affirmed for everyone by section 14 of the New Zealand Bill of Rights Act 1990, is a right held against the state, subject to the general law, and indifferent to the quality of what is expressed. Academic freedom, guaranteed by section 267 of the Education and Training Act, is a freedom held by academic staff and students within institutions constituted for the production and transmission of knowledge, and it exists precisely because scholarship makes distinctions that free speech refuses to make. Scott states the difference in a sentence: “free speech makes no distinction about quality; academic freedom does” (Scott,

2017). Finkin and Post (2009) show that the doctrine has always been a freedom of the profession exercised under disciplinary standards; Post (2017) shows what breaks when First Amendment logic is imported into the university without the distinction; and the AAUP's statement on freedom in the classroom locates the judgement of classroom speech with academic peers because its meaning depends on pedagogical context (AAUP, 2007). The international standard states the same distinction in the form of a definition. Paragraph 27 of the UNESCO Recommendation concerning the Status of Higher-Education Teaching Personnel, adopted unanimously by the General Conference on 11 November 1997 and the only international instrument dealing exclusively with academics, provides that higher-education teaching personnel are entitled to academic freedom, defined as a right held "without constriction by prescribed doctrine" and comprising six specified elements: freedom of teaching and discussion; freedom in carrying out research and in disseminating and publishing its results; freedom to express opinions about the institution or system in which they work; freedom from institutional censorship; and freedom to participate in professional or representative academic bodies (UNESCO, 1997). Three features of that definition govern the argument of this paper. It attaches to activities rather than to viewpoints, so the protected object is teaching, research, publication and institutional criticism, and no assessment of the acceptability of a scholar's conclusions enters the test. It runs against prescribed doctrine, which is to say against any external authority, state, employer, donor or lobby, that seeks to fix in advance what may be found. And it names freedom from institutional censorship, which locates the employer among the possible violators and answers the claim that a university silencing its own staff is exercising academic freedom rather than breaching it. The Recommendation is soft law, enforced by persuasion, and it has been used as the comparative benchmark for assessing statutory protection across jurisdictions, including by the Academic Freedom Index (Spannagel & Kinzelbach, 2023), and Keith (1998) anchored New Zealand's obligations in it a quarter of a century ago. Naepi and Davis (2025) translate the distinction for the New Zealand policy debate and draw the institutional consequence: a university that cannot make quality judgements about what it platforms has ceased to be a university, because an idea presented in a lecture hall borrows a respectability it has earned nowhere else.

3.2 *The protected spaces and the commons*

The distinction maps onto the university's own geography, as Figure 5 sets out. Research, teaching, assessment, supervision, examination, scholarly publication, curriculum design and academic gatherings are protected spaces: they are constituted by disciplinary standards, access to them is earned through scholarship, and within them academic freedom is the governing standard. A free speech claim, whether made by an outside speaker demanding a seminar slot, a lobby demanding that colonisation be taught alongside its denial, or a complainant objecting to the content of a lecture, does not override academic freedom in these spaces. The student's own statutory freedom is fully protected within them: the freedom to question and test received wisdom is exercised through scholarly engagement, through discussion, assessment and the institution's academic processes, and it is precisely this freedom that a politicised complaint pipeline destroys, because students learn that the classroom is under surveillance (CARE, 2026a). Alongside the protected spaces sits the commons: open campus areas, student club activity, invited public events, the debating society, personal speech as citizens. There freedom of expression governs, subject to the general law, and the institution's role is limited to content-neutral rules of time, place, manner and safety. The two domains answer to different standards because they do different work, and a statute that writes one standard across both destroys the first while adding nothing to the second.

3.3 *How the confusion is manufactured*

The collapse of these categories in Aotearoa was engineered, and the engineering can be documented in four moves. The first move declares a crisis the evidence does not show. The Ministry's own regulatory impact assessment for the 2025 legislation conceded that officials held limited evidence of the actual extent and impact of freedom of speech concerns in New Zealand universities and that many of the concerns were

anecdotal, an admission Naepi and Davis (2025) placed at the centre of their argument that the crisis was manufactured; Kamola (2024) documents the think-tank apparatus that produces such crises to legislative order in the United States, and CARE's analysis of the policy trail shows the same apparatus, running through the Free Speech Union, supplying the New Zealand version (Dutta, 2026; CARE, 2026d). The perception surveys that stand in for evidence, including Halberstadt and colleagues (2022), measure a real phenomenon, since self-censorship is the intended product of targeting, while leaving unasked the question of who is silencing whom.

The scholarship on speech regimes explains why the manufacture works. Vats and Dutta (2020), writing in a First Amendment Studies symposium on speech and white nationalism, locate freedom of speech within a global conjuncture in which far right movements claim the doctrine's protections in order to circulate racialised hate, so that the liberal architecture of free expression is converted into infrastructure for the very hierarchies it was supposed to constrain. Elers and Jayan (2020), in the same issue and writing from Aotearoa, show what this looks like on this whenua: whiteness operates as the default norm constituting the infrastructures of New Zealand's polity, and the mechanics of free speech here hold fast to liberal expressions of the freedom while dehumanising and denigrating Indigenous and minority realities, a pattern they connect to the ambivalence of the settler state towards the fact that Māori never ceded sovereignty. Both analyses arrive at the point this section makes in legal terms: the collapse of academic freedom into free speech is not an intellectual error to be corrected by better definitions alone, it is a structural operation that redistributes the capacity to speak. The second move collapses the categories in public language. Every dispute is renamed a free speech case: the scholar targeted for teaching the Treaty and the provocateur denied a stage become the same story, told in the same vocabulary, by organisations whose very names perform the collapse. Scott (2017) and Bérubé and Ruth (2022) describe the productivity of this confusion for the political right, which gains from it the ability to demand that the university host what its standards would reject, and to describe the university's refusal as censorship. The third move legislates the collapsed category. The 2025 amendments write freedom of expression statements and duties over institutions whose core activity is academic, importing drafting from the UK Higher Education (Freedom of Speech) Act through the Free Speech Union franchise network without ever defining the boundary between the commons and the protected spaces (Dutta, 2026). The fourth move operationalises the collapsed category through complaints. Section 281B gives any grievance framed in free speech language a lawful route to the content of teaching and research, and the findings of Naepi and colleagues (2026) name the vulnerability precisely: the statutory protection fails in practice through unclear definitions and inadequate operational guidelines, so that the distinction between expertise and opinion, and between institutional and individual responsibility, is left to be fought out case by case, on terrain the complainant chooses. The AAUP's Muhlenberg investigation shows where the pipeline ends when the machinery is left to run (AAUP, 2025).

3.4 The transmission belt: who designed the regulatory model, and how it reached Aotearoa

The complaints architecture in the Education and Training Amendment Act 2025 has an author, a design history and a documented export route. Figure 2 sets it out in four stages, and the trail is traceable through publicly available documents produced by the people who built it.

The first stage manufactured the evidence. Policy Exchange, a London think tank, published Academic Freedom in the UK in 2019 and Academic Freedom in the UK: Protecting Viewpoint Diversity in August 2020, the latter by Remi Adekoya, Eric Kaufmann and Thomas Simpson (Adekoya et al., 2020). The reports rested on surveys of academics reporting political discrimination and self-censorship, and they defined the problem as a deficit of viewpoint diversity, which is a framing that measures the perceived comfort of dissenting academics while leaving unexamined the question of who is targeted and by whom. Kaufmann developed the argument at length in Academic Freedom in Crisis for the Center for the Study of Partisanship and Ideology in 2021, whose stated conclusion is that universities cannot reform themselves and that only external force can achieve it, and which describes as a promising model the annual auditing of universities by state or federal government, sanctions

for institutions that repeatedly breach academic freedom, and a regulatory ombudsman to which plaintiffs can appeal around their own university (Kaufmann, 2021).

The specific recommendation is the one that matters for Aotearoa. The Policy Exchange work called for an Academic Freedom Bill creating the position of Director of Academic Freedom at the Office for Students, the English higher education regulator, with ombudsman functions, powers to investigate providers, and provider liability in damages (Adekoya et al., 2020). The second stage legislated it. Kaufmann has recorded that the United Kingdom government adopted most of the recommendations in its February 2021 white paper, and on the passage of the Higher Education (Freedom of Speech) Act 2023 he wrote in *ConservativeHome* that the Act establishes an academic freedom directorate within the regulator, that the directorate hosts an ombudsman to which students may appeal, that the legislation empowers staff and students to sue universities, that the enforcement provisions are world-leading, and that jurisdictions which merely require universities to adopt high-sounding academic freedom policies achieve nothing by comparison (Kaufmann, 2023a). The office that the British statute created was designed in a think tank report three years earlier by an author who then celebrated its enactment.

The third stage exported the model. Kaufmann holds an adjunct fellowship at the Manhattan Institute in New York, and in *City Journal*, the Institute's publication, he argued in March 2023 that his Policy Exchange work had helped the British government draft its legislation, that the British proposal represents a major advance, and that American lawmakers should likewise act, with democratically elected governments using their administrative powers against universities (Kaufmann, 2023b). He made the same argument to a third Anglosphere jurisdiction through the Macdonald-Laurier Institute in Canada, where the stated conclusion is that there is no alternative to proactive, principled and persistent government intervention (Kaufmann, 2024). The through-line across all three jurisdictions is a single proposition: the university is incapable of self-correction, and the state should audit, investigate and penalise it. That proposition, advanced under the banner of academic freedom, transfers the authority to judge scholarship from the academy to a government regulator, which is the outcome the doctrine of academic freedom was constructed to prevent (AAUP, 1915; Finkin & Post, 2009; Scott, 2019).

The route into Aotearoa runs through the Free Speech Union network. The UK Free Speech Union shares platforms and personnel with the Policy Exchange orbit, and its research directorate campaigned for the same statutory model; the New Zealand Free Speech Union was founded out of the Taxpayers' Union in 2018 and licensed the UK brand in 2021 (CARE, 2026d). The New Zealand sequence then reproduces the British one in compressed form. Surveys of academics on constraint appeared first, using the instrument type Policy Exchange had pioneered and selecting the two topics of far right mobilisation in this country, gender and the Treaty (Dutta, 2022). The Minister's office directed officials to engage with the Free Speech Union given its special interest in the topic, and officials' recorded warnings that prescriptive policy made without adequate consultation risked ineffective legislation and breach of Te Tiriti obligations were overtaken once Cabinet had decided (Newsroom, 2025; Dutta, 2026). Ministry officials acknowledged that their evidence of the extent and impact of freedom of expression problems in New Zealand universities was limited and largely anecdotal (Naepi & Davis, 2025). The Act that emerged carries four elements of the British model: mandatory institutional statements, a complaints channel accessible to parties outside the institution, an annual reporting duty to the Minister, and a statutory survey duty on every university from 2026 (University of Auckland, 2026). The fifth element, the regulator's office, is the one the lobby continues to press for under the name of a free speech commissioner, and it is the direct descendant of the Director of Academic Freedom that Policy Exchange designed in 2020.

Two conclusions follow for the design of the counter-framework. The imported model attaches the enforcement machinery to freedom of expression rather than to academic freedom, so that the regulator adjudicates speech claims against the university while the targeting of scholars generates no duty at all, which is the reason section 267B and the annual protection report are drafted as they are. And the model

travels as a package, so the New Zealand debate can be conducted with the British and American experience already in evidence: the same authors, the same survey instruments, the same office, and the same claim that universities cannot be trusted with the judgement of scholarship. A country that has watched the package arrive three times has no need to litigate its premises a fourth.

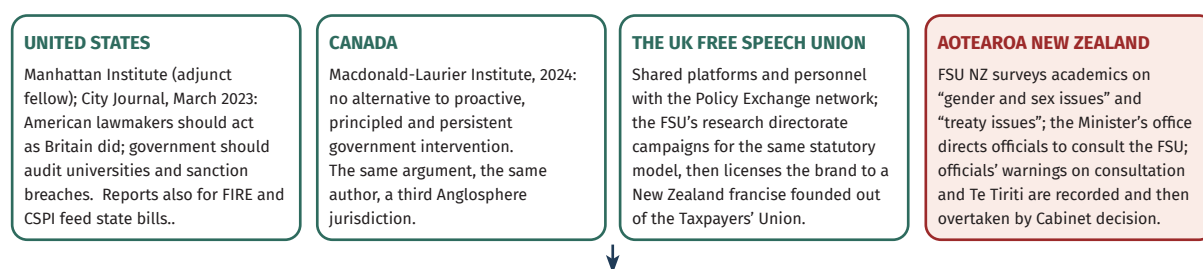
STAGE 1 - MANUFACTURE THE EVIDENCE (UK, 2019-2021)



STAGE 2 - LEGISLATE IT (UK, 2021-2023)

February 2021 white paper adopts most of the recommendations, as the report’s author records. The Higher Education (Freedom of Speech) Act 2023 creates the academic freedom directorate within the Office for Students, an ombudsman route for complaints, a duty to promote as well as protect, and a statutory tort allowing staff and students to sue providers. Kaufmann describes the enforcement provisions as world-leading and the Act as a game-changer, contrasting it with jurisdictions where universities merely adopt policies.

STAGE 3 - EXPORT THE MODEL



STAGE 4 - THE AOTEAROA STATUTE: EDUCATION AND TRAINING AMENDMENT ACT 2025

Freedom of expression statements adopted by every council (s 281A) | A complaints channel open to external parties (s 281B)
Annual reporting of complaint counts to the Minister | A statutory duty on every university to survey staff and students from 2026
Regulation-making power held in reserve | A “free speech commissioner” proposed by the same lobby, tracking the Director of Academic Freedom
Four elements of the model transferred: the survey, the complaints route, the reporting duty, and the regulator’s office.

Sources: CARE, 2026. Compiled from Policy Exchange (2019, 2020), Kaufmann (2021, 2023a, 2023b, 2024), the Higher Education (Freedom of Speech) Act 2023, CARE (2026b), Naepi & Davis (2025), Newsroom (2025) and University of Auckland (2026).

Figure 2: The transmission belt from Policy Exchange to the Education and Training Amendment Act 2025. Survey evidence framed as a viewpoint diversity deficit produces a recommendation for a regulator’s office; the United Kingdom enacts it; the same author urges its adoption in the United States and Canada; and the Free Speech Union network carries the model to Aotearoa, where four of its five elements are now law. Annex 1 of the Ministry of Education’s report of 10 October 2024 documents the final transfer in the Minister’s own drafting.

The organisations in this belt are documented entities with documented funders and documented personnel, and mapping them changes the character of the New Zealand debate, because a statute presented here as a home-grown safeguard turns out to descend from an infrastructure whose money, founders and staff are on the public record. Figure 3 draws the map. Policy Exchange does not disclose its donors. Its United States fundraising arm, the American Friends of Policy Exchange, a 501(c)(3) established in 2010 to support and advance the programme of Policy Exchange UK, has received close to five million United States dollars in anonymous donations since 2012 and forwarded around 3.5 million of it to the United Kingdom charity, and its disclosed donors include ExxonMobil, which gave thirty thousand dollars in 2017 and recorded in its own giving report that it supports organisations which assess policy alternatives on issues of importance to the petroleum industry (openDemocracy, 2022). The report that designed the Director of Academic Freedom was produced inside a donor structure the public cannot see, a fact worth holding beside the report’s demand for transparency from universities.

The evidence base has its own provenance. Kaufmann's *Academic Freedom in Crisis*, the report that supplies the argument that universities cannot reform themselves and that government should audit them, was published by the Center for the Study of Partisanship and Ideology, a think tank funded by donors whose identities are largely unknown and founded by Richard Hanania, who was revealed by a HuffPost investigation in 2023 to have written between 2008 and the early 2010s for white supremacist and antisemitic publications under the pseudonym Richard Hoste, in which guise he identified as a race realist and expressed support for eugenics (Mathias, 2023; Kaufmann, 2021). Peter Thiel supplied a promotional endorsement for Hanania's 2023 book on the civil rights regime (Mathias, 2023). Thiel's own entry in this genre is thirty years old: *The Diversity Myth*, written with David Sacks in 1995, constructed campus multiculturalism at Stanford as the enemy of merit and open debate, and it reads today as the template for the literature the transmission belt runs on (Sacks & Thiel, 1995). Thiel acquired New Zealand citizenship in 2011 after spending twelve days in the country, a fact disclosed only in 2017, and his patronage of the neoreactionary and anti-university currents that CARE has analysed elsewhere places him inside the intellectual infrastructure this paper maps rather than adjacent to it (New Zealand Herald, 2017; CARE, 2026i).

The Free Speech Union completes the personnel map. Its founder and director, Toby Young, served nine days on the board of the Office for Students, the very regulator the Policy Exchange model would later empower, before resigning in January 2018 amid the disclosure of his 2015 essay advocating what he called progressive eugenics and of his attendance at the London Conference on Intelligence, a secretive gathering at University College London whose speakers included figures the reporting identified as white supremacists and advocates of race science (Times Higher Education, 2018). Two years later he founded the organisation that now presents itself, in two hemispheres, as the guardian of academic freedom, and in 2024 he registered International Free Speech Unions Limited as the corporate vehicle of the franchise (Companies House, 2024). The New Zealand affiliate was incorporated out of the Taxpayers' Union, itself a partner in the Atlas Network founded by Antony Fisher, whose earlier foundations include the Institute of Economic Affairs in 1955 and the Manhattan Institute, co-founded in 1978, where Kaufmann now holds his adjunct fellowship: the free speech franchise travels along circuitry built for the free market project, and the same names recur at every junction (CARE, 2026i; Newsroom, 2025).

The subsequent United Kingdom record sharpens the New Zealand comparison to a point. The incoming Labour Government paused commencement of the 2023 Act in July 2024. In January 2025 the Secretary of State announced a reset: the statutory tort would be repealed, the duties on students' unions removed, students taken out of the regulator's complaints scheme, and the scheme reformed so that the Office for Students could prioritise the most serious complaints, changes framed explicitly around the sector's fear of vexatious claims (Times Higher Education, 2025). The core duties commenced on 1 August 2025; the complaints scheme, now confined to staff, external speakers and non-student members, was announced in April 2026 for commencement on 1 September 2026, with registration conditions to follow in 2027 (UK Parliament, 2026). The Free Speech Union litigated against the pause and campaigned for commencement throughout (The Critic, 2026). The sequence matters for Aotearoa because it dates the borrowing precisely: the drafting supplied to New Zealand officials in October 2024 proposed adopting a model that its own jurisdiction had suspended three months earlier, and the statute New Zealand enacted in 2025 contains the unfiltered complaints machinery that the United Kingdom was at that moment stripping out. The author state retreated; the franchise jurisdiction advanced.

US INFRASTRUCTURE AND MONEY

The genre origin: Thiel & Sacks, *The Diversity Myth* (1995)

Campus multiculturalism frames as the enemy of merit and speech; Thiel later blurbs Hanania's *Origins of Woke* (2023); NZ citizenship 2011.

CSPI: publisher of the evidence base

Founder Richard Hanania, exposed 2023 as "Richard Hoste", writer for white supremacist outlets, advocate of eugenics; CSPI funded by anonymous donors; publishes Kaufmann's *Academic Freedom in Crisis* (2021).

Manhattan Institute and FIRE

MI (co-founded by Antony Fisher, 1978) hosts Kaufmann as adjunct fellow; City Journal carries the export argument; FIRE supplies the model Chicago resolution cited in NZ Annex 1 drafting.

Anonymous US money into Policy Exchange

American Friends of Policy Exchange: ~US\$5m in anonymous donations since 2012, US\$3.5m sent to the UK charity; ExxonMobil US\$30,000 (2017); donors undisclosed (openDemocracy, 2022).

UK VEHICLES

Policy Exchange

Non-disclosing donor base; Academic Freedom in the UK reports (2019; 2020, with Kaufmann); designs the Director of Academic Freedom at the Office for Students; government adopts most recommendations in the 2021 white paper.

The Free Speech Union (UK), founded 2020

Founder Toby Young: nine days on the Office for Students board (Jan 2018) before resigning amid disclosure of his "progressive eugenics" essay and attendance at the London Conference on Intelligence at UCL; campaigns for the Act, litigates against its pause; registers International Free Speech Unions Ltd (2024) as the franchising vehicle.

The bridging author

Kaufmann: Policy Exchange co-author, CSPI author, Manhattan Institute adjunct fellow, exporter of the model to the US and Canada in his own name.

STATUTE AND EXPORT

Higher Education (Freedom of Speech) Act 2023

Regulator directorate, ombudsman route, statutory tort, security-costs rule: the Policy Exchange design enacted, celebrated by its author.

The author state retreats, 2024-2027

Commencement paused July 2024; January 2025 reset: tort to be repealed, students removed from the scheme, regulator to prioritise serious complaints; core duties commence 1 Aug 2025; staff/speaker complaints scheme 1 Sep 2026; registration conditions 1 Apr 2027.

Aotearoa adopts the pre-retreat model

Annex 1 names the 2023 Act as the source; ETAA 2025 enacts the complaints machinery without the filters the UK added.

THE OLDER CIRCUITRY: ONE FOUNDER, THREE CONTINENTS

Antony Fisher founds the Institute of Economic Affairs (London, 1955), co-founds the Manhattan Institute (New York, 1978) and founds the Atlas Network (1981), whose partner directory includes the New Zealand Taxpayers' Union, the organisation out of which the Free Speech Union NZ was incorporated. The free speech franchise travels along infrastructure built for the free market project (CARE, 2026; Newsroom, 2025).

WHAT THE MAP ESTABLISHES

The statute presented in Aotearoa as a home-grown safeguard descends from a UK Act designed in a think tank funded by anonymous US money, evidenced by a report published by a think tank whose founder wrote for white supremacist outlets, and carried by a franchise whose founder resigned from the very regulator the model empowers, over eugenics. The claim to be protecting academic freedom does not survive contact with the network that built the machinery.

Sources: openDemocracy (2022); Mathias/HuffPost (2023); Times Higher Education (2018, 2025); UK Parliament (2026); Adekoya et al. (2020); Kaufmann (2021, 2023a, 2023b); Thiel & Sacks (1995); Companies House (2024); Ministry of Education (2024, Annex 1); Newsroom (2025); CARE (2026i).

Figure 3: *The network behind the Act: United States money, founders and personnel in the pipeline that produced the Higher Education (Freedom of Speech) Act 2023 and carried its machinery to Aotearoa New Zealand. Sources as cited in section 3.4.*

3.5 What the New Zealand legislative record says about the United Kingdom

The question of whether the New Zealand statute followed the British one can be answered from the public record with some precision, and the answer has three parts.

The Act itself contains no reference to the United Kingdom legislation. New Zealand statutes do not cross-reference foreign Acts, and the absence of a citation carries no weight either way. The provenance appears instead in the political agreement that produced the Bill: Universities New Zealand records in its submission that the requirement for free speech policies is contained in the coalition agreement between the National Party and the ACT Party, which places the origin of the measure in a negotiated political commitment rather than in any identified problem within the sector (Universities New Zealand, 2025). The same submission states the peak body's position that no problem requiring legislative change existed with respect to freedom of expression at New Zealand universities, a view it records as shared by Massey University and Auckland University of Technology, and which is consistent with officials' acknowledgement that their evidence was limited and largely anecdotal (Universities New Zealand, 2025; Naepi & Davis, 2025).

The United Kingdom Act was squarely before Parliament during the passage of the Bill, placed there by the sector rather than by the Government. Universities New Zealand devoted a section of its submission to what it described as recent lessons from the United Kingdom, recording that the original Higher Education (Freedom of Speech) Act 2023 permitted individuals to sue universities and required the Office for Students to investigate every complaint submitted under its scheme, and that the consequence was a proliferation of frivolous and vexatious claims and a “weaponisation of the complaints process” which had a chilling effect on free speech (Universities New Zealand, 2025). It further recorded the corrective the United Kingdom subsequently adopted: universities became primarily responsible for investigating complaints, with power to dismiss those that were doxxing, frivolous, vexatious or below a threshold, and with the regulator retaining oversight, review and fining powers. The submission urged that New Zealand avoid the problems that similar legislation has caused overseas. The select committee’s report records the same jurisdiction in the minority view, which warned that overprescription risked unforeseeable legal consequences through opaque and contradictory obligations, as seen in the United Kingdom (Education and Workforce Committee, 2025).

Parliament therefore legislated with the British experience in evidence, including the sector’s explicit warning that the complaints machinery would be weaponised, and enacted a complaints regime under section 281B without the merit threshold, the vexatious-complaint filter or the anti-doxxing provision that the United Kingdom had by then adopted precisely because its absence had produced weaponisation. Universities New Zealand also recorded that the survey duty originated with the Minister for Universities, who asked the peak body to develop advice on how each university might regularly survey staff and students and report the results, and it observed that single-issue surveys on this topic draw low response rates skewed to strong opinion at both ends, noting that the 2023 Academic Freedom Survey commissioned by the Free Speech Union reported that 46 per cent of respondents felt free to question received wisdom while the response rate was 2.8 per cent of the 16,000 people invited (Universities New Zealand, 2025). A measure taken from a coalition agreement, warned against by the institutions it binds, modelled on a regime whose own author state had already amended it, and evidenced by an instrument with a response rate under three per cent, is now the statutory environment in which every academic in this country teaches.

The released policy record settles the question of ministerial reliance on the British Act, and it does so in the Minister’s own drafting. The Ministry of Education’s Education Report of 10 October 2024, addressed to the Minister for Tertiary Education and Skills and to the Associate Minister of Education and copied to the Minister of Education, records at paragraph 4 that Minister Seymour’s office had shared suggested legislative drafting with officials, and reproduces that drafting as Annex 1 (Ministry of Education, 2024, METIS 1337135). Annex 1 opens its section on duties of councils by proposing new duties on tertiary institutions to protect freedom of expression and academic freedom, and states in terms that the following could be adopted from the Higher Education (Freedom of Speech) Act 2023. What follows is a transposition of the British statute: the duty of a council, in performing its functions and exercising its powers, to secure freedom of expression within the law for staff, members, students and visiting speakers; the premises provisions barring denial of use, or differential terms of use, on the ground of an individual’s ideas or opinions or a body’s policy, objectives or members’ opinions; the British definition of academic freedom as the freedom of academic staff to question and test received wisdom and to put forward new ideas and controversial or unpopular opinions without risk of losing their jobs or privileges or of reduced likelihood of promotion; and the British rule that, save in exceptional circumstances, users of premises must not be required to bear the security costs of their own events. The Annex further proposes a code of practice, the code as a condition of Tertiary Education Commission funding, amendment of the Human Rights Act 1993 so that the Human Rights Review Tribunal may hear claims of breach, and the application of ACT’s Protection of Freedom of Expression Bill to tertiary institutions.

The Annex also names the American source. It proposes that a schedule include a Model Freedom of Expression Resolution based on the University of Chicago Statement, and links to that model as published by the Foundation for Individual Rights and Expression (Ministry of Education, 2024, Annex 1). The transmission belt described in section 3.4 is therefore documented in the file rather than inferred from resemblance: a British statute designed in a Policy Exchange report, a model resolution published by an American campus-speech organisation, and a New Zealand ministerial office proposing that both be written into the Education and Training Act. The report's Annex 3 sets out officials' comparison with the United Kingdom, noting that the 2023 amendments had passed but not commenced, that the incoming United Kingdom Labour Government had stopped commencement citing the potential impact on vulnerable groups and costs on universities, and that the requirements appeared likely to be substantively amended or potentially repealed. The model was proposed for adoption here at the moment its own jurisdiction was suspending it.

Officials' warnings in the same report are extensive and were made before any Cabinet decision. On evidence, the report states at the outset that officials were aware of the concerns but did not have good evidence on the extent of the issues, and at paragraphs 15 to 18 that there is limited direct evidence, no consistent data collection on staff or student views, and that the sources relied upon by the New Zealand Initiative report have methodological problems, including a Free Speech Union survey criticised for self-selection bias and a response rate of 3.1 per cent. Officials recorded that ideally they would want broader consultation with universities, academics and students to understand the scale and scope before legislating. On the Minister's drafting specifically, paragraphs 45 to 48 warn that it would go further than any current university freedom of speech policy by removing the university's ability to set conditions on invited speakers, would prevent recovery of high security costs, would leave no regard for the risks of hosting seminars that lack a scholarly basis, and, decisively for the New Zealand context, that freedom of expression within the law is broader here than in the United Kingdom because this country has no specific hate speech laws, so that a duty to host all invited speakers could encompass a range of extreme but legal speech, including incitement of hatred against religious and other groups. On Te Tiriti, paragraph 53 records that officials had not been able to test Māori views and that, absent consultation, they would not be able to meet Cabinet's expectations for consideration of Te Tiriti in policy making under CO(19)5, and paragraph 37 records that imposing the obligations on Wānanga would be particularly problematic as constraining their rangatiratanga and their ability to approach speech issues consistently with their own tikanga.

Two findings in that report bear directly on the framework proposed in this paper, and they are set out in Figure 4. The first is the Ministry's own statement of the distinction. Paragraph 10 records that commentary often treats freedom of speech and academic freedom interchangeably, that the two concepts overlap but serve different purposes, and that while freedom of speech protects general expression from censorship, academic freedom safeguards scholarly inquiry and teaching within educational contexts. The advisers to the Ministers who promoted this legislation stated the distinction that section 267B of this paper's programme would enact, and the enacted provisions do not contain it. The second is paragraph 5, which lists five categories of concern about freedom of speech in tertiary education. The fourth is that universities are not taking a sufficiently proactive approach in protecting academics from harassment and abuse, including on social media, which limits their ability to fulfil the statutory role of critic and conscience of society. That concern is the subject of this white paper, it was put to Ministers in the first substantive briefing, and no duty answering it appears anywhere in the 2025 provisions. Concerns (a), (b) and (c) produced the survey duty, the statutory statement and the platform duty. Concern (d) produced nothing. A statute enacted in the name of protecting academic freedom addressed the categories in which universities were said to be constraining speakers, and omitted the category in which universities were said to be failing to protect academics.

The Minister's longer record shows the same architecture predating the British Act. The ACT leader introduced an Education (Freedom of Expression) Amendment Bill in 2019, following the Massey University decision on the Don Brash event, which would have conditioned university funding on the protection of freedom of expression

and required a code of practice (Manawatū Standard, 2019). The 2024 Annex 1 drafting adds the specific British machinery to that architecture, and CARE's corpus analysis of the full released trail traces what became of the objections: officials' dissent is the most central node in the thematic network of the record, and after the Cabinet decision of December 2024 both the recorded dissent and the acknowledged evidentiary vacuum fall to zero and remain there across every subsequent document (Dutta, 2026).

Ministry of Education Education Report: Freedom of speech in the tertiary education system (METIS No. 1337135, 10 October 2024 to Hon Penny Simmonds and Hon David Seymour, paras 15-18

CONCERNS PUT TO MINISTERS

WHAT THE ACT DID

(a) Narrowing of acceptable views; academics and students self-censoring for fear of backlash or professional consequences <i>Officials: limited direct evidence; no consistent data collection (paras 15, 18)</i>	ENACTED Statutory survey duty on every university from 2026; results in annual report
(b) Universities shielding staff and students from disagreeable views, influencing curriculum and limiting intellectual challenge <i>Evidence based: NZ Initiative report; FSU survey, 3.1% response rate (paras 16, 17b)</i>	ENACTED Six statutory factors every council statement must be consistent with (s 281A)
(c) Invited speakers disinvited or events cancelled after protests or objections <i>Officials warned: NZ has no hate speech laws, so a duty to host all invited speakers</i>	ENACTED Platform duty for invited speakers (s 281A(2)(f))
(d) Universities not taking a sufficiently proactive approach in protecting academics from harassment and abuse, including on social media, which limits their ability to fulfil the statutory role as critic and conscience of society <i>The concern this white paper legislates for proposed s 267A positive duty to protect</i>	NOT ENACTED No duty to protect academics from external targeting appears anywhere in the 2025 provisions
(e) Foreign actors pressuring universities to constrain academic freedom, exploiting dependence on international student revenue <i>A near-isolate in the thematic network of the released record (CARE, 2026b)</i>	NOT ENACTED No overseas funding monitoring duty

THE DISTINCTION THE MINISTRY ITSELF DREW, AND PARLIAMENT DID NOT ENACT

Paragraph 10: the two concepts overlap but serve different purposes. Freedom of speech protects general expression from censorship; academic freedom safeguards scholarly inquiry and teaching within educational contexts. The proposed section 267B enacts that distinction.

ANNEX 1, DRAFTING SUPPLIED BY MINISTER SEYMOUR'S OFFICE

"The following could be adopted from the Higher Education (Freedom of Speech) Act 2023", followed by the UK duty to secure freedom of expression for staff, members, students and visiting speakers, the UK academic freedom definition, the security costs role, and a FIRE model Chicago resolution.

Figure 4: The five categories of concern put to Ministers in the Ministry of Education's Education Report of 10 October 2024, and their fate in the enacted provisions. The concern that universities were failing to protect academics from harassment and abuse, which the report linked to the statutory role of critic and conscience, produced no statutory duty. The Ministry's own statement of the distinction between freedom of speech and academic freedom, and the Annex 1 drafting supplied by Minister Seymour's office citing the United Kingdom Act, appear beneath.

3.6 The corrective principle

The corrective follows from the diagnosis, and it is the principle this paper writes into draft legislation in section 9: in a university, free speech does not trump academic freedom. In the protected spaces of teaching and research, academic freedom is the governing standard; a claim founded on freedom of expression cannot override it, qualify it, or found a complaint against it. Freedom of expression governs the commons. A complaint that concerns the content of teaching, research or scholarship is an academic freedom matter, to be declined where it is a content grievance and referred to a standing committee of academic peers where it raises a genuine question. This is the operational clarity whose absence Naepi and colleagues (2026) identify as the failure mode of the existing statute, and it removes at a stroke the weaponisation channel that the 2025 complaints machinery opened, because the collapsed category on which the weapon depends is separated

back into its parts by definition. The principle asks nothing radical. It restates what the 1915 Declaration, the 1940 Statement and a century of doctrine have always held, and what the Act's own architecture implies: Parliament protected academic freedom because the university does work that general expression rights cannot do, and a statute that lets the second freedom consume the first repeals its own purpose.

ACADEMIC FREEDOM GOVERNS: THE PROTECTED SPACES

Research, teaching, assessment, supervision, examination, scholarly publication, curriculum, academic gatherings

Held by academic staff and students (s 267, within the law) judged by disciplinary standards and academic peers.

Makes distinctions of quality, evidence, method, rigour (AAUP 1915, 1940; Finkin & Post 2009, Scott 2017)

A lecture is curated epistemic space; access to it is earned through scholarship, and its content is answerable to peers, never to a complaint form or a party page

Free speech claims do not override academic freedom here

FREEDOM OF EXPRESSION GOVERNS: THE COMMONS

Open campus spaces, student club activity, invited public events, debate societies, personal speech as citizens.

Held by all persons (NZ Bill of Rights act 1990, s 14).

Subject to the general law makes no quality distinctions.

Institutions manage it through content-neutral rules of time, place, manner and safety

The campus is sought because the lecture hall confers respectability an idea cannot earn elsewhere; the commons offers expression, never scholarly endorsement.

(Naepi & Davis; Post 2017)

HOW THE CONFUSION IS MANUFACTURED (four moves)

1. Declare a crisis the evidence does not show: officials concede the evidence is limited and anecdotal (Naepi & Davis 2025; Kamola 2024)
2. Collapse the categories in public language: every academic freedom dispute renamed a "free speech" case (Scott 2017; B\u00e9rub\u00e9 & Ruth 2022)
3. Legislate the collapsed category: freedom-of-expression statements written over institutions whose core activity is academic (ETAA 2025)
4. Operationalise it through complaints: a content grievance about teaching enters as a "free speech" complaint (s 281B; Naepi et al. 2026)

Each move borrows the prestige of liberal values; together they route the culture war into the lecture hall as law.

THE CORRECTIVE: PROPOSED SECTION 267B

In the protected spaces, academic freedom is the governing standard and a claim founded on freedom of expression does not override it. Section 281A statements apply to the commons, never to the content of teaching and research. A section 281B complaint about that content is declined, or referred to the academic freedom committee of peers. Operational definitions are the protection the statute lacks (Naepi et al. 2026).

Source: CARE 2026

Figure 5: Two freedoms, two domains. Academic freedom governs the protected spaces of teaching and research under disciplinary standards; freedom of expression governs the commons subject to the general law. The four-move mechanism manufactures a confusion between them; the proposed section 267B separates them by definition.

4. THE DOMESTIC CASE RECORD: ACADEMIC FREEDOM TURNED AGAINST ACADEMIC FREEDOM

The argument of the previous section is not a prediction. In Aotearoa New Zealand the manufactured confusion has already been running for more than a decade, and it has produced a documented record of attacks in which the language and the machinery of academic freedom are the instruments of the attack rather than its remedy. Table 1 sets out the record in summary; this section reads the cases and names the mechanism each one demonstrates. The cases are drawn from the public record and from the author's own experience as a target, and they cluster in three streams that share a repertoire: the organised far right and its free speech vehicles, Israel-affiliated advocacy organisations, and the political parties that convert both into policy.

4.1 The mechanism: protections repurposed as weapons

Across these cases the same four techniques recur. The first is the inversion of the claim: the attacker announces the attack as a defence of academic freedom, so that the scholar who is targeted for teaching becomes the censor and the organisation running the campaign becomes the dissident (Dutta, 2022; Stewart, 2022). The second is the extraction of teaching material: lecture recordings, slides, reading lists and classroom

statements are obtained, in New Zealand through Official Information Act requests and student reports, and republished stripped of pedagogical context (Cumin, 2024; CARE, 2026a). The third is the standards claim: the campaign asserts that the targeted teaching fails scholarly standards, and thereby positions itself as the arbiter of disciplinary judgement in a field in which it holds no standing, which is precisely the judgement the AAUP tradition reserves to peers (AAUP, 1940/1970, 2007; Finkin & Post, 2009). The fourth is the complaint: the campaign converts the standards claim into a formal grievance to the employer, the regulator or a Minister, and the institution's own processes then do the disciplinary work the campaign cannot do itself. Each technique borrows the vocabulary of the protection it is dismantling. That is what makes the section 281B machinery so consequential: it supplies the fourth technique with a statutory endpoint.

4.2 *The far-right and the free speech vehicles*

The author's own case illustrates the sequence from beginning to end. From 2021 the author's scholarship on Hindutva drew a sustained campaign by Hindutva-aligned actors in Aotearoa and in the diaspora, reported in the New Zealand Herald and in Newsroom, which included online abuse, complaints to the university and the involvement of Indian diplomatic representatives (Dutta, 2022). In 2023 the blogger Karl du Fresne published a series attacking the author, his discipline and his research programme, constructing communication and media studies as a propaganda instrument of a "left woke agenda", disputing the author's credentials and awards, and describing him as an immigrant who had embedded himself in the tertiary system to corrode the society that funded him; the comment threads carried explicit anti-immigrant hate (Dutta, 2023a, 2023b). The author responded with a five-part analysis published by Massey University examining the far right's attack on communication and media studies pedagogy, the relationship between hate, misinformation and the political economy of the platforms, and the structure of the inversion (Dutta, 2023a, 2023b).

Two features of that episode matter for policy. The first is that the same commentator who attacked the author had, in 2021, written the Free Speech Union's defence of the Listener Seven, describing the response to their letter as an unprecedented pile-on that told academics to dissent at their peril; academic freedom in that account protects the scholars disputing mātauranga Māori and does not extend to the scholars, overwhelmingly tangata whenua, who answered them (Dutta, 2023b; Stewart, 2022). The second is that throughout the campaign against the author no expression of solidarity arrived from the organisation that presents itself as the country's defender of academic freedom, which was at the same time inviting him to interviews and surveys and platforming a Hindutva commentator who formed part of the infrastructure targeting him (Dutta, 2022).

The clearest recent demonstration of the inversion in its mature form is the letter of 8 July 2026 from the Free Speech Union and the Inter-University Council on Academic Freedom to Professor Damon Salesa, Vice-Chancellor of Auckland University of Technology (FSU & IUCAF, 2026). The letter concerns an editorial decision by the Journal of the New Zealand College of Clinical Psychologists, whose editorial board and council resolved to remove an article on the grounds that continuing to host it was not aligned with the College's values and its recently adopted constitution, that retaining it could perpetuate harm to Māori, and that it did not reflect the College's commitment to honouring and upholding Te Tiriti o Waitangi. The letter argues that the removal did not meet international retraction criteria, describes it as censorship, a falsification of the research record and a grave threat to academic freedom, cites Richard Dawkins calling the act contemptible, and acknowledges that the journal stands outside the university sector and is therefore not subject to the Education and Training Act. Having acknowledged that, the letter proceeds anyway: it identifies the journal's Editor-in-Chief by name as an academic staff member of AUT, and asks the Vice-Chancellor whether her actions in that capacity are consistent with the university's academic freedom policies, whether her behaviour in what the letter frames as the service component of her duties accords with academic standards, and whether the university's expectations of ethical scholarly conduct include refraining from censoring other scholars' work.

Read through the culture-centered lens, every element of the inversion is present. An organisation whose stated purpose is protecting academic freedom is asking an employer to examine the professional conduct of a named academic for a decision she made as an editor, which is to say for the exercise of scholarly judgement, which is the core of the academic freedom the letter invokes. The route runs around a jurisdictional boundary the letter itself concedes, so that a body outside the Act is reached through the employment relationship of a person inside it. The demand is framed as a defence of open scholarship while operating as an approach to management about an individual. And the decision under attack was itself made on Te Tiriti grounds, so the letter positions a Tiriti-based editorial judgement as the censorship from which academic freedom must be rescued, which is precisely the neutrality that takes a side on Te Tiriti identified in CARE's analysis of the 2025 amendments (Dutta, 2026). Whether the College's decision was procedurally sound is a question for the College, its members and the scholarly community, and there are serious arguments about retraction practice to be had. The point here is structural: the mechanism selected was not scholarly counterargument, which the letter itself names as the appropriate response, but a letter to an employer naming an individual staff member. That mechanism is the complaint pipeline, addressed to a Vice-Chancellor rather than a complaints portal, and it establishes that editors, reviewers and boards, the peer infrastructure on which the whole of section 9.5 depends, are now themselves targets.

The Free Speech Union's survey instruments belong to the same repertoire. The 2022 Curia survey, reported as evidence of a chilling climate, asked academics about their freedom to debate "gender and sex issues" and "treaty issues" without establishing whether respondents held expertise in those fields, without reporting the sample composition or disaggregating by discipline, and without defining the "received wisdom" it invited them to test; the two chosen topics are the two principal sites of far right mobilisation in Aotearoa (Dutta, 2022). A survey of perceived constraint that cannot say who is constrained, in what field, or by whom, generates a number that then circulates as a mandate. That number, and its successors, entered the policy trail behind the 2025 amendments (Dutta, 2026; Naepi & Davis, 2025). Newsroom's Who Benefits investigation subsequently documented the organisation's funding opacity and its access: a June 2025 Ministry of Education briefing records that the Minister's office requested engagement with the Free Speech Union given its special interest in the topic, officials warned that prescriptive policy made without adequate consultation risked ineffective legislation and breach of Te Tiriti obligations to consult Māori, and the Union's own briefing called on the Government to terminate funding to groups such as the Disinformation Project (Newsroom, 2025). A lobby that is consulted at ministerial direction while asking the state to defund the researchers who study disinformation is not an advocate for academic freedom in any sense the doctrine recognises.

4.3 The transnational pipeline: Turning Point, Charlie Kirk and the deportation demand

The clearest evidence that the New Zealand ecosystem is a node of the American one arrived in September 2025. Turning Point USA, whose Professor Watchlist has published academics since 2016, acquired a New Zealand affiliate within weeks of the death of its founder. Turning Point New Zealand describes its own origin precisely: a group gathered in September 2025 in remembrance of Charlie Kirk, vigils were held nationwide, and from those conversations came a decision to carry his vision forward, with a formal proposal submitted to Erika Kirk and the Turning Point USA board and dialogue under way with its decision makers (Turning Point New Zealand, 2025). It registers as a trust and states that it is an independent initiative supporting Turning Point USA. The organisational form is a franchise, and it follows the same route by which the Free Speech Union came to Aotearoa from the Taxpayers' Union and the United Kingdom (CARE, 2026d).

The franchise arrived on ground prepared by political endorsement. Acting Prime Minister David Seymour sought a parliamentary motion honouring Kirk, which Labour and the Greens blocked on the basis that there was no precedent for tributes to overseas figures without a formal link to New Zealand (Centrist, 2025). Vigils followed: Brian Tamaki led one in Auckland's Aotea Square, promoted as a turning point for the country (New Zealand Herald, 2025), and the Whanganui mayor spoke at another before apologising, saying he had known

very little about Kirk, that he regretted going, and that he did not think the United States culture wars had a place in Whanganui (RNZ, 2025). Russell Brown, writing in the Listener, set out why Kirk's rhetoric on race, gender and Islam would meet the criteria by which extremism is identified in this country (Brown, 2025). The author's own contemporaneous analysis examined the whitewashing of Kirk in New Zealand's mainstream media, the conversion of a figure with a documented record of attacks on marginalised groups into a martyr for free speech (Dutta, 2025a).

The author then became the case. On 12 September 2025 he posted a three-minute video challenging the reframing of Kirk as a martyr and a promoter of free speech, and a subsequent post observing that an attempt to pay homage to Kirk in the New Zealand Parliament indicated who the backers of the far right are in mainstream politics. National Party MP Joseph Mooney reposted it and wrote that New Zealand did not need a professor of communication encouraging such rhetoric and that the author should find himself another job (Massive Magazine, 2025). What followed is the documented mechanism: doxxing, messages to his personal phone, office phone, work email and social accounts, demands that he be fired, and demands that he, an Indian-born academic, and his family be deported, escalating to a police report (Massive Magazine, 2025; Dutta, 2025b). Mooney, invited to comment, said he had not called for the professor's resignation but that the professor should consider whether he was in the right role, and that academic freedom does not mean a licence to make inflammatory statements without criticism; he framed his own intervention as an exercise of free speech (Massive Magazine, 2025).

The episode compresses the entire argument of this paper into a fortnight. A member of Parliament invoked free speech to tell a named academic to leave his job, which is the inversion in its purest form, since the free speech of a legislator with a parliamentary platform and a party following is not equivalent to the academic freedom of a professor speaking within his field of expertise on far right political communication. The scholarship attacked was scholarship on the far right, which is the discipline the far right has the strongest interest in disabling. The demand was for deportation, which converts an argument about ideas into a question of the target's belonging, and reaches only academics who are migrants; the same anti-immigrant register appeared in the 2023 attacks on the same scholar (Dutta, 2023b). And the institutional response is instructive in the other direction: the Vice-Chancellor contacted the author to affirm his academic freedom and to ask what safety support he needed, and Massey's leadership engaged quickly (Massive Magazine, 2025). That response is what section 9.2 of this paper would make a duty rather than a matter of individual leadership character, because a protection that depends on which Vice-Chancellor is in post is not a protection.

4.4 Israel-affiliated advocacy organisations and the targeting of scholars

The second stream is the most methodologically explicit, because its principal New Zealand vehicle publishes its method. In January 2024 the Israel Institute of New Zealand published an article by David Cumin titled "Academic dishonesty is not academic freedom", targeting Associate Professor Jeremy Moses of the University of Canterbury and Professor Richard Jackson of the University of Otago (Cumin, 2024). The article discloses that information about the content of a Moses lecture was obtained under the Official Information Act, that the Institute sought release of the lecture recordings themselves and that the University declined, and that the analysis proceeded on the extracted material. It frames the targeting as a defence of scholarly standards, placing the named academics in the company of research fraud and Holocaust denial, and it closes by reporting approvingly that a student complaint about a lecture at Massey University had produced an independent departmental review which concluded the material did not meet standards and undertook that it would be framed more carefully in future. That paragraph is the pipeline described in this paper, reported as a success: complaint, review, undertaking, chilled teaching.

The article also records the target's own account of the mechanism. Moses described the practice as combing social media posts, lectures and commentary for a hook that can be used to ridicule or shame an academic, and named its purpose as making the target unwilling to continue; the Institute's response was to characterise

this as evasion (Cumin, 2024). Moses had earlier organised an open letter, later published by Overland, in which teachers, academics, students and alumni across Aotearoa affirmed academic freedom as a legislated entitlement necessary for teaching and research on contested topics, condemned organisations seeking to undermine it in relation to Israel and Palestine, and drew the parallel to the surveillance, profiling and discrediting of academics and students by Israel on Campus Coalition and Canary Mission in the United States (Overland, 2024). The signatories stated that they remained open to respectful and challenging engagement with their teaching and research, and distinguished that engagement from ad hominem attack. This is the domestic instance of a global pattern, and it is worth noting that the Overland statement makes the same distinction this paper asks Parliament to enact.

Contemporaneous journalism establishes that these were not isolated articles but a campaign with multiple simultaneous targets. Mick Hall, reporting in November 2023, documented public attacks within a single month on at least four scholars, together with approaches to their universities (Hall, 2023). At the University of Canterbury a complaint was made against senior lecturer Phillip Borell (Ngāti Ranginui, Ngāti Tūwharetoa) after a student approached the Israel Institute over the content of his lectures; Borell had drawn historical parallels between Māori and Palestinian experiences of colonial domination and land dispossession, and his lecture recordings were sought under the Official Information Act. Jeremy Moses was attacked online after attending a solidarity rally, with the Institute tagging his employer into posts, one asking publicly whether he gave his students the truth at all and whether he failed those who disagreed with him, and announcing that it would seek to inspect his lecture recordings. Josephine Varghese, also at Canterbury, was accused of antisemitism after publishing an article calling for a ceasefire. The author was attacked for his decolonisation scholarship, receiving racist abuse mis-identifying him as Muslim, demands that he return to where he came from, and, following an apology published on the Free Speech Union's website by a writer who had attempted to have him removed by his university, a voicemail on his office phone containing racial abuse and a threat to see to his termination in New Zealand (Hall, 2023; Dutta, 2023c). Earlier Institute articles had accused a University of Auckland professor of affiliating with a terrorist group and had circulated an Israel Academia Monitor report identifying doctoral topics as concerning (Hall, 2023).

Three features of that reporting matter for the design of the statutory remedy. The first is the chilling effect stated by the targets themselves: Moses observed that colleagues could see the cost of speaking and that silence was easier and less stressful, and Varghese distinguished good-faith debate from attacks that threaten livelihoods and create fear of speaking publicly (Hall, 2023). The second is the position of the institutions. The University of Canterbury affirmed academic freedom while emphasising the qualifications in its policy; the University of Auckland, which employs the Institute co-director as a lecturer, did not respond to questions about whether academics might regard his activity as intimidating; and Massey confirmed that no official complaints had been made against the author (Hall, 2023). Institutional statements of principle unaccompanied by protective action are the pattern this paper legislates against. The third is that the Human Rights Commission recorded its concern and urged care with words and actions, and that the conflation on which the campaign depends was contested from within Jewish communities: Marilyn Garson of Alternative Jewish Voice stated that the Institute is not a Jewish entity, that two thirds of its directors are Christian and overlap with right wing secular lobbying, and that its importation of racialised language has consequences for the people it targets and for social cohesion (Hall, 2023). The framework in this paper protects Jewish students and scholars from antisemitism and protects scholars of Palestine from politicised complaint, because both obligations rest on the same principle: peer judgement governs scholarship, and no lobby of any description may substitute itself for it.

The Institute's May 2025 article, "Academic Freedom for Some: How New Zealand Universities Marginalise Pro-Israel Voices", extends the method from two academics to a roster (Bouwer, 2025). It names Richard Jackson, David Jenkins, Olivier Jutel, Abbi Virens and Peyton Bond at Otago; Neal Curtis, Dylan Asafo and Emmy Rākete at Auckland; Jeremy Moses at Canterbury; and the author and the CARE centre at Massey. Its charges against

named scholars are that their published work and public commentary reach conclusions the Institute rejects: that scholarship on Israel amounts to advocacy masquerading as expertise, that a peace studies programme lacks objectivity, that signing an open letter about the university's handling of protest was political advocacy framed in academic terms, that academics who criticise Israel say too little about other states. Of the author it asserts, without citation or evidence of any kind, that he glorified the events of October 7 on social media, a claim he rejects entirely and which the article makes no attempt to substantiate. The construction is worth naming precisely, because it is the whole argument of this paper in miniature: the article demands that universities apply scholarly standards while itself conducting no scholarly assessment, positions an advocacy organisation as the judge of peer-reviewed work across law, sociology, media studies and peace and conflict studies, and titles the exercise a defence of academic freedom.

The naming of individual scholars is the operative act. A published roster of academics, with institutions and alleged offences, is the artefact the international literature identifies as the core technology of the watchlist organisations, and it functions in the same way whether it is called a watchlist or an editorial: it aggregates, it circulates, it is searchable, and it supplies the raw material for complaints to employers, for approaches to funders and for the abuse that follows publication (AAUP, 2017; Ferber, 2018; Doerfler et al., 2021). The Institute's subsequent commentary on extremism has extended the framing to the analysis of the far right itself, contesting who counts as an extremism researcher and which extremisms may be studied (Israel Institute of New Zealand, 2026). Scholars targeted in this stream have also been drawn into the mainstream press, as when a Māori lecturer's teaching linking colonisation in Aotearoa with Palestine was reported nationally under the frame of outrage, with the university's response solicited as the story's resolution (New Zealand Herald, 2024).

4.5 Parties, Parliament and the closing of the circuit

The third stream converts the first two into state action. The ACT Party has taken the watchlist repertoire into Parliament: the July 2026 publication by Dr Parmjeet Parmar of the content of Professor Treasa Dunworth's first-year law lecture on the Treaty Principles Bill reproduced the American student-complaint pipeline at the level of a governing party, and the author's analysis of that episode, broadcast on 95bFM, traced its parallels to the rhetoric of Turning Point USA and Campus Watch (CARE, 2026a; 95bFM, 2026). Dame Anne Salmond, writing in Newsroom in October 2025, placed the same developments in the longer frame of academic freedom and its enemies in Aotearoa (Salmond, 2025). And the 2025 amendments closed the circuit. A statute presented as a safeguard for academic freedom created a statutory complaint channel through which external parties may lodge grievances about academics under the institution's own freedom of expression policy, with no merit threshold, no campaign screening, no peer referral and no protection for the academic while the complaint runs. Every organisation described in this section now has a lawful route into the employment relationship of every academic in the country, and the annual return of complaints to the Minister converts the volume that route generates into evidence for the next round of regulation. The protections have become the attack surface.

CASE	MECHANISM DEMONSTRATED
Hindutva-aligned campaign against the author, 2021 onward (Dutta, 2022)	Transnational far right network; complaints to employer; diplomatic involvement; no solidarity from free speech organisations.
du Fresne series on the author and on communication and media studies, 2023 (Dutta, 2023a, 2023b)	Discipline-level delegitimation; credential attack; anti-immigrant framing; the same commentator defending the Listener Seven as academic freedom.
Free Speech Union/Curia survey of academics, 2022 (Dutta, 2022)	Perception instrument without expertise screening or disaggregation; two culture-war topics; number circulates as mandate into the policy trail.
Israel Institute of NZ, "Academic dishonesty is not academic freedom", Jan 2024 (Cumin, 2024)	OIA extraction of lecture content; request for lecture recordings; standards claim by a non-peer; student complaint at Massey producing departmental review and undertaking.

CASE	MECHANISM DEMONSTRATED
Overland statement in support of academic freedom on Israel and Palestine, Jan 2024 (Overland, 2024)	Collective counter-infrastructure; names the Canary Mission and Israel on Campus Coalition parallel; distinguishes challenge from ad hominem targeting.
Israel Institute of NZ, "Academic Freedom for Some", May 2025 (Bouwer, 2025)	Published roster of ten-plus named academics across four universities; unsubstantiated allegation against the author; watchlist function performed as an editorial.
ACT MP publication of a University of Auckland lecture, July 2026 (CARE, 2026a; 95bFM, 2026)	Party-level reproduction of the watchlist pipeline; classroom content as political material.
Israel Institute complaints and OIA requests targeting Borell, Moses, Varghese and others, Oct-Nov 2023 (Hall, 2023)	Four scholars targeted in a month; student report to a lobby; OIA requests for lecture recordings; employer tagged publicly; antisemitism charge against a ceasefire op-ed; racist abuse and termination threat to the author.
Turning Point New Zealand established, Sept 2025 (Turning Point New Zealand, 2025)	Direct franchise of the organisation running the Professor Watchlist; formal proposal to the TPUSA board; the watchlist method arrives with an organisational home.
Kirk tribute motion, vigils and the Mooney demand, Sept 2025 (Centrist, 2025; Massive Magazine, 2025)	Political endorsement of a US figure; MP tells a named professor to find another job; doxxing, deportation demands and police involvement; free speech invoked to end a scholar's employment.
FSU/IUCAF letter to the AUT Vice-Chancellor over a journal editorial decision, July 2026 (FSU & IUCAF, 2026)	Peer infrastructure targeted; a named editor referred to her employer for a scholarly judgement; jurisdictional boundary conceded then circumvented via the employment relationship; a Te Tiriti-grounded decision reframed as censorship.
University Freedom of Expression statements, surveys and complaint reporting from 2026 (University of Auckland, 2026)	The Act in operation: institutional neutrality adopted by council; a dedicated disputes and complaints pathway; mandatory annual surveying and complaint-count reporting for every university.
Newsroom Who Benefits investigation, Nov 2025 (Newsroom, 2025)	Ministerial direction to consult the free speech lobby; officials' warnings on consultation and Te Tiriti; lobby demand to defund disinformation researchers.
Policy Exchange model exported to Aotearoa, 2020-2026 (Adekoya et al., 2020; Kaufmann, 2023a, 2023b, 2024)	A regulator's office designed in a think tank report, legislated in the UK, urged on the US and Canada by the same author, and carried here by the FSU franchise; four of its five elements now in NZ statute.
Annex 1 drafting supplied by Minister Seymour's office, Oct 2024 (Ministry of Education, 2024)	States the UK Higher Education (Freedom of Speech) Act 2023 as the source; transposes its council duty, premises rule, academic freedom definition and security-costs rule; proposes a FIRE model Chicago resolution and HRRT jurisdiction.
Ministry of Education Education Report METIS 1337135, Oct 2024	Officials record no good evidence, a 3.1 per cent survey response rate, inability to meet CO(19)5 Te Tiriti expectations without consultation, and the risk that a duty to host all speakers reaches extreme but lawful speech in a country without hate speech laws.
Universities New Zealand submission and select committee report, 2025 (Universities New Zealand, 2025; Education and Workforce Committee, 2025)	The sector told Parliament the UK regime had produced weaponisation of complaints and a chilling effect, identified the UK correctives, and stated no problem required legislation; the correctives were not adopted.
Education and Training Amendment Act 2025, ss 281A-281B (Dutta, 2026)	Statutory complaint channel open to external parties; no merit threshold, campaign screening, peer referral or protective pause; complaint volume reported to the Minister as evidence.

Table 1: The domestic case record and the mechanism each case demonstrates.

4.6 *The Act in operation: what universities have already built*

By August 2026 the machinery is no longer prospective. The University of Auckland has published a notice to staff and students recording that its Council adopted a Freedom of Expression statement in late 2025 applying to all staff and students, that the statement reaffirms the university's role as critic and conscience of society, promotes lawful and constructive debate, and commits the institution to neutrality on matters outside its core roles, functions and duties; that staff and students who believe their own or another member's freedom of expression or academic freedom has been restricted have a dedicated disputes and complaints pathway; and that from 2026 onward all New Zealand universities are required by statute to survey staff and students on their ability to exercise freedom of expression and academic freedom, and to report annually the number of freedom of expression disputes and complaints made (University of Auckland, 2026). Additional resources are being developed for academic staff and student leaders through the university's teaching and learning platforms.

This is a careful and good-faith implementation of the statute by a university trying to discharge duties it did not ask for, and that is what makes it diagnostic. Four features of the operating regime follow directly from the drafting analysed in section 3, and none of them are the university's fault. First, the statement pairs the critic and conscience role with a commitment to institutional neutrality, which are the two propositions this paper argues cannot be held together when staff are attacked: a university that is a critic and conscience of society cannot be neutral about whether its critics keep their jobs, and Jones, Galvin and Woodhouse (2000) established a quarter of a century ago that the first is an institutional duty rather than an individual permission. Second, a single pathway now handles both freedom of expression and academic freedom disputes, which is the collapsed category given an intake form. Third, the survey duty converts the perception instrument analysed in section 4.2 from a lobby product into a statutory obligation, so that every university must now annually generate the number that the campaign for the legislation used as its evidence, without any requirement to disaggregate by discipline, by expertise, by employment status, or by who is doing the silencing. The platform duty that accompanies these statements was enacted over officials' recorded warning that, in a country without specific hate speech laws, a duty to host all invited speakers could encompass extreme but lawful speech including incitement of hatred against religious and other groups (Ministry of Education, 2024, paras 46-48). Fourth, the reporting duty counts complaints and nothing else. An institution that defended ten targeted academics and received no complaints will report a zero identical to the zero reported by an institution where nobody dared to teach anything contentious. What is counted is the grievance; what is not counted is the harm, the campaign, or the defence.

The remedy is not to unwind the implementation but to complete it. A university acting under section 267B as proposed in section 9.3 would route content complaints away from the disputes pathway and to its academic freedom committee; a university reporting under section 281C as proposed in section 9.6 would table its protective record alongside its complaint count; and a university whose freedom of expression statement contained the express provision proposed in section 10.3 would be able to hold institutional neutrality on contested public questions while being unambiguously obliged to defend its own staff and students from targeting. The survey instrument should be redesigned in the same movement, with items that identify the field of claimed constraint, the respondent's expertise in it, their employment status, and the source of the constraint, so that the sector generates evidence rather than a headline. The universities have built the machine the statute required. Parliament should now give them the parts that make it protective.

4.7 *What the record establishes for policy*

Three conclusions follow, and each maps onto a provision proposed in section 9. The record establishes, first, that the attacks in Aotearoa are directed at the content of teaching and research rather than at conduct, which is why the section 267B distinction and the exclusion of content complaints under section 267B(4) are the load-bearing reforms. It establishes, second, that the extraction of teaching material through Official Information

Act requests, student reports and recordings is a routine step rather than an exceptional one, which is why the definition of coordinated targeting must name the unauthorised recording and out-of-context circulation of teaching, and why the Copyright Act and syllabus protections in section 10.4 matter. It establishes, third, that the campaigns are organised, repeat-player and cross-referencing, which is why complaints must be screened as campaigns rather than processed one by one, and why the annual protection report must count incidents by pathway and by subject. A statute that treats each complaint as an isolated citizen exercising a right will process a campaign as though it were a conversation. The record establishes, fourth, that the attacks reach for the immigration status of migrant academics, from the 2023 foreign import framing to the 2025 deportation demands, so that protection which stops at the employment relationship leaves the most exposed scholars unprotected; the Commissioner's mandate and the institution's legal support obligations must therefore extend to immigration advice and to public repudiation of removal demands. And it establishes, fifth, that the infrastructure is franchised from the United States, which is why the union's cross-border relationships in section 12 are operational rather than symbolic: the organisations, the arguments and the model legislation arrive here already tested, and so should the defences.

5. THE HARM: CHILLING, PSYCHOSOCIAL INJURY, AND DEATH

Policy debates about academic freedom are conducted almost entirely in the register of principle, and the harm therefore goes unmeasured. This section documents what targeting and complaint investigation do to the people who experience them: they suppress scholarship, they injure health, and in documented cases they have preceded deaths that coroners have connected to the conduct of the institutions involved. The evidence is drawn from the international research literature, from coronial findings in the United Kingdom, and from the Employment Court in Aotearoa. It is presented here because a statutory framework that does not name the harm will not be designed to prevent it, and because the psychosocial duty in section 36 of the Health and Safety at Work Act 2015 already applies to precisely this harm and is not being enforced.

5.1 *The chilling effect is the product, not the side effect*

The purpose of a targeting campaign is not to win an argument but to raise the cost of the next one, and the research literature is consistent that it succeeds. A study of 2,492 research and teaching staff across five Finnish universities found that thirty per cent had been subjected to online harassment within the preceding six months, and that victimisation fell disproportionately on senior staff, on members of minority groups, and on scholars in the social sciences and humanities (Oksanen et al., 2022). Gosse and colleagues (2021) found that scholars subjected to online harassment reported lasting effects on their willingness to engage publicly. Interview research with harassed researchers documents the mechanism in detail: targeting reshapes the choice of research topics, the conduct of teaching, and the willingness to speak in public, with scholars describing recordings taken out of context as a direct impediment to their classroom practice (Doerfler et al., 2021). The Scholars at Risk Free to Think series documents the same mechanism across jurisdictions: pressures short of physical violence, including online harassment, disciplinary threat and professional ostracism, lead scholars to alter, delay or abandon work (Scholars at Risk, 2024).

The New Zealand testimony is to the same effect and comes from the targets themselves. Jeremy Moses observed that he could understand why colleagues would not want to draw such attention to themselves, and that it becomes easier and less stressful to stay silent regardless of what one feels about the atrocities being witnessed. Josephine Varghese distinguished robust debate conducted in good faith from attacks that seek to silence people by threatening their livelihoods and creating an environment of fear about speaking publicly (Hall, 2023). This is the same phenomenon that the Free Speech Union's survey instruments purport to measure, which is the deepest inversion of the present policy settlement: the chilling effect is real, it is severe, and it is produced substantially by the organisations campaigning against it, whose measurement of it

then supplies the evidence for legislation that extends it. Vats and Dutta (2020) locate this precisely, showing that the speech regimes of global white nationalism operate by claiming the protections of liberal free speech doctrine while functioning to suppress the speech of the racialised margins, so that the register of freedom becomes the instrument of silence. Elers and Jayan (2020) demonstrate the Aotearoa specificity: free speech here is embedded in whiteness, racism and coloniality, holding fast to liberal expressions of the freedom while dehumanising Indigenous and minority realities, so that what is chilled is not speech in general but the speech of those the settler colonial order was built to silence. Any measurement of chilling that does not disaggregate by who is chilled, and by whom, measures the wrong thing.

5.2 *Psychosocial injury: what the research documents*

The harm is not only professional. Ferber (2018), whose study of public targeted online harassment in higher education takes its title from a participant's question about whether she was willing to die for this work, documented severe and sustained effects on the health of targeted scholars. Gosse and colleagues (2021) found that a majority of harassed scholars reported lasting effects on their mental health and on their sense of safety at work, and that institutional responses were typically absent or actively harmful. Veletsianos and colleagues (2018) documented the additional burden carried by women scholars, including self-blame. Marwick (2021) explains why the harm compounds: morally motivated networked harassment arrives as a flood from many senders at once, so the target cannot distinguish the dangerous sender from the merely abusive one and cannot predict when it will stop. The literature on academic harassment more broadly reaches the same conclusion and adds that targets who seek institutional refuge frequently find none, so that the injury of the original attack is followed by the injury of not being defended (Keashly & Neuman, 2010; Täuber & Mahmoudi, 2022).

Within the culture-centered framework this second injury has a name. It is moral injury: the harm that follows when an institution to which a person has given their working life declines to act on an obvious obligation, and when the person must continue working inside that institution afterwards. Ahmed (2021) documents its institutional grammar in her study of complaint, showing how the person who raises harm becomes reconstituted as the problem, how processes are extended until the complainant exhausts themselves, and how the institution's procedures function to absorb and dissipate rather than to resolve. That analysis was developed in relation to complaints made by staff and students about harassment; it applies with equal force, and with the polarity reversed, to the academic who is the subject of an externally generated complaint and finds the institution processing it rather than defending them.

5.3 *The investigation as injury: process as punishment*

The complaint mechanism deserves separate treatment because it does harm independently of its outcome. An investigation suspends a scholar in an indeterminate state: the allegation is known, the timeline is not, the file is held by others, the outcome is unpredictable, and the scholar is frequently instructed not to discuss the matter, which severs them from the collegial support that would otherwise carry them through. Where a campaign has generated the complaint, the campaign continues in public while the academic is silenced by process. Exoneration does not undo this. The Anne-Marie Brady case in Aotearoa is instructive: the University of Canterbury academic was cleared after complaints, but the period of investigation is itself the sanction, and the record of clearance does not restore the months. This is the phenomenon that criminologists have long called process as punishment, and the framework in this paper responds to it directly through the protective pause, through the exclusion of content complaints under section 267B(4), through mandatory time limits, and through the requirement that the academic be informed, supported and represented from the first day.

The design detail that matters most is the informal process. Institutions routinely handle performance and conduct concerns through informal channels on the reasoning that formality would be heavier and more

damaging. The coronial record shows the reverse. In the case discussed below, the internal review found that the academic had been under informal review for nearly two years, and concluded that formal stages would have provided more clarity on process and support through written documentation, representation at meetings and human resources involvement. An informal process is one in which the person has no right to representation, no documented timeline, no defined standard, and no end point, and it is therefore capable of doing more damage than the formal process it was meant to spare them. Any complaint or performance mechanism reaching an academic under external attack should be formal, documented, time-limited and accompanied by representation, or it should not be commenced at all.

5.4 *The coronial record*

Two United Kingdom cases establish that the pressures described in this paper have been connected by coroners to the deaths of academics. Professor Stefan Grimm, a professor of toxicology at Imperial College London, was found dead at his home on 25 September 2014. The inquest at West London Coroner's Court heard that he had been told he was struggling to fulfil the metrics of a professorial post, that he had been under an informal performance review process for close to two years in relation to grant income, that he had been informed formal action might follow, and that funding pressure was clearly a stressor. The senior coroner, Chinyere Inyama, described the death as needless. Imperial commissioned an internal review of its staff policies, which recommended increased support for staff facing performance management; asked at the inquest whether those changes would have altered the outcome, the university's director of human resources said it was not clear that they would (Times Higher Education, 2014, 2015). An email circulated from an account in Professor Grimm's name after his death, describing his treatment, became one of the most widely read documents in the literature on university managerialism.

Dr Malcolm Anderson, a senior lecturer in accounting at Cardiff University Business School, died on 19 February 2018 at the age of 48. The coroner, Andrew Barkley, recorded a conclusion of suicide. The inquest at Pontypridd heard that he had been asked to mark 418 examination papers within a twenty-day period, that he responded to students at any hour, that he had taken on additional responsibilities as deputy head of section, and, in the words of a colleague, that he had complained to management a number of times about the allocation and had received the same response year after year. His widow subsequently called publicly for changes to workload allocation so that other families would not lose a father in the same way. Cardiff University said it took staff welfare extremely seriously and would review its timetabling (BBC News, 2018, 2019).

Three features of these cases bear directly on the design of the framework proposed here. The first is that in both cases the academic had raised the problem with the institution before their death and the institution had continued as before, which is why the annual protection report in section 9.6 and the union register in section 11.4 must record notifications and institutional responses rather than outcomes alone. The second is that in both cases the institutional review followed the death rather than preceding it, which is what a duty framed as restraint rather than as positive obligation produces. The third is that the coronial jurisdiction has preventive power that is not being used in this domain: in a separate Cardiff case a coroner issued a Prevention of Future Deaths report to the university's vice-chancellor concerning the communication of examination results (BBC News, 2021). New Zealand's Coroners Act 2006 confers an equivalent power to make recommendations to prevent further deaths in similar circumstances, and the Commissioner proposed in section 9.7 should be a designated recipient of any such recommendation concerning a tertiary institution.

5.5 *Aotearoa: the harm on the record here*

This country has its own record. The Employment Court in *Wiles v University of Auckland* [2024] NZEmpC 123 found that the University had breached its health and safety obligations to an academic subjected to sustained harassment arising from her public health communication, that her public commentary fell within the scope

of her employment, and that the institution had failed to protect her. WorkSafe New Zealand's guidance places psychosocial hazards squarely within the primary duty of care under section 36 of the Health and Safety at Work Act 2015 (WorkSafe, 2024). Together these establish that the harm documented in this section is already, in law, a workplace hazard that universities are obliged to manage, and that the obligation is being discharged inadequately. The Fat Studies conference convened by Dr Cat Pausé at Massey University was infiltrated by far right participants in 2020, and CARE has documented her field-building work, that infiltration and the circumstances of her last days (CARE, 2026c). CARE's corpus analysis of the British press coverage of Professor Jason Arday examines the scale and character of a sustained media pile-on against a Black scholar and argues that the extractive managerial university that showcases such academics abandons its duty of care towards them (CARE, 2026f). The pattern across these cases is not that individuals were fragile. It is that institutions treated a foreseeable and documented hazard as a communications problem.

5.6 What follows for the framework

The harm evidence changes the design of the remedy in six specific ways, each of which is carried into the legislative programme and the institutional duties below. Targeting must be treated as a notifiable psychosocial hazard from the day it is reported, engaging the section 36 duty rather than a communications response. Any complaint or performance process reaching a targeted academic must be formal, documented and time-limited, with representation as of right and a protective pause on adverse action. The academic must never be instructed into silence while a campaign against them continues in public, since isolation is the mechanism by which the harm compounds. Institutional support must be delivered by practitioners with experience of political harassment rather than through a generic employee assistance referral, and must extend to the academic's family, who are frequently contacted directly by campaigns. Reporting must count incidents, notifications and institutional responses, because what is not counted is not prevented, and because the coronial record shows institutions reviewing their policies only after a death. And the duty must reach every academic regardless of employment status, because the scholars with the least security carry the greatest exposure and the fewest routes to redress.

A note on this section. The material above concerns suicide and severe psychological harm, and it is included because policy that does not name this harm cannot be designed to prevent it. Colleagues who recognise their own circumstances in it should know that support is available: in Aotearoa New Zealand, free confidential help can be reached at any hour by calling or texting 1737, and the Tertiary Education Union, institutional employee assistance programmes and general practitioners can all arrange further support. Nobody should be carrying this alone, and no institution should be leaving them to.

6. THE CULTURE-CENTERED APPROACH AND A JUSTICE-BASED FRAMEWORK

The culture-centered approach to communication was developed across more than two decades of work with communities at the margins of the global South and of settler colonial societies, from the Santali villages of Kharagpur to migrant worker dormitories in Singapore to the Muslim, Indian and Chinese communities of Aotearoa (Dutta, 2008, 2011, 2018, 2020). Its central claim is that the erasure of the voices of the margins is produced by structures, is naturalised through culture, and is resisted through agency, and that communication infrastructures are the terrain on which the fight over who gets to speak and who gets to be heard is fought. The CCA is a decolonising framework (Dutta, 2015), and its method is dialogic: solutions are built with those who bear the harm through community advisory groups, listening processes and co-designed infrastructures rather than delivered to them (Dutta, 2014; Dutta & Pal, 2010). Four concepts from the CCA organise the framework that follows.

6.1 Structure, culture, agency

Structure in the CCA refers to the material arrangements that distribute the capacity to communicate: ownership of platforms, flows of money, the law, the organisation of work. The attack on academic freedom is structural in every one of these registers. The platforms that carry the pile-on are owned by companies whose revenue depends on engagement, and engagement is reliably maximised by outrage; the algorithmic amplification of a decontextualised lecture clip is a business decision before it is a political one (Lewis, 2018; Ganesh, 2018). The money that sustains the watchlist organisations and the free speech lobby is traceable to a small number of donors and foundations with documented far right commitments (CARE, 2026d; Kamola, 2024). The law, in the form of the 2025 amendments, has been rewritten at the request of the lobby. And the organisation of academic work, with the casualisation Sutherland (2017) documented, the metric governance Olssen (2000) and Zepke (2012) analysed, and the rankings anxiety that erases academic freedom from every measure the managerial university cares about (CARE, 2026e), produces institutions structurally inclined to see a targeted academic as a reputational liability rather than as a colleague to be defended (Giroux, 2014; Ahmed, 2021). Any protection that does not address structure will be a gesture.

Culture in the CCA is the realm of meaning, and the key cultural technology of the far right attack is what the CCA names communicative inversion: the use of a term to accomplish the opposite of what the term announces (Dutta, 2020; Dutta, in press). “Free speech” is deployed to silence the scholar. “Neutrality” is deployed to take the side of the attacker by refusing to take the side of the attacked. “Balance” is deployed to demand that the history of colonisation be taught alongside its denial. “Student comfort” is deployed to make the lecture hall unsafe for the student who is Māori, Muslim, queer or migrant. “Accountability” is deployed to evade all accountability for the harm done. The inversion works because it borrows the prestige of liberal values, and it is defeated when the inversion is named in public and the value is reclaimed. Bérubé and Ruth (2022) describe the same manoeuvre from within the American debate, and Scott (2017) names its cost: when academic freedom is dissolved into free speech, the authority of disciplined judgement that was the whole point of the doctrine disappears, and with it the only ground on which the scholar can stand against the mob.

Agency in the CCA is the capacity of people at the margins to act, to make meaning and to organise. The targeted academics of Aotearoa, the students who have walked into lecture halls the morning after their lecturer was named on a party Facebook page, the iwi and hapū whose knowledge is the object of the attack, and the union organisers who have sat beside members in disciplinary meetings already possess the most detailed knowledge of what the attack does and what would have helped. The framework below is a proposal to be taken to them, to community advisory groups of the kind CARE has used for 20 years, and to be revised by them.

6.2 Communicative inversion as theoretical register

Of the concepts the culture-centered approach makes available, communicative inversion does the heaviest analytic work in this paper, and it deserves separate statement because it supplies the register in which the far right’s deployment of academic freedom can be read without conceding its terms. Communicative inversion names the mobilisation of symbols to turn materiality on its head, so that a signifier accomplishes the opposite of what it announces (Dutta, 2011, 2020; Dutta, in press). It is not hypocrisy, which is a charge about the sincerity of an individual, and it is not simply propaganda, which describes the falsification of content. It is a structural operation on meaning: the material relation is reversed at the level of the sign, so that the actor with the megaphone appears as the silenced party, and the scholar whose access to public speech is most precarious appears as the censor. Figure 6 sets out its grammar in three moves.

The first move is the borrowing. A liberal value with settled moral authority is claimed by the actor doing the harm, and arrives in the argument already trusted. Free speech, academic freedom, neutrality, balance, scholarly standards, safety, accountability and censorship are all available for this purpose, and the campaigns analysed in this paper have used every one of them. The second move is the reversal, in which positions

are exchanged: the organisation running the campaign becomes the dissident, the professor becomes the establishment, the response to an attack becomes the attack. Material power disappears from the frame, which is the operation's whole purpose, because once the relation is symmetrical the outcome falls to whoever has the larger audience. The third move, and the one policy must attend to, is the instrument. The reversal is given operational form as a complaint, a policy, a survey, a letter to a Vice-Chancellor, or a clause in a statute, and from that moment the institution performs the silencing on the campaign's behalf. Meaning becomes machinery. This is why an inversion answered only in argument returns the following week with a complaint form, and why the framework in this paper insists on instrumenting the counter-move in law rather than resting on the quality of the rebuttal.

The inversion is not evenly distributed, and the CCA explains why. It requires an audience already disposed to hear the scholar at the margins as partisan and the dominant account as neutral, and in a settler colonial society whiteness supplies that disposition as common sense. Elers and Jayan (2020) show that the mechanics of free speech in Aotearoa are embedded in whiteness, racism and coloniality, holding fast to liberal expressions of the freedom while dehumanising Indigenous and minority realities; Vats and Dutta (2020) show the same operation at the global scale, where white nationalist movements claim the protections of free speech doctrine in order to circulate the hierarchies the doctrine was meant to constrain. The consequence for this paper is precise: the academic freedom that is attacked through the language of academic freedom is disproportionately the academic freedom of Māori and Pacific scholars, of migrant and Muslim scholars, of queer and trans scholars, and of those working on colonisation, race, gender and Palestine. The inversion is the mechanism by which a general freedom is made to operate as a particular weapon.

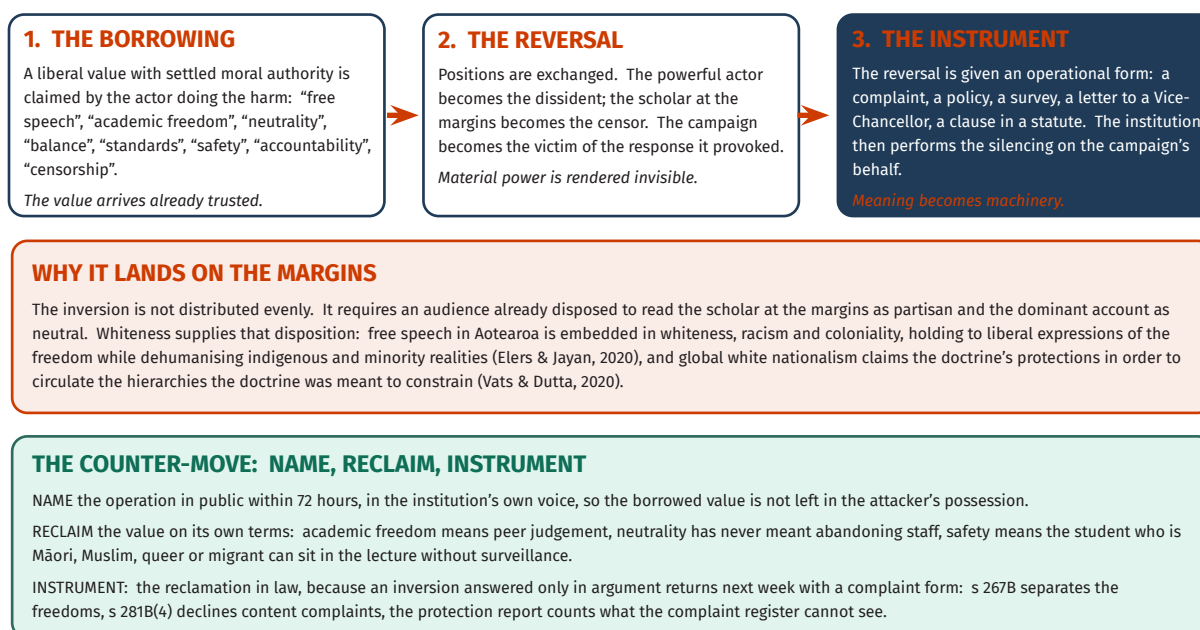
INVERSION	WHAT IT CLAIMS	WHAT IT DOES
Free speech	That an open contest of ideas is being defended against censorship.	Converts the university into a platform obliged to host what its standards reject, and dissolves the disciplinary judgement that is academic freedom's substance (Scott, 2017; Vats & Dutta, 2020).
Academic freedom	That a scholar or scholarship is being protected from suppression.	Refers a named academic to their employer for the exercise of scholarly judgement, or claims the freedom for unqualified assertion while denying it to those who answer (Stewart, 2022; FSU & IU-CAF, 2026).
Institutional neutrality	That the university is refusing to take political sides.	Takes a side by default, handing the outcome to whoever has the larger audience, and abandons the critic and conscience duty the statute imposes (Jones et al., 2000).
Balance and viewpoint diversity	That contested questions deserve more than one perspective.	Positions the denial of colonisation as a viewpoint of equal standing with its history, and treats Tiriti-based scholarship as one side of a debate (Johnson, 2023; Dutta, 2026).
Scholarly standards	That rigour is being upheld against ideology.	Installs an advocacy organisation as the arbiter of peer judgement in fields where it holds no standing, using extracted lecture material as its evidence (Cumin, 2024; Bouwer, 2025).
Student safety and comfort	That students are being protected from a hostile classroom.	Makes the lecture hall unsafe for the student who is Māori, Muslim, queer or migrant, and converts the student's freedom to question into a third party's licence to police teaching (CARE, 2026a).
Accountability to taxpayers	That public money requires public scrutiny of academics.	Assigns the campaign the role of speaking for the public while erasing the agency of the communities the scholarship is produced with (Dutta, 2023b).

INVERSION	WHAT IT CLAIMS	WHAT IT DOES
Anti-extremism and anti-hate	That the university is being defended from extremism.	Contests who may study the far right and which extremisms may be named, turning the analysis of hate into the alleged hate (Israel Institute of New Zealand, 2026; Hall, 2023).

Table 2: Eight communicative inversions in the attack on academic freedom in Aotearoa New Zealand, with the material operation each performs.

Naming the inversions is the analytic work; the framework then does three further things with them. It reclaims each borrowed value on its own terms rather than ceding it, so that academic freedom is restated as peer judgement under disciplinary standards, neutrality is restated as a position on contested public questions that has never extended to abandoning staff, and safety is restated as the condition in which a student at the margins can sit in a lecture without surveillance. It instruments each reclamation in a provision, since section 267B answers the free speech inversion, section 267B(4) and the peer referral answer the standards inversion, the express neutrality clause answers the neutrality inversion, the Schedule of Protected Scholarly Subjects answers the balance inversion, and the annual protection report answers the accountability inversion by counting what the complaint register cannot see. And it requires the institution to name the inversion publicly and promptly, which is the function of the 72 hour statement, because a borrowed value left in the attacker's possession appreciates.

Communicative inversion: the mobilisation of symbols to turn materiality on its head, so that a term accomplishes the opposite of what it announces (Dutta, 2020). The inversion works by borrowing the prestige of liberal value. It is defeated by naming the operation and reclaiming the value.



Source: CARE, 2026. Concept after Dutta (2011, 2020, in press).

Figure 6: The grammar of communicative inversion. The borrowing takes a trusted liberal value; the reversal exchanges the positions of the powerful and the marginalised and renders material power invisible; the instrument converts the reversal into a complaint, policy, survey or statutory clause, after which the institution performs the silencing. The counter-move must name, reclaim and instrument in turn.

6.3 Academic freedom as a voice infrastructure of the margins

Within the CCA the classroom, the seminar, the community research partnership and the public lecture are voice infrastructures: organised spaces in which voices that are otherwise erased can be heard, recorded and acted upon (Dutta, 2018). Academic freedom is the legal and normative scaffolding of these infrastructures. It is what

allows a scholar to teach the Waitangi Tribunal's findings, to publish an ethnography of police racism, to model the transmission of a virus and say so on the radio, to name Hindutva as a political project, to document the experiences of trans young people in schools, without the permission of the people those findings embarrass. This is the critic and conscience function that Jones, Galvin and Woodhouse (2000) located in the institution and that Giroux (2006) defended as the ground of critical pedagogy. The far right understands it better than the universities do. Its attacks are aimed with precision at the subjects through which the margins speak, and Butler (2015) is right to describe what is endangered as the life of critique itself.

6.4 Academic freedom as justice: four dimensions

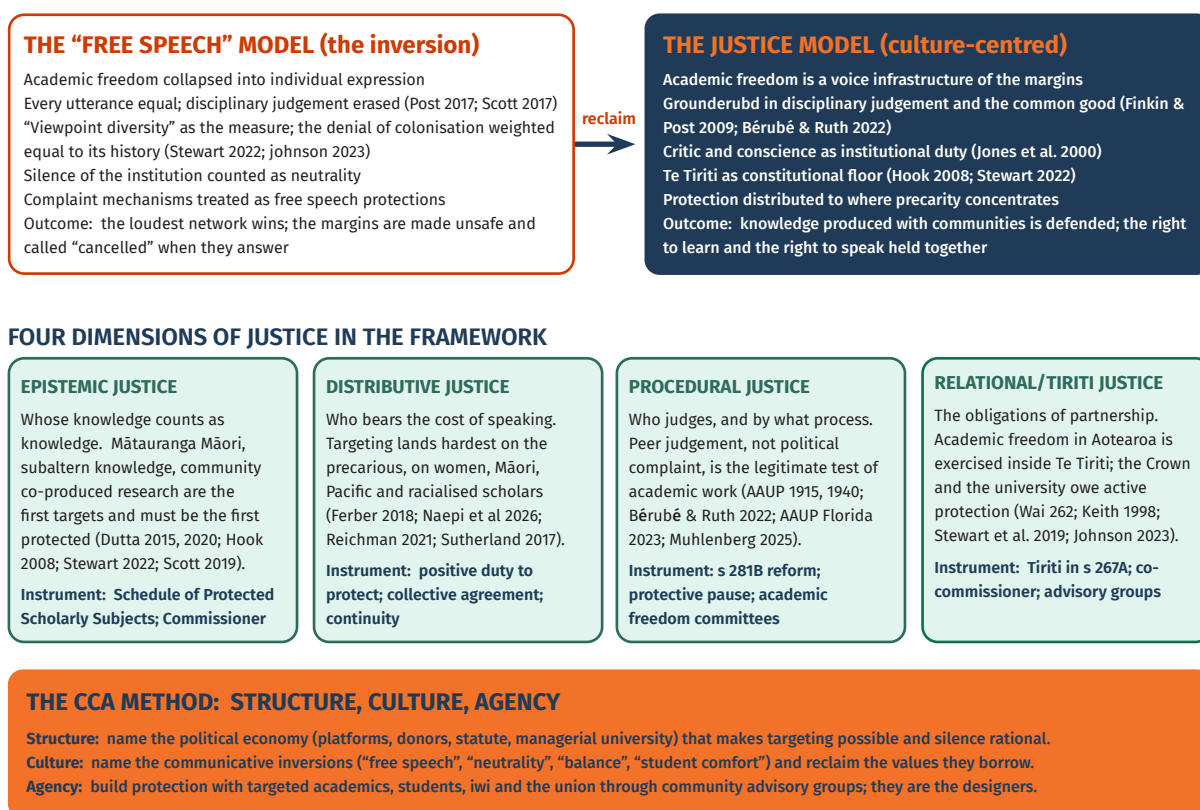
Reading academic freedom through the CCA produces a justice-based framework, summarised in Figure 7, with four dimensions. Each names a question the “free speech” model refuses to ask, and each is attached below to the instruments that answer it.

Epistemic justice concerns whose knowledge counts as knowledge. The CCA holds that the erasure of subaltern knowledge is the first operation of power and that decolonising communication begins by reversing it (Dutta, 2015, 2020). Hook (2008) made the argument for mātauranga Māori in the New Zealand university; Stewart (2022) and Johnson (2023) show that the present attack is directed at exactly this knowledge; Scott (2019) shows that the authority of disciplinary judgement, which the free speech model erases, is what allows a university to say that the history of dispossession is history and its denial is not. Elers and Jayan (2020) and Vats and Dutta (2020) establish the corollary: a speech regime built on whiteness will protect the expression that sustains it and treat the knowledge of the margins as the disturbance to be managed. The instruments of epistemic justice in the framework are the Schedule of Protected Scholarly Subjects and the Te Tiriti mandate of the Commissioner.

Distributive justice concerns who bears the cost of speaking. Ferber (2018), Gosse and colleagues (2021), Veletsianos and colleagues (2018), Reichman (2019) and Sutherland (2017) converge on a single finding: targeting and precarity are correlated, and protection is inversely distributed to need. In Aotearoa the distribution is racialised: the workforce snapshots show Māori and Pacific scholars concentrated in the most insecure positions of an academy that under-represents them at every senior level (McAllister et al., 2019; Naepi, 2019), and the Te Ira Tangata journal of the Tertiary Education Union carries first-person accounts of the labour this extracts from Māori and Pacific women academics (Te Ira Tangata, 2021). The instruments of distributive justice are the positive duty to protect, the collective agreement clauses that give it contractual force, and the research continuity and wellbeing provisions that move the cost from the scholar to the institution.

Procedural justice concerns who judges academic work and by what process. The AAUP tradition from 1915 to 1940 to the present rests on peer judgement under disciplinary standards (AAUP, 1915, 1940/1970; Finkin & Post, 2009), and Bérubé and Ruth (2022) propose standing academic freedom committees of faculty as the body to which complaints about academic work should be referred. The AAUP reports on Florida, North Carolina and Muhlenberg document what happens when that process is displaced by boards, legislatures and complaint campaigns (AAUP, 2022, 2023, 2025). The instruments of procedural justice are the reform of section 281B, the protective pause, and the referral of any question about the content of teaching or research to peer review rather than to a complaints office.

Relational justice, in Aotearoa, is Tiriti justice. Academic freedom here is exercised inside a constitutional relationship, and the Crown and the university owe obligations of partnership and active protection that the Waitangi Tribunal has articulated in Ko Aotearoa Tēnei (Waitangi Tribunal, 2011) and that Keith (1998) anchored in the state's international obligations. Stewart, Benade and Devine (2019) and Johnson (2023) show that the question of who is free to speak in Aotearoa cannot be separated from the question of the Treaty. The instruments of relational justice are the Tiriti grounding of the positive duty, the Māori co-commissioner, and the community advisory groups that give iwi, hapū and community partners standing in the defence of the university.



Source: CARE, 2026. Theory after Dutta (2008, 2011, 2015, 2018, 2020).

Figure 7: Academic freedom as justice. The “free speech” model dissolves academic freedom into individual expression and counts institutional silence as neutrality; the culture-centered justice model restores disciplinary judgement and the critic and conscience duty, grounds both in Te Tiriti, and distributes protection to where precarity concentrates. The four dimensions name the questions the framework must answer and the instruments that answer them.

6.5 Te Tiriti o Waitangi as the foundation

Section 9 of the Education and Training Act 2020 requires the education system to honour Te Tiriti o Waitangi, and section 281(1)(b) requires every university council to acknowledge the principles of Te Tiriti in performing its functions. The Waitangi Tribunal’s Wai 262 report found that the Crown has obligations in relation to mātauranga Māori, including a duty to support its transmission and protection, and the Tribunal has consistently read the principle of active protection as requiring the Crown to do more than refrain from harm (Waitangi Tribunal, 2011). Academic freedom in Aotearoa cannot be read as a freedom that floats free of place. The scholarship that gives effect to the constitutional relationship, the teaching of mātauranga Māori, of te reo, of the history of confiscation and of the ongoing operation of colonisation in health, housing, justice and education, is scholarship the Crown is obliged to actively protect. The CCA analysis of the 2025 amendments identified a “neutrality that takes a side on Te Tiriti”: a statutory freedom of expression regime that positions Tiriti-based teaching as a viewpoint to be balanced and its denial as a viewpoint to be protected (Dutta, 2026). Stewart (2022) and Johnson (2023) had already diagnosed the move. A framework for protection must do the opposite: name the subjects that Te Tiriti places beyond the reach of culture war and give them legal standing.

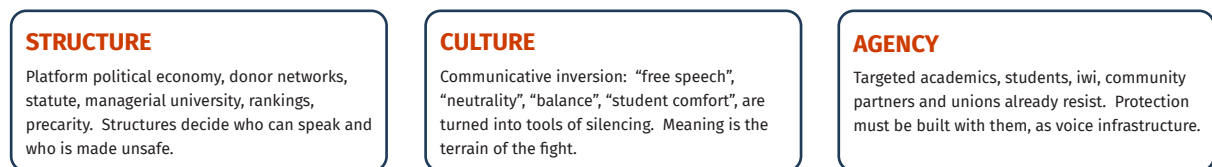
PATHWAYS OF ATTACK



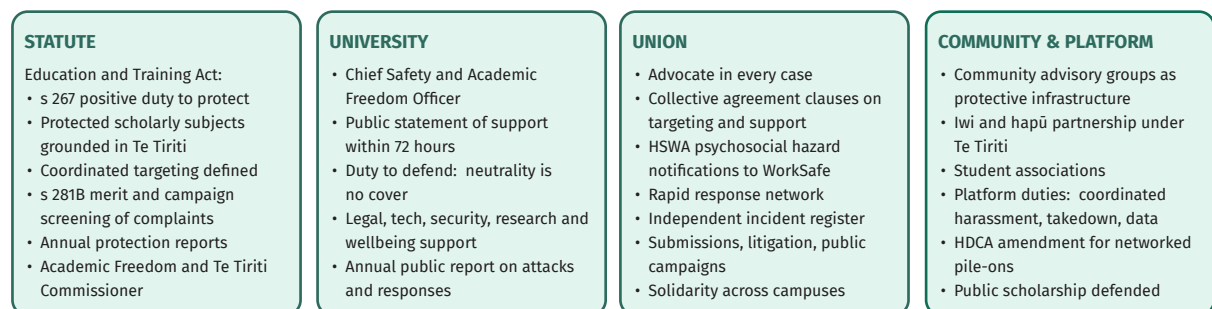
WHAT IS TARGETED: THE VOICE INFRASTRUCTURES OF THE MARGINS

Te Tiriti-grounded scholarship and teaching, mātauranga Māori, histories of colonisation, racism and anti-racism, gender and sexuality, migrant and Muslim communities, public health and climate science, Palestine, caste, class. The attack is a structural process that converts knowledge produced with communities at the margins into a culture-war object, and replaces academic judgement with political surveillance.

CULTURE-CENTRED DIAGNOSIS



PROTECTION ARCHITECTURE



FOUNDATION: TE TIRITI O WAITANGI

Academic freedom in Aotearoa is a Tiriti-based freedom. Tino rangatiratanga over mātauranga, the Crown’s active protection duty, and the partnership obligations of universities set the floor beneath which no “free speech” regime may push scholarship produced with Māori and the margins.

OUTCOME

Academics protected in fact, students’ right to learn secured, communities’ knowledge defended, and a public record that turns each attack into evidence for stronger protection rather than into a chilling precedent.

Source: CARE, 2026.

Figure 8: A culture-centered architecture for protecting academic freedom from the far right. Five pathways of attack converge on the voice infrastructures of the margins; the CCA diagnosis reads the attack through structure, culture and agency; the protection architecture distributes duties across statute, university, union, and community and platform, on a Te Tiriti foundation.

7. ANATOMY OF THE ATTACK: FIVE PATHWAYS

The framework names five pathways through which the far right reaches the academic. They are distinct in their actors and their tools and they are almost always entangled in practice: a campaign that begins with an influencer’s clip is picked up by an online hate network, amplified by an organisation with a watchlist, and converted by a politician into a complaint. Figure 9 traces the resulting pipeline from classroom to statute and marks where the framework cuts it. Protection has to be designed for the entanglement.

7.1 Far-right extremists

The Royal Commission of Inquiry into the terrorist attack on Christchurch masjidain (2020) and the subsequent threat environment reports of the New Zealand Security Intelligence Service have documented the presence of organised white identity and accelerationist networks in this country, their online radicalisation pathways, and their selection of targets among Muslims, Māori, migrants, queer and trans people and those who defend them. Academics who work on these communities or who are members of them have received death threats, have had their home addresses circulated, have been followed, and have had far right participants enter their gatherings under false names. The intrusion into the 2020 Fat Studies conference is the documented case. The harm is physical as well as psychological, and it engages the health and safety obligations of the university directly.

7.2 Online hate groups

The networked pile-on is coordinated in spaces the academic never sees: Telegram channels, imageboards, closed Facebook groups, Discord servers. Ganesh (2018) and Massanari (2017) describe an ecology in which a target is selected, a raid is organised and participants experience the harassment as play, as politics and as community at the same time. The scholar receives hundreds of messages in a day, cannot tell which sender is dangerous, and is advised by the institution to “not engage”. The Harmful Digital Communications Act 2015 offers a civil remedy for an individual communication; it has no concept of a campaign.

7.3 Digital influencers and platform algorithms

Lewis (2018) showed how a set of ostensibly independent commentators function as a distribution system for reactionary politics, lending each other audiences and mainstreaming ideas that originate on the extreme right. In Aotearoa this network has local nodes: podcasters, Substack writers, X accounts with six-figure followings and a reliable supply of screenshots from lecture slides. The clip is the unit of the attack. Thirty seconds of a lecture on the Treaty, stripped of the forty minutes around it and captioned “indoctrination”, moves through an algorithm optimised for the emotion the caption is designed to produce. CARE’s analysis of the civility industrial complex, building on the UNCIVIL Collective, shows the decontextualised screenshot to be the central artefact of the contemporary attack on the classroom (CARE, 2026a; UNCIVIL Collective, 2025). The AAUP’s 2007 statement on freedom in the classroom anticipated the problem in a different register: the classroom is a space of provisional, exploratory and provocative speech whose meaning depends on its pedagogical context, and judgements about it belong to academic peers (AAUP, 2007).

7.4 Far-right organisations

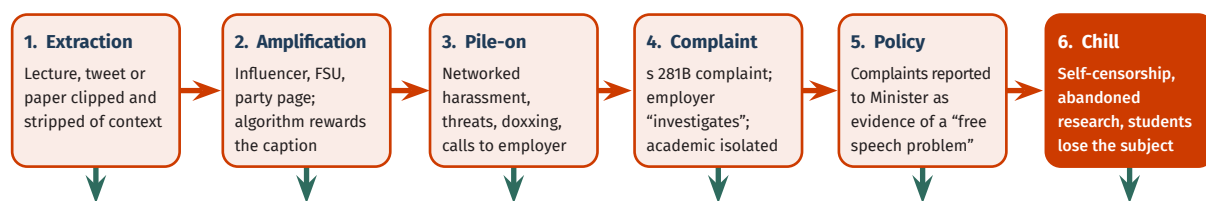
The watchlist organisations supply the institutional memory and the method. The Professor Watchlist, Campus Watch and Canary Mission have published tens of thousands of profiles between them; the method has been imported wholesale by the UK Free Speech Union and, through it, by the New Zealand franchise. CARE’s analysis of the FSU’s documented linkages to eugenicist, neoreactionary and race science networks, and of its confirmed funders, is set out in an earlier paper (CARE, 2026d). What matters for the framework is that these organisations operate as litigational and legislative actors as well as communicative ones. They draft the model bills, file the complaints, fund the court cases and supply the case studies of “cancelled” academics that politicians recite. Kamola (2024) documents the same division of labour among the think tanks behind the American legislative attacks.

7.5 Mainstreaming into policy

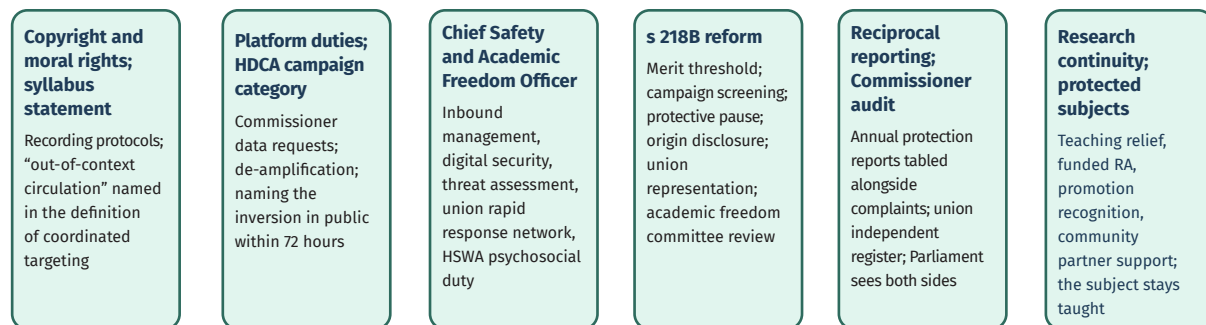
The final pathway converts all the others into law. Politicians and parties take up the grievance, the Minister receives the lobby, the Ministry drafts the bill on the lobby’s template, and the complaint mechanism is enacted. Once enacted, the mechanism becomes the endpoint to which every other pathway leads. The

influencer's clip becomes a complaint under section 281B; the watchlist organisation publicises the complaint; the party issues a press release on the "indoctrination" the complaint reveals; the annual report of complaints to the Minister becomes evidence that the universities have a "free speech problem"; and the regulation-making power held in reserve is triggered. The AAUP's Florida report describes precisely this sequence at the scale of a state (AAUP, 2023). The Parmar post is the proof of concept in Aotearoa: a governing party MP performing in public the role that Campus Watch once asked anonymous students to perform. This is the pathway the statute must be rebuilt to block, and it is the third move of the inversion described in section 6.2 operating at the scale of the state: once the reversal is written into law, the institution silences on the campaign's behalf and calls it compliance.

THE PIPELINE (after Kamola 2024; CARE 2026a; AAUP Florida 2023)



WHERE THE FRAMEWORK CUTS



THE JUSTICE TEST AT EACH STAGE

Who judges the work: peers through disciplinary standards (AAUP 1940; Bérubé & Ruth 2022), or a political network through a complaint form?
Who bears the cost: the institution that employs the scholar, or the scholar and the communities whose knowledge the scholarship carries?
Whose freedom is in question: the freedom the Act protects for academic staff and students, or the "freedom" of an organised campaign to enter the university?

Source: CARE, 2026.

Figure 9: The pipeline from classroom to statute, and where the framework cuts it. Each stage of the pipeline is matched to the instruments that interrupt it, and each is subjected to the justice test: who judges, who bears the cost, whose freedom is in question.

8. WHAT MUST BE PROTECTED: TE TIRITI AND THE PROTECTED SCHOLARLY SUBJECTS

A protection framework has to say what it protects. The generality of section 267, which protects the freedom to state "controversial or unpopular opinions", has been turned against itself: the provision is now cited by the attackers as the right of the student to "challenge" the lecturer and by the lobby as the ground for the 2025 amendments. This is the inversion Stewart (2022) named and the collapse Scott (2017) warned of. The CCA suggests a different move. Alongside the general freedom, the Act should name the fields of scholarship and teaching that the constitutional relationship of Aotearoa places beyond the reach of culture war, and attach to them a heightened duty of protection.

The schedule of protected scholarly subjects proposed here draws from Te Tiriti and from the Crown's obligations under it. It includes mātauranga Māori and te reo Māori in all their disciplinary expressions; the history of the Treaty, of colonisation, of land confiscation and of the Native Land Court, and the findings of the Waitangi Tribunal; the analysis of racism, including institutional and structural racism, in health, housing, justice, education, employment and policing; the study of tino rangatiratanga, of co-governance and of constitutional transformation; scholarship produced in partnership with iwi, hapū and Māori communities; and scholarship arising from the Crown's obligations of equal treatment under Article 3, including the study of migrant, Muslim, Pacific, disabled, queer and trans communities, of gender and sexuality, of caste and of class. To this Tiriti-grounded core the schedule adds the fields whose public health and environmental functions are recognised in statute elsewhere: epidemiology and public health communication, climate science, and the social science of disinformation itself.

Naming these subjects does three things. It gives the academic attacked for teaching them a specific statutory ground on which to stand. It gives the university a specific statutory duty it cannot discharge by a generic statement about the value of debate. And it forecloses the inversion by which the denial of colonisation is presented as a viewpoint of equal standing with its history, which is the inversion Johnson (2023) traced through the history discipline and which the ASA (2022) confronted in the American gag-law context. The device has a precedent in the Act's own structure, which already gives legal force to named documents such as the Tertiary Education Strategy.

9. A LEGISLATIVE PROGRAMME: FIVE BILLS

This section sets out a legislative programme of five bills, with indicative draft clauses for the central provisions. Table 3 names the bills and their core provisions. The drafting is indicative: precise numbering should be settled against the consolidated text of the Education and Training Act 2020, and the references to the 2025 provisions follow CARE's earlier analysis and should be verified against the Act as enacted. The programme gives effect to the four justice dimensions, to the critic and conscience duty that Jones, Galvin and Woodhouse (2000) located in the institution, and to the finding of Naepi and colleagues (2026) that statutory protection without operational definitions fails in practice.

BILL	CORE PROVISIONS
1. Education and Training (Academic Freedom Protection) Amendment Bill	New s 267A positive duty to protect; new s 267B relationship between academic freedom and freedom of expression; definition of coordinated targeting (s 10); new Schedule of Protected Scholarly Subjects; amendments to s 281B (merit threshold, content-complaint exclusion, campaign screening, peer referral, protective pause, origin disclosure, reciprocal reporting); new s 281C annual protection reports; new s 267C protection against retaliation with reversed onus; new s 281D safeguards on change proposals affecting protected scholarly subjects.
2. Academic Freedom and Te Tiriti Commissioner Bill	Independent Commissioner as Officer of Parliament or within the Human Rights Commission; Māori co-commissioner; investigation, audit, guidance, intervention, public register and annual report functions; partnership with iwi and the Waitangi Tribunal.
3. Protection of Academic Gatherings Bill (the Cat Pausé Bill)	Protected academic gatherings; offence of intrusion by deception; civil pathways against organised disruption; institutional and platform duties for gatherings (CARE, 2026c).
4. Harmful Digital Communications (Coordinated Campaigns) Amendment Bill	Coordinated targeting as a category of harm; standing for an approved agency or the Commissioner to bring proceedings in respect of a campaign; platform data-provision and time-bound takedown duties.

BILL	CORE PROVISIONS
5. Employment Relations (Academic Public Commentary) Amendment Bill	Public commentary within an academic's field of expertise is within the scope of employment; adverse action arising from co-ordinated targeting is a breach of good faith, codifying <i>Wiles v University of Auckland</i> .

Table 3: The five-bill legislative programme

9.1 A positive duty to protect (new section 267A)

Section 267(4) requires councils and chief executives to “preserve and enhance” academic freedom. The duty is framed as restraint. A new section 267A should create a positive duty on every council to protect academic staff and students from external interference with academic freedom, including coordinated targeting, and to take all reasonably practicable steps to secure the safety, the employment and the scholarly standing of any member of staff subject to such targeting. The duty should be expressly aligned with the primary duty of care in section 36 of the Health and Safety at Work Act 2015, so that a failure to protect is a breach of both statutes, and it should be expressly enforceable by the affected academic, by the union on their behalf and by the Commissioner. The duty should extend to all academic staff regardless of employment status, answering the finding of Reichman (2019), Sutherland (2017), McAllister and colleagues (2019) and Naepi (2019) that protection currently stops where precarity begins. This provision does not introduce a new concern into the policy conversation. It enacts the fourth of the five concerns officials put to Ministers on 10 October 2024, which recorded that universities were not taking a sufficiently proactive approach to protecting academics from harassment and abuse, including on social media, and that this limits their ability to fulfil the statutory role of critic and conscience of society (Ministry of Education, 2024, para 5(d)). The concern was identified at the outset of the policy process and answered by none of the enacted provisions.

9.2 Protected scholarly subjects (new Schedule)

The schedule described in section 8 should be enacted, with provisions that in respect of any protected scholarly subject the council's duty under section 267A is heightened, that no complaint under section 281B may be accepted on the ground that a protected subject was taught, researched or publicly discussed, and that the Crown's obligations under Te Tiriti o Waitangi inform the interpretation of the schedule. The schedule should be amendable only after consultation with iwi, with the Waitangi Tribunal and with the sector.

9.3 The distinction provision (new section 267B)

The provision that gives the whole programme its cutting edge is the one that separates the two freedoms the 2025 amendments collapsed. It settles, as a matter of law, that in the protected spaces of the university academic freedom is the governing standard and cannot be trumped by a free speech claim, and it confines the section 281A statement and the section 281B complaints machinery to the domain where freedom of expression properly governs. Indicative drafting:

267B Relationship between academic freedom and freedom of expression

(1) Academic freedom under section 267 and the freedom of expression affirmed by section 14 of the New Zealand Bill of Rights Act 1990 are distinct. Academic freedom attaches to teaching, research, and scholarship conducted under disciplinary standards and is held by academic staff and students of an institution. Freedom of expression is held by all persons and is subject to the general law.

- (1A) In determining the scope of academic freedom, a council, a complaints officer, an academic freedom committee, and the Commissioner must have regard to paragraph 27 of the UNESCO Recommendation concerning the Status of Higher-Education Teaching Personnel 1997, under which academic freedom is held without constriction by prescribed doctrine and comprises freedom of teaching and discussion; freedom in carrying out research and in disseminating and publishing its results; freedom to express opinions about the institution or system in which a person works; freedom from institutional censorship; and freedom to participate in professional or representative academic bodies.*
- (2) In the teaching, research, assessment, supervision, examination, curriculum, and scholarly publication activities of an institution, and in academic gatherings convened by or within it, academic freedom is the governing standard. A claim founded on freedom of expression does not override or qualify, and does not provide grounds for complaint against, the exercise of academic freedom in those activities.*
- (3) A statement adopted under section 281A applies to the institution's public forums, shared spaces, and non-academic events, and does not apply to the content of teaching, research, or scholarship.*
- (4) A complaint made under section 281B that concerns the content of teaching, research, or scholarship must be declined; where the complaint raises a genuine question whether particular conduct falls within academic freedom, it must be referred to the academic freedom committee of the institution's academic board, and determined by academic peers under disciplinary standards.*
- (5) Nothing in this section limits the freedom of students under section 267 to question and test received wisdom through scholarly engagement and the institution's academic processes, or the application of the general law.*

Subsection (2) states in law the distinction the Ministry of Education stated in advice: that freedom of speech protects general expression from censorship while academic freedom safeguards scholarly inquiry and teaching within educational contexts (Ministry of Education, 2024, para 10). Subsection (1A) imports the international standard, which supplies the operational definition whose absence Naepi and colleagues (2026) identify as the failure mode of the existing law, and which by naming freedom from institutional censorship places the employer among the possible violators (UNESCO, 1997). Subsection (2) enacts Scott's distinction and the AAUP's classroom principle (Scott, 2017; AAUP, 2007), and it is the statutory instrument of the counter-move set out in section 6.2: it reclaims academic freedom from the borrowing by defining where it governs, so that the inversion has nothing left to trade on. Subsection (3) answers the boundary question the 2025 amendments never asked. Subsection (4) closes the weaponisation channel by routing every content grievance to peer judgement, on the model of the standing academic freedom committees proposed by Bérubé and Ruth (2022). Subsection (5) protects the student's freedom in the terms the Act already grants it, and forecloses the inversion by which the student's freedom to question is converted into a third party's right to police the lecture (CARE, 2026a).

9.4 A definition of coordinated targeting

The Act should define coordinated targeting as any pattern of communications, complaints, publications or conduct, whether or not originating from a single actor, directed at an academic staff member or student by reason of their teaching, research, public commentary or identity, that by its volume, coordination, content

or effect is reasonably likely to cause harm, to deter the exercise of academic freedom or to bring pressure on the institution to take adverse action. The definition should expressly include the publication of names, images or institutional details on lists maintained for the purpose of such targeting, the unauthorised recording and out-of-context circulation of teaching, and intrusion into academic gatherings by deception. The definition makes the campaign, rather than the individual message, the legal object, which is what the harassment literature from Ferber (2018) to Marwick (2021) shows the law has so far failed to do.

9.5 Reform of the section 281B complaints mechanism

The complaints mechanism should be amended in six respects, each operating downstream of the section 267B gate. First, a merit threshold: a complaint must identify a specific act or omission by the institution, and a complaint that is in substance a disagreement with the content of teaching or research within the law must be declined under section 267B(4). Second, campaign screening: the institution must identify where complaints form part of coordinated targeting, record and report them as a single campaign, and decline to process them individually. Third, peer referral: any question about whether teaching or research falls within academic freedom must be referred to a standing academic freedom committee of academic staff, on the model proposed by Bérubé and Ruth (2022) and consistent with the AAUP principle that such judgements belong to peers (AAUP, 1940/1970, 2007). Fourth, a protective pause: no disciplinary, performance or employment process may be commenced against an academic on the basis of a complaint while it is under assessment, and the academic must be informed, supported and represented throughout. Fifth, origin disclosure: complainants must declare any affiliation with an organisation, political party or publication that has publicised the matter, and anonymous complaints originating from outside the institution must be declined. Sixth, reciprocity: the annual report of complaints to the Minister must be accompanied by the report of incidents of coordinated targeting and of the institution's responses, so that Parliament sees both sides of the ledger. The first two of these amendments do no more than adopt what the United Kingdom itself adopted after its own regime produced the weaponisation that Universities New Zealand warned this Parliament about during the passage of the Bill (Universities New Zealand, 2025). CARE's earlier analysis argued that the reporting duty cuts both ways (CARE, 2026a); the amendment makes the protective record mandatory. The reset is now on the statute book and the parliamentary record: the tort is to be repealed, students have been removed from the regulator's complaints scheme, and the Office for Students is to prioritise the most serious complaints, a merit filter in all but name (Times Higher Education, 2025; UK Parliament, 2026).

9.6 Annual protection reports (new section 281C)

Every university should be required to publish, and to provide to the Minister, the Commissioner and the union, an annual report on the protection of academic freedom. The report should record the number and nature of incidents of coordinated targeting notified to the institution, disaggregated by pathway, by the protected scholarly subject involved and by the employment status and demographic characteristics of those targeted; the steps taken in each case, including statements issued, security provided, legal and technical support given and time to resolution; the outcomes for the targeted academic, including any change to their employment, workload or public engagement; the training provided to managers and staff; the resources allocated; and the recommendations of the Chief Safety and Academic Freedom Officer. The report should be audited by the Commissioner and tabled in Parliament. Reporting is a protective technology in its own right: what is counted is defended, and the rankings literature shows that the absence of academic freedom from every metric the managerial university cares about creates a structural incentive for silence (CARE, 2026e; Spannagel & Kinzelbach, 2023). The disaggregation by employment status and demographics answers Sutherland (2017), McAllister and colleagues (2019) and Naepi (2019) directly, and gives the Naepi et al. (2026) demand for operational process a reporting instrument.

9.7 An Academic Freedom and Te Tiriti Commissioner (new Part)

The lobby that produced the 2025 amendments has proposed a “free speech commissioner” for the tertiary sector. Its lineage is set out in section 3.4 and Figure 2: the office was designed in Policy Exchange’s 2020 report as a Director of Academic Freedom at the English higher education regulator, with ombudsman functions, investigatory powers over providers and provider liability in damages, and it was enacted in the UK Higher Education (Freedom of Speech) Act 2023 (Adekoya et al., 2020; Kaufmann, 2023a). The UK experience and the New Zealand policy trail make clear what such an office would do: it would receive the complaints generated by the pipeline, publicise them, and become the instrument through which the watchlist method is given the authority of the state. Darian-Smith (2025) describes offices of this kind as the administrative face of the antidemocratic policing of scholarship, and the model’s own architect states the purpose plainly in arguing that universities cannot reform themselves and that government should audit them and sanction breaches (Kaufmann, 2021, 2023b, 2024). The framework recommends instead an independent Academic Freedom and Te Tiriti Commissioner, established as an Officer of Parliament or within the Human Rights Commission, with a mandate to receive and investigate notifications of coordinated targeting from academics, students, unions and institutions; to audit the annual protection reports; to issue guidance to councils on their duties under sections 267A and 281B; to intervene in proceedings where academic freedom or Tiriti-protected scholarship is at stake; to maintain a public register of incidents; to report annually to Parliament on the state of academic freedom in Aotearoa, drawing on the Academic Freedom Index methodology (Spannagel & Kinzelbach, 2023); and to do all of this in partnership with iwi and with the Waitangi Tribunal. The office should be supported by a Māori co-commissioner, and its establishing provisions should require demonstrated expertise in academic freedom, in Te Tiriti and in the study of the far right.

9.8 Consequential amendments: Harmful Digital Communications Act, Employment Relations Act, platform duties

The Harmful Digital Communications Act should be amended to recognise coordinated targeting as a category of harm, to allow an approved agency or the Commissioner to bring proceedings on behalf of a targeted academic in respect of a campaign, and to require platforms operating in New Zealand to provide, on request from the Commissioner, data on the coordination and amplification of campaigns directed at academics and to act on takedown requests within a defined period. The Employment Relations Act 2000 should be amended to make clear that adverse action against an employee arising from coordinated targeting is a breach of good faith, following the reasoning in *Wiles*, and that public commentary within an academic’s field of expertise is within the scope of employment.

9.9 Protection against retaliation (new section 267C)

The Harmful Digital Communications Act should be amended to recognise coordinated targeting as a category of harm, to allow an approved agency or the Commissioner to bring proceedings on behalf of a targeted academic in respect of a campaign, and to require platforms operating in New Zealand to provide, on request from the Commissioner, data on the coordination and amplification of campaigns directed at academics and to act on takedown requests within a defined period. The Employment Relations Act 2000 should be amended to make clear that adverse action against an employee arising from coordinated targeting is a breach of good faith, following the reasoning in *Wiles*, and that public commentary within an academic’s field of expertise is within the scope of employment.

267C Protection against retaliation

- (1) An institution, and any person acting on its behalf, must not subject a staff member or student to any detriment by reason of: (a) their being the subject of coordinated targeting; (b) their exercise of academic freedom, including the teaching, research, or public commentary that gave rise to the targeting; (c) their having sought protection, made a notification, or given evidence under sections 267A, 267B, 281B, or 281C; or (d) their having publicly supported or advocated for another person in respect of any of the above.*
- (2) Detriment includes, without limitation: dismissal, non-renewal, or disestablishment of position; adverse change to duties, workload, title, reporting line, or research allocation; withholding of promotion, progression, sabbatical, funding, or supervision; commencement of a disciplinary, performance, or capability process; withdrawal of institutional support previously provided; and adverse action in respect of a person's immigration status or the institution's support for it.*
- (3) Where a detriment occurs within twenty-four months of a notification, a protected disclosure, or the conclusion of a process under section 281B, the institution bears the onus of establishing on the balance of probabilities that the detriment was not by reason of any matter in subsection (1).*
- (4) Every decision to which subsection (2) applies in respect of a person who has been the subject of coordinated targeting must be recorded in writing with reasons, provided to the person and to the academic freedom oversight committee, and reported in the institution's annual report under section 281C.*
- (5) A breach of this section is enforceable by the affected person, by their union on their behalf, and by the Commissioner, and constitutes a breach of good faith under the Employment Relations Act 2000.*

Subsection (3) is the operative provision. Retaliation is almost never documented as retaliation, and a scholar attempting to prove motive against an institution holding all the records will fail; reversing the onus for a defined window, on the model long used in whistleblower and discrimination protections, converts an unprovable claim into an answerable one. Subsection (4) is the accountability framing: an institution that must record, disclose and report every adverse decision affecting a targeted academic will make fewer of them, and the record it generates is what allows the Commissioner, the union and Parliament to see a pattern that no individual case discloses.

9.10 Restructuring and the protected disciplines (new section 281D)

The most effective way to end troublesome scholarship is not to discipline the scholar but to abolish the subject, and this is the route by which the far right's agenda is now most efficiently realised in Aotearoa. A university does not need to decide that critical race scholarship, decolonisation studies, gender studies, Indigenous studies or Pacific studies are politically unacceptable. It needs only to find them financially marginal, which under the funding settlement they reliably are, and to disestablish them in a change proposal written in the neutral language of viability, sustainability and portfolio alignment. The outcome is identical to the one the campaigns demand and the process attracts none of the attention a dismissal would. This is the structural face of the inversion described in section 6.2: nobody is silenced, a programme is simply not offered.

The mainstreaming is documented. Project 2025's Mandate for Leadership set out an integrated programme for United States higher education including the dismantling of federal equity infrastructure, the elimination of diversity, equity and inclusion offices and requirements, the reshaping of accreditation, and the removal

of critical race scholarship from federally supported programmes, and the subsequent executive orders and state statutes have implemented substantial parts of it (Project 2025, 2023; Kamola, 2024; CARE, 2026g). The AAUP's Florida report documents the sequence at state level, where curricular and programme decisions were removed from faculty and exercised by boards (AAUP, 2023). In Aotearoa the same effect is achieved through funding architecture rather than legislation: Naepi and Davis (2025) place the removal of humanities and social sciences from Marsden funding alongside the freedom of expression amendments as convergent movements closing rather than opening intellectual debate, and CARE's analyses of the Tertiary Education Strategy and of MBIE's science investment settings document the metric architecture that makes the targeted fields structurally vulnerable (CARE, 2026e, 2026h). A protection framework that regulates complaints while leaving programme disestablishment untouched addresses the slower half of the problem and misses the faster one.

281D Change proposals affecting protected scholarly subjects

- (1) Before adopting any change proposal that would disestablish, merge, or materially reduce teaching or research capacity in a protected scholarly subject listed in the Schedule, an institution must: (a) publish an academic freedom and Te Tiriti impact assessment; (b) refer the proposal to its academic board and to its academic freedom oversight committee for advice, and publish that advice with the decision; (c) consult iwi and hapū partners and affected community partners; and (d) provide the assessment and advice to the Commissioner not less than 60 days before any decision.*
- (2) The impact assessment must address the institution's obligations under section 9 and section 281(1)(b), the effect of the proposal on the institution's capacity to meet its Te Tiriti commitments, the effect on students' access to the subject, and whether the subject has been the object of coordinated targeting.*
- (3) The Commissioner may report publicly on any proposal referred under this section, and must report annually to Parliament on the aggregate effect of change proposals on protected scholarly subjects across the sector.*

The provision does not give any discipline immunity from institutional decision-making, and it should not: universities must be able to change what they offer. It requires that where the subject being closed is one the Crown is obliged to actively protect, and one the far right has been campaigning against, the decision is made in the open, on a stated record, with the academic board, the oversight committee, iwi partners and the Commissioner able to see it before rather than after. Transparency is the entire mechanism. A change proposal that can survive publication of its Te Tiriti impact assessment is a change proposal that was probably about viability; one that cannot is one the sector should see.

10. RECOMMENDATIONS FOR UNIVERSITIES

The statute creates duties; the institution has to discharge them, and the record of New Zealand universities in discharging their existing duties is poor. The Employment Court's findings in Wiles describe an institution that treated a targeted academic as a problem to be managed and failed across years to provide the protection its own policies promised. Kelsey (2000) and Olssen (2000) predicted the failure; Ahmed (2012, 2021) describes its institutional grammar, in which the complaint about harm becomes the problem and the complainant the difficulty; and Giroux (2014) names the structural cause in the corporatised university's substitution of reputation management for public mission. The recommendations below are designed to change the structure of incentives and of responsibility inside the institution.

10.1 A Chief Safety and Academic Freedom Officer

Every university should appoint a Chief Safety and Academic Freedom Officer at the senior leadership level. The reporting lines matter more than the title. The officer should report to the Vice-Chancellor for operational purposes, and separately and independently to the academic board, to the Council, and to the Commissioner, so that no single executive line can suppress what the office knows. Reporting to the academic board should be monthly and substantive: a standing agenda item at every ordinary meeting covering notifications received, campaigns identified, statements issued or declined and the reasons, support provided, matters referred to the academic freedom committee, and any adverse decision affecting a targeted academic. The academic board should have the standing to direct the officer to investigate a matter, to require a report, to advise on the institution's response, and to record its dissent in the minutes where it considers the institution's response inadequate, with that dissent carried into the annual protection report. An officer accountable only upward will, under pressure, do what the executive finds convenient; an officer who must account monthly to the assembled academic community will not. The office should hold a budget, a permanent team with expertise in digital security, law, trauma-informed support and the study of the far right, and a standing mandate to act without waiting for a complaint. Its functions should include the receipt of notifications of targeting from any staff member or student; the immediate convening of a response team; the coordination of statements, security, legal and technical support; the maintenance of the institutional incident register; the drafting of the annual protection report; the training of heads of school, deans, communications staff and council members; liaison with the union, student associations, iwi partners and the Commissioner; and the review of every institutional policy, including the section 281A statement, for its effect on the protection of targeted academics. The placement of "safety" alongside "academic freedom" in the title is deliberate. The two have been set against each other by the inversion; the office exists to hold them together, and the AAUP's 2017 statement on targeted harassment makes the same point in calling on institutions to treat the safety of the harassed scholar as an academic freedom obligation.

10.2 A statement of support within 72 hours

When an academic is targeted, the institution should issue a public statement of support within 72 hours. The statement should name the academic, affirm that the teaching, research or commentary in question falls within academic freedom, name the inversion at work where one is operating rather than merely denying the allegation, reject the characterisation offered by the attackers, state that the institution will not act on external pressure, and state the support being provided. Naming matters because a borrowed value left unchallenged is not neutral ground: a statement that affirms the institution's commitment to free speech for all, issued in response to a campaign conducted in the name of free speech, concedes the frame and completes the inversion. The literature is unambiguous that the institutional statement is the single intervention targeted academics most often identify as having helped, and that its absence is experienced as abandonment (Gosse et al., 2021; AAUP, 2017). The obligation should be written into the section 281A statement and into the institution's Te Tiriti commitments, and the Chief Safety and Academic Freedom Officer should have delegated authority to issue it so that it cannot be delayed by a communications office calculating reputational risk.

10.3 The duty to defend: neutrality is not a cover

Universities in New Zealand and elsewhere have increasingly adopted the language of institutional neutrality, drawn from the University of Chicago's Kalven Report of 1967, to justify silence when their academics are attacked. The framework rejects this use of neutrality on four grounds. The first is textual: the Kalven Report itself carves out the case in which the university's own mission is under threat, and an attack on an academic

for their scholarship is exactly that case (University of Chicago, 1967; Reichman, 2025). The second is statutory: the critic and conscience function is a defining characteristic of the university under the Act, and Jones, Galvin and Woodhouse (2000) showed that it is an institutional duty that cannot be discharged by an institution that declines to defend the staff who perform it. The third is analytical: the CCA identifies neutrality in the face of coordinated targeting as a communicative inversion of the kind set out in Table 2, a claim of even-handedness that in practice hands the outcome to the party with the larger megaphone (Dutta, 2020; Dutta, in press; Bérubé & Ruth, 2022). The fourth is legal: the Employment Court in Wiles found that the University's obligations of good faith and health and safety required it to act, and a policy of neutrality cannot displace a statutory duty. The section 281A statement adopted by every council should therefore include an express provision that the institution's neutrality on contested public questions does not extend to the defence of its staff and students from targeting, that the institution has a duty to take a public stance in defence of academic freedom when it is attacked, and that this duty is not foreclosed by any policy of neutrality.

10.4 Legal and technological support

The institution should guarantee to every targeted academic, at the institution's cost and from the moment of notification: independent legal advice, including on Harmful Digital Communications Act proceedings, defamation, privacy and, where the academic is a migrant, immigration; representation in any complaint or regulatory process; a digital security review covering doxxing exposure, account security, the removal of personal information from data brokers and the documentation of the attack for evidential purposes; a single institutional contact who manages inbound communications so that the academic does not have to read the threats; and the takedown and platform escalation function exercised through the Chief Safety and Academic Freedom Officer. Where teaching has been recorded and circulated without consent, the institution should exercise its rights under the Copyright Act 1994, including the moral rights and performers' rights provisions, and should adopt the model syllabus statement on recording and circulation that CARE has proposed (CARE, 2026a). O'Neil (2008) anticipated the need for institutions to develop exactly this technical and legal capacity as the attack on academic freedom moved online.

10.5 Research support

Coordinated targeting is designed to destroy research as well as the researcher. Community partners withdraw, ethics committees become nervous, grant bodies look elsewhere, and the scholar loses months to the defence of work that should have been spent doing it. The institution should provide, as a matter of policy, a research continuity package to targeted academics: relief from teaching and administration proportionate to the attack; funded research assistance; protection of any community research partnership, including support to community partners who are themselves targeted; a guarantee that ethics approvals will not be revisited on the basis of external complaint; and explicit recognition of the targeting in promotion, performance and research assessment processes so that the attack does not become a career penalty under the metric regime Olssen (2000) and Zepke (2012) described. The institution should also fund the documentation and analysis of the attack itself as research, in partnership with the academic, so that each incident contributes to the evidence base.

10.6 Security

Where targeting carries physical risk, the institution's health and safety duty is engaged directly. The institution should provide a threat assessment by personnel competent in the study of the far right; physical security at the academic's workplace, at gatherings they convene and, where warranted, at their home; secure alternative teaching arrangements including the option to move teaching online or restrict access to enrolled students; protocols for the verification of participants in academic gatherings, consistent with the protections proposed

in the Cat Pausé Act (CARE, 2026c); liaison with Police; and support for the academic's family. The provision of security should never be conditional on the academic reducing their public engagement; that condition is the attack succeeding by institutional hand.

10.7 Wellbeing and the health and safety duty

The psychosocial harm of coordinated targeting is documented, severe and lasting (Ferber, 2018; Gosse et al., 2021). WorkSafe New Zealand's guidance on psychosocial hazards places this harm within the primary duty of care in section 36 of the Health and Safety at Work Act (WorkSafe, 2024), and the Employment Court in *Wiles* applied that duty to a targeted academic. The institution should treat every notification of targeting as a notifiable psychosocial hazard, provide trauma-informed support through practitioners with experience of political harassment, provide paid leave without penalty, and record the harm in its health and safety reporting. The Chief Safety and Academic Freedom Officer should hold the health and safety function in relation to targeting, so that it is never split from the defence of academic freedom.

10.8 Governance, shared governance and the annual report

The AAUP's 1966 Statement on Government of Colleges and Universities and its reports on Florida, North Carolina and the pandemic converge on a finding that academic freedom fails when faculty are removed from governance (AAUP, 1966, 2021, 2022, 2023). The value of academic governance in this domain is on the policy record: officials advised Ministers that existing governance requirements would ensure academic input through academic boards and Council representation, and gave as their example that the University of Auckland's academic senate had declined to endorse the university's latest draft freedom of speech policy (Ministry of Education, 2024, para 41). An academic board exercising judgement on a speech policy is the mechanism this paper proposes to strengthen rather than bypass. Councils should receive, at least annually and in public session, the institution's protection report, and should be trained in their duties under sections 267, 267A and 281B and under *Te Tiriti*. Academic boards should hold a standing academic freedom committee to which section 281B questions are referred. Heads of school, deans and communications staff should be trained in the recognition of coordinated targeting, in the inversions through which it is framed and in the institution's response protocol. Student associations and iwi partners should be consulted in the design of the protocol and should receive the report, which should be published in full.

10.9 The academic freedom oversight committee

The framework requires a standing body of academic peers with the authority the doctrine reserves to them, and it must be constituted so that it cannot be assembled from the executive's friends. Every university should establish an academic freedom oversight committee as a committee of the academic board with the following characteristics. Its members should be elected by academic staff, with at least one member elected from each college or faculty, so that the committee is not appointed by the people it may have to hold to account. Its membership should be published in full and kept current on the university's website, together with each member's discipline, so that any academic facing a complaint can see who might hear it and any member of the public can see that the body exists. It should include elected Māori and Pacific staff representation as of right rather than by convention, given that the scholarship most exposed to targeting is disproportionately theirs. Terms should be fixed and staggered, and members should be indemnified by the institution for acts done in good faith in the role, since a committee whose members can be targeted for their findings is a committee that will not make findings.

There is a legislative precedent for the model. Québec's Act respecting academic freedom in the university sector 2022 defines the right to academic freedom as the freedom to engage in the activities of the institution's mission without doctrinal, ideological or moral constraint, requires every institution to adopt a policy dealing exclusively

with academic freedom, requires the establishment of a committee whose functions are to oversee the policy's implementation, examine complaints about academic freedom and make recommendations, and requires each institution to appoint a person responsible for academic freedom charged with implementing the policy (An Act respecting academic freedom in the university sector, 2022). The framework proposed here follows the same architecture and adds the elements the Québec statute lacks: election of the committee, published membership, a field-competent peer on every investigating panel, and a duty of protection against external targeting. Its functions should include: determining, on referral under section 267B(4), whether contested teaching or research falls within academic freedom, applying the standards of the relevant field; supplying a member to every complaint investigation panel, as set out below; advising the academic board and the Council on the institution's response to any campaign; reviewing the annual protection report before publication and appending its own commentary where it disagrees; advising on any change proposal affecting a protected scholarly subject under section 281D; receiving the record of adverse decisions under section 267C(4); and reporting to the academic board and, where it considers it necessary, directly to the Commissioner. The committee should be resourced with independent secretariat support that does not sit within the human resources function, because a committee serviced by the office whose decisions it reviews is not independent of it.

The single most important operational rule is this: no investigation of a complaint concerning the content of teaching, research, or scholarship may proceed without a member of the academic freedom oversight committee sitting on the investigating panel, and that member must hold expertise in the relevant field or, where the committee holds none, the committee must co-opt an external academic who does. The reason is the one the AAUP has stated since 1915 and Finkin and Post (2009) restate: whether a piece of scholarly work meets the standards of its field is a question only that field can answer, and a panel of a human resources adviser, a dean from another discipline and an external investigator with a legal background is structurally incapable of answering it. Such panels do not decline the question; they answer it badly, usually by substituting a judgement about tone, offence or reputational risk for the disciplinary judgement they were not equipped to make. The presence of a field-competent peer with authority to record a dissenting view converts the process from a managerial exercise into an academic one, and it is the mechanism by which the standards inversion in Table 2 is defeated inside the institution rather than merely named outside it.

10.10 Non-retaliation and the accountability record

Section 9.9 creates the statutory prohibition; the institution must build the accountability framing that makes it visible and auditable. Every university should maintain a non-retaliation register recording, for each academic who has been the subject of coordinated targeting, every subsequent decision falling within section 267C(2) for a period of not less than twenty-four months: workload allocations, promotion and progression outcomes, research and sabbatical support, position changes, any process commenced, and the institutional support provided in respect of immigration status where relevant. Each entry should record the decision, the reasons, the decision-maker, and whether the academic freedom oversight committee was notified. The register should be provided in full to the affected academic, to the union where the academic consents, and to the oversight committee, and in aggregated form to the Council, the Commissioner and the annual protection report.

Three further commitments give the framing force. The institution should publish an explicit non-retaliation undertaking as part of its section 281A statement, stating in terms that no academic will suffer detriment for having been targeted, for having exercised academic freedom, for having sought protection, or for having publicly defended a colleague, and that the institution regards the defence of colleagues as service to the university rather than as a risk to be managed. It should require that any performance, capability or disciplinary process concerning an academic who has been targeted within the preceding twenty-four months be approved in advance by the Vice-Chancellor personally on written reasons, with notification to the oversight committee and the union, so that the decision cannot be made quietly at the level where retaliation actually occurs. And it

should recognise in promotion and performance criteria the labour of being targeted and of defending others, since scholars who spend a year defending their field currently pay for it twice, once in the attack and once in the assessment round that treats the resulting gap in output as underperformance.

11. THE ROLE OF THE UNION AS ADVOCATE

The Tertiary Education Union Te Hautū Kahurangi is the only actor in this architecture whose interest is wholly aligned with the targeted academic. The statute can be amended, the Commissioner established and the Chief Safety and Academic Freedom Officer appointed, and each will operate inside a structure of institutional and political incentive that pulls towards silence. The union is the counterweight, and the CCA, with its insistence that protection be built with the people who bear the harm, places the union at the centre of the framework. Kelsey (2000) argued that the defence of academic freedom against neoliberal enclosure would fall to collective organisation because the institution could no longer be relied upon; the argument holds with greater force against the culture war. The advocacy role of the union covers every point in this paper.

11.1 Advocacy in every case

The union should treat every instance of coordinated targeting of a member as a collective matter from the moment it is notified: a dedicated organiser with expertise in targeting assigned to the member; representation in every meeting with the institution, in every complaint process and in every employment process; the insistence, on the member's behalf, that the institution discharge each of the duties in section 10 and the documentation of every failure to do so; and the escalation of failures to the Chief Safety and Academic Freedom Officer, the Council, the Commissioner and, where necessary, WorkSafe, the Employment Relations Authority and the Employment Court. Wiles established that the route through employment law exists and works; the union should use it as a matter of course and fund the cases that set the precedents.

11.2 Collective agreement clauses

The union should negotiate, in every collective agreement, a clause on coordinated targeting that gives contractual force to the statutory and institutional duties set out above: the 72-hour statement, the legal and technological support, the research continuity package, the security provisions, the protective pause on disciplinary processes, the recognition of targeting in promotion and performance, the guarantee that public engagement within the academic's field is within the scope of employment, the extension of every protection to fixed-term and casual staff, and the right of the union to be informed of every notification. Contractual duties are enforceable in ways that policies are not, and they survive changes of leadership. The extension to contingent staff is the union's answer to the exclusion Reichman (2019) and the AAUP (2021) describe.

11.3 Health and safety representation

The union's health and safety representatives should be trained in the recognition of coordinated targeting as a psychosocial hazard, should raise it through the institution's health and safety committees, should issue provisional improvement notices where the institution fails to act, and should notify WorkSafe of patterns of failure. The health and safety route has the advantage of being wholly independent of the academic freedom framing the attackers have captured, and it brings a regulator with enforcement powers to the table.

11.4 An independent incident register and a rapid response network

The union should maintain its own national register of incidents of targeting, independent of the institutional registers and of the Commissioner, so that the statutory record cannot be managed by the institutions that are its subject, and should publish an annual report of its own. It should build a rapid response network of

members across campuses and disciplines who can be mobilised within hours of an attack to provide public statements of solidarity, accompany the targeted member, monitor the online campaign and brief media. The literature on networked harassment shows that the attackers rely on isolating the target (Marwick, 2021); the network is the structural answer to isolation, and it gives the critic and conscience function a collective body.

11.5 Submissions, litigation and campaigns

The union should lead the sector's engagement with the legislative programme set out in section 9: drafting, submitting, giving evidence to the select committee and building the alliance with iwi, with student associations, with the Human Rights Commission and with the public health and climate research communities who are among the principal targets. It should be prepared to litigate, including by judicial review of institutional decisions under section 281B and by test cases under the Harmful Digital Communications Act. And it should campaign publicly, naming the inversions in the terms set out in section 6.2 and Table 2, telling the stories of targeted members with their consent, and making the connection between the defence of academic freedom and the defence of the students' right to learn, which is the connection Giroux (2006) placed at the centre of critical pedagogy and which the public most readily understands.

11.6 Solidarity and the international union network

The attack is international and so must the defence be. The union should maintain active relationships with Education International, the AAUP, the University and College Union, the National Tertiary Education Union and the Canadian Association of University Teachers, sharing intelligence on the watchlist organisations, their franchises and the model legislation they circulate, and coordinating statements of solidarity when members in any jurisdiction are attacked. It should also hold the space for the solidarities the far right most fears: between Māori and Pākehā scholars, between Muslim and Jewish scholars, between migrant and settler, across the lines along which the attackers hope to divide the university. The union already knows how to build voice infrastructure of this kind: its journal *Te Ira Tangata* has for years carried the first-person accounts of Māori and Pacific women academics naming marginalisation in the whitestream university and claiming a place at the table, and its editors describe such writing as a political act (*Te Ira Tangata*, 2021). The register, the network and the campaigns proposed here extend an infrastructure the union has already made.

11.7 Restructuring and the defence of the targeted disciplines

The union's most consequential academic freedom work in the coming period will be conducted in change proposal consultations rather than in disciplinary hearings, because that is where the targeted fields will be lost. The union should treat any proposal affecting a protected scholarly subject as an academic freedom matter from the moment it is notified, and organise accordingly: demand the impact assessment required under section 281D and, where the section is not yet law, demand it as a matter of good faith consultation; require disclosure of the financial modelling, including how overheads and cross-subsidies were allocated to the units proposed for closure, since the marginality of small critical programmes is frequently an artefact of the accounting rather than a fact about them; require the institution to state whether the subject has been the object of external campaigning and what its response was; bring iwi partners, community partners and student associations into the consultation as parties with standing rather than as stakeholders to be surveyed; and put the *Te Tiriti* question directly, since a university that disestablishes the capacity through which it meets its section 9 and section 281(1)(b) obligations has not made a neutral operational decision.

The union should also name the convergence publicly. A restructure that closes a decolonisation programme in Aotearoa and a state statute that prohibits teaching critical race theory in Florida are different instruments arriving at the same destination, and the intellectual architecture connecting them is documented: Project 2025 set out the programme, the executive orders and state legislation implemented it, and the think tank

infrastructure exported it (Project 2025, 2023; Kamola, 2024; AAUP, 2023; CARE, 2026g). The New Zealand version does not need a statute because it has a funding formula. Organising against it therefore requires the union to make an argument the sector has been reluctant to make: that the humanities and social sciences under attack are not a luxury the country can no longer afford but the disciplines through which a settler colonial society examines itself, and that a university which cannot teach colonisation, race, gender and Indigenous knowledge has not trimmed its portfolio, it has resigned as critic and conscience. That argument is best made before the proposal is written, in alliance with the communities whose knowledge the programmes carry, and with the international unions who have watched the same closures elsewhere.

12. SOLIDARITIES, COMMUNITY AND CROSS-BORDER INFRASTRUCTURE

The final element of the architecture is the one the far right most consistently attempts to prevent, which is solidarity. The record in section 4 shows an infrastructure that is transnational, franchised and repeat-player, and that works by isolating each target within a single institution and a single controversy. A defence built at the same scale has three components: solidarities across the communities the attacks divide, a community and iwi partnership structure inside each institution, and working relationships with the professional, legal and scholarly organisations abroad that have already litigated these questions.

12.1 *Diverse solidarities: who the attacks actually reach*

The targets named across this paper do not form a single constituency, and the campaigns depend on that. Māori and Pacific scholars are attacked for Tiriti-based teaching and for mātauranga Māori (Stewart, 2022; Johnson, 2023; Hall, 2023). Migrant and ethnic community scholars are attacked in a register that reaches for their immigration status, from the foreign import framing of 2023 to the deportation demands of 2025 (Dutta, 2023b; Massive Magazine, 2025). Muslim scholars and scholars of Palestine are attacked through the conflation of criticism of a state with hatred of a people, a conflation contested from within Jewish communities themselves (Hall, 2023; Overland, 2024). And queer and trans scholars, and the fields of gender and sexuality studies, are attacked continuously: the Free Speech Union survey instruments singled out gender and sex issues alongside Treaty issues as the two sites of claimed constraint (Dutta, 2022); the speakers the organisation has hosted include figures whose public positions on gender have been documented by Newsroom (Newsroom, 2025); the Fat Studies conference convened by Dr Cat Pausé was infiltrated by far right participants (CARE, 2026c); and the community response to the Whanganui vigil came from Pride Whanganui, which named the harm of an elected leader celebrating that message as personal rather than political (RNZ, 2025).

The framework therefore builds protection with LGBTQI+ communities and organisations, with ethnic migrant community organisations including Indian, Chinese, Muslim, Pacific and refugee-background communities, and with Māori as tangata whenua and Tiriti partners, at the same table and without ranking. This is not an addition to the Tiriti foundation but its logic extended: Article 3 obligations of equal treatment run to all who live here, and the CCA holds that solutions built with only some of those who bear the harm reproduce the erasure they were meant to remedy (Dutta, 2015, 2020). Practically, this means that the community advisory group in section 12.2 must include these communities; that the union's rapid response network must be able to mobilise across them; that a statement defending a Māori scholar attacked over the Treaty and a statement defending a migrant scholar facing deportation demands are the same institutional duty; and that scholars must refuse the invitation, extended constantly by these campaigns, to purchase their own safety by declining to defend the next target.

12.2 Community advisory groups and iwi partnership

The community advisory group is the core methodological instrument of the CCA (Dutta, 2014, 2018), and CARE proposes that every university establish one as a standing body of iwi and hapū representatives, community partners drawn from the communities named above, student association representatives and academics who have themselves been targeted, to advise the Chief Safety and Academic Freedom Officer, review the annual protection report before publication, and hold the institution to its Te Tiriti commitments. Communities whose knowledge moves through the university have standing in its defence, and the group converts that standing into governance. This is the relational dimension of the justice framework given institutional form.

12.3 Cross-border professional, legal and scholarly infrastructure

Because the attacking infrastructure is franchised, the defending infrastructure must be networked. The Tertiary Education Union, the universities and CARE should build working relationships with the organisations that hold the relevant expertise and case experience. The American Association of University Professors supplies the doctrinal standards, the investigative report methodology and an active litigation programme (AAUP, 2017, 2023, 2025). The Knight First Amendment Institute at Columbia University has carried the leading academic freedom litigation of the present period. Palestine Legal and the Center for Constitutional Rights hold the deepest case record on the targeting of scholars and students over Palestine, and the CCR-led litigation on anti-boycott laws is directly relevant to an Aotearoa in which similar instruments are being proposed. The American Civil Liberties Union has litigated the classroom censorship statutes; the NAACP Legal Defense and Educational Fund has litigated the racial dimension of those statutes and of governance capture; and both hold decades of strategic litigation experience that a small country's union can learn from rather than reinvent. Scholars at Risk provides placement, protection and the Free to Think monitoring series; the Academic Freedom Index provides comparative measurement (Spannagel & Kinzelbach, 2023); PEN America provides documentation of educational gag orders. Education International, the University and College Union, the National Tertiary Education Union and the Canadian Association of University Teachers provide the union-to-union channel through which intelligence on franchise organisations and model legislation can move before the legislation arrives. The Commissioner proposed in section 9.7 should be empowered to join these networks in its own right, and the union should budget for participation as core expenditure rather than as international travel.

12.4 The litigation record as a resource

The United States has produced, in the space of four years, a body of litigation that establishes what courts will and will not accept, and it is directly usable in submissions, in council advice and in test-case design here. On classroom censorship, the federal district court in *Pernell v. Florida Board of Governors* (N.D. Fla. 2022), the Stop WOKE higher education case, enjoined the higher education provisions of Florida's Individual Freedom Act, the Stop WOKE Act, describing the state's attempt to dictate what may be said in university classrooms as positively dystopian, and the Eleventh Circuit affirmed the parallel injunction in *Honeyfund.com v. Governor of Florida* (11th Cir. 2024) on the ground that the state may not license one viewpoint and prohibit another. On the targeting of scholars through immigration power, *American Association of University Professors v. Rubio* (D. Mass. 2025) is the most important decision of the period: after a nine-day trial, Judge William Young found by clear and convincing evidence that the Secretaries of State and Homeland Security acted in concert to target noncitizen pro-Palestinian scholars and students for deportation primarily on account of protected political speech, with the intent of chilling that speech, held that noncitizens lawfully present hold the same free speech rights as citizens, vacated the enforcement policy under the Administrative Procedure Act in a remedial order of January 2026, and took particular issue with the government's reliance on the Canary Mission blacklist in identifying targets (AAUP v. Rubio, 2025, 2026). That last finding is the judicial confirmation of this paper's

central claim about rosters: a published list of named academics is not commentary, it is an operational instrument that states will use. On anti-boycott conditions, *Amawi v. Pflugerville Independent School District* (W.D. Tex. 2019) and *Koontz v. Watson* (D. Kan. 2018) struck down certification requirements as unconstitutional conditions on protected expression, and *Arkansas Times v. Waldrup* produced the contrary appellate result, which is itself instructive for anyone drafting here. Two lessons transfer directly. Courts have repeatedly protected the content of teaching against political prescription, which supports the drafting of section 267B; and the decisive evidence in these cases was documentary, consisting of the statements, memoranda and lists the campaigns themselves produced, which is the strongest possible argument for the incident registers and annual protection reports proposed in sections 9.6, 10.8 and 11.4.

12.5 Disciplinary associations and the professional standard

Disciplinary associations occupy a position no institution and no union can occupy, because they hold the standards by which scholarly work is judged, which is precisely the ground the attacking organisations attempt to claim. The National Communication Association Task Force on Academic Freedom and Tenure, which the author chaired, offers a working model: charged by the Association's president, composed of scholars across the discipline, it produced a final report examining the state of academic freedom, the erosion of tenure and the exposure of contingent faculty, and set out recommendations for departments, institutions and the association itself (NCA, 2025). The model is worth replicating in Aotearoa. Disciplinary bodies and learned societies, including the Royal Society Te Apārangi, should establish standing academic freedom committees competent to assess whether contested teaching or research meets the standards of the field, to publish that assessment when an academic is targeted, and to provide expert evidence to the Commissioner and to the standing committees proposed in section 9.5. When a lobby asserts that a lecture failed scholarly standards, the answer that ends the matter is an assessment by the scholars who hold those standards. That assessment does not currently exist in any institutional form in this country, and creating it is inexpensive.

12.6 Platform duties

The recommendations in section 9.8 create the statutory levers over the platforms that carry the campaigns. Institutions and the union should use them, and should jointly pursue agreements with the major platforms on expedited handling of campaigns against academics, on data sharing with the Commissioner, and on de-amplification of decontextualised teaching content. The platform's political economy will not change because a university asks it to; it may change when the state, the sector, the union and the international networks described above ask together, with the law behind them.

13. ANTICIPATED OBJECTIONS

Three objections will be raised. Each is itself an inversion in the sense set out in section 6.2, and each should be named in advance rather than answered on its own terms. The first is that the framework protects academics from criticism. Criticism of a scholar's argument, from a student, a colleague, a journalist or a member of the public, is the life of the university and falls entirely outside the definition of coordinated targeting proposed here, which turns on volume, coordination, content and effect. The framework protects the scholar from the campaign, and the difference between an argument and a campaign is one the attackers understand perfectly and rely upon the public to miss (Marwick, 2021; Bérubé & Ruth, 2022).

The second is that the schedule of protected scholarly subjects privileges some viewpoints over others. The schedule names fields of scholarship and teaching, grounded in the constitutional relationship of Aotearoa and in the Crown's obligations under Te Tiriti; it does not prescribe what is to be concluded within them. The

claim that the history of colonisation and its denial are two viewpoints of equal standing is the inversion at the heart of the 2025 amendments, the move Stewart (2022) and Johnson (2023) diagnosed, and a framework that refused to name protected subjects would be conceding it. Scott (2019) makes the general point: academic freedom without disciplinary authority is an invitation to the powerful to define knowledge by decree.

The third is that the framework is an imposition on institutional autonomy. Institutional autonomy under section 267 exists to protect academic freedom; it is a means, and the Act says so. Jones, Galvin and Woodhouse (2000) showed that the critic and conscience function is a duty and that autonomy is its condition. An institution that uses its autonomy to abandon a targeted academic has inverted the purpose of its own protection. The duties proposed here give institutional autonomy something to be for.

14. CONCLUSION

The far right has built, over two decades and across jurisdictions, an infrastructure for attacking the university through the bodies of the scholars who do its most important work. The infrastructure runs from the threat at the door to the clip on the platform to the dossier on the watchlist to the complaint in the statute, and it has now reached the Education and Training Act of Aotearoa New Zealand. The New Zealand literature saw it coming. Keith and Kelsey and Olssen knew that the 1989 settlement would not survive the market without defence; Hook knew that the freedom would have to be claimed for knowledge the university was built to exclude; Stewart and Johnson have shown that the claim is now being turned against the people who made it; and Naepi and colleagues have shown that the statutory shield fails in practice for want of the operational definitions this paper supplies. The universities have for the most part met the attack with silence, and the silence has been costed in the health, the careers and the lives of academics and in the knowledge that communities at the margins will no longer see produced. A shield worth the name has to be built at the same scale as the attack: in statute, in the institution, in the union, in the community and on the platform, and on the ground of Te Tiriti, which is both the object of the assault and the strongest foundation available for its defeat. The culture-centered approach offers the design principle: begin from the structures that make people unsafe, name the inversions that disguise the harm, reclaim the values they borrow, instrument the reclamation in law, and build all of it with the people who carry the harm. The recommendations in this paper are a start. They should be taken to targeted academics, to iwi, to students and to the union, and rewritten by them.

SUMMARY OF RECOMMENDATIONS

ACTOR	RECOMMENDATION	JUSTICE DIMENSION
Parliament	Enact s 267A positive duty to protect, aligned with HSWA s 36 and extended to all employment statuses; enact a Schedule of Protected Scholarly Subjects grounded in Te Tiriti; enact s 267B settling that academic freedom governs teaching and research and cannot be overridden by free speech claims; define coordinated targeting; amend s 281B (merit threshold, campaign screening, peer referral, protective pause, origin disclosure, reciprocal reporting); enact s 281C annual protection reports tabled in Parliament; enact s 267C protection against retaliation, with reversed onus for 24 months and mandatory recording of adverse decisions; enact s 281D requiring published academic freedom and Te Tiriti impact assessments, academic board and oversight committee advice, iwi consultation and 60 days' notice to the Commissioner before any change proposal affecting a protected scholarly subject; establish an independent Academic Freedom and Te Tiriti Commissioner in place of a "free speech commissioner"; amend the HDCA and ERA; create platform data and takedown duties.	Epistemic, distributive, procedural, relational
Universities	Appoint a Chief Safety and Academic Freedom Officer with budget, team and delegated authority, reporting monthly and substantively to the academic board as well as to the Vice-Chancellor, Council and Commissioner; establish an academic freedom oversight committee of the academic board, elected by college with published membership and guaranteed Māori and Pacific representation, supplying a field-competent member to every complaint investigation panel; maintain a non-retaliation register and publish a non-retaliation undertaking; issue a named public statement of support within 72 hours; write into the s 281A statement that neutrality does not foreclose the duty to defend; guarantee legal, technological, security, research continuity and trauma-informed wellbeing support; treat targeting as a notifiable psychosocial hazard; establish a standing academic freedom committee; train councils and managers; publish the annual protection report in full; establish a community advisory group.	Distributive, procedural, relational
Tertiary Education Union	Represent every targeted member from notification; treat any change proposal affecting a protected scholarly subject as an academic freedom matter and contest the financial modelling, the Te Tiriti impact and the targeting history; negotiate collective agreement clauses giving contractual force to all protective duties including non-retaliation and protections for contingent staff; use health and safety representation and WorkSafe notification; maintain an independent national incident register and annual report; build a rapid response solidarity network; lead submissions, litigation and public campaigns; sustain international union solidarity.	Distributive, procedural
Communities, students, iwi	Sit on community advisory groups with standing in the defence of the university; co-design protocols; receive and review annual reports; hold institutions to Te Tiriti commitments.	Relational, epistemic
Platforms	Expedited handling of campaigns against academics; data provision to the Commissioner; de-amplification of decontextualised teaching content; compliance with statutory takedown duties.	Distributive

Table 4: Summary of recommendations by actor and by the dimension of justice each serves.

A NOTE ON METHOD AND SOURCES

This paper is a synthesis and a proposal. It draws on CARE's programme of white papers on academic freedom in Aotearoa (CARE, 2026a, 2026c, 2026d, 2026e; Dutta, 2026), on the AAUP's foundational statements and investigative reports, on the international literature on academic freedom and on targeted harassment of scholars, on three decades of New Zealand scholarship on academic freedom, on the primary policy record of the 2025 legislative process, principally the Ministry of Education's Education Report METIS 1337135 of 10 October 2024 with its Annexes, read alongside the full corpus of 13 released documents analysed in Dutta (2026), and on the submission of Universities New Zealand and the report of the Education and Workforce Committee, on the published output of the organisations analysed in section 4, whose claims are attributed to them and not adopted, on New Zealand statute and case law, and on the author's work as chair of the National Communication Association Task Force on Academic Freedom and Tenure (NCA, 2025). The statutory references to the 2025 provisions follow the analysis in Dutta (2026) and should be checked against the consolidated Act before citation. Paragraph references to METIS 1337135 are to the proactively released version, in which passages are redacted under sections 9(2)(a), 9(2)(f)(iv) and 9(2)(g)(i) of the Official Information Act 1982. A statement on the use of generative artificial intelligence in the preparation of this paper is provided in the Endnote. Claims in section 3.4 concerning funding, personnel and corporate registrations rest on the cited investigative reporting, court and parliamentary records, and public registers, and are made at the level those sources establish.

REFERENCES

- A95bFM. (2026). ACT's attack on academics and parallels to overseas rhetoric [Radio interview with M. J. Dutta]. 95bFM The Wire.
- Adekoya, R., Kaufmann, E., & Simpson, T. (2020). *Academic freedom in the UK: Protecting viewpoint diversity*. Policy Exchange.
- Ahmed, S. (2012). *On being included: Racism and diversity in institutional life*. Duke University Press.
- Ahmed, S. (2021). *Complaint!* Duke University Press.
- Amawi v. Pflugerville Independent School District, 373 F. Supp. 3d 717 (W.D. Tex. 2019).
- American Association of University Professors v. Rubio, No. 1:25-cv-10685 (D. Mass. Sept. 30, 2025; remedial order Jan. 22, 2026).
- American Association of University Professors. (1915). *1915 Declaration of principles on academic freedom and academic tenure*. AAUP.
- American Association of University Professors. (1940/1970). *1940 Statement of principles on academic freedom and tenure, with 1970 interpretive comments*. AAUP.
- American Association of University Professors. (1966). *Statement on government of colleges and universities*. AAUP.
- American Association of University Professors. (2007). Freedom in the classroom. *Academe*, 93(5), 54–61.
- American Association of University Professors. (2017). *Targeted online harassment of faculty*. AAUP.
- American Association of University Professors. (2021). *Special report: COVID-19 and academic governance*. AAUP.
- American Association of University Professors. (2022). *Report of a special committee: Governance, academic freedom, and institutional racism in the University of North Carolina system*. AAUP.
- American Association of University Professors. (2023). *Report of a special committee: Political interference and academic freedom in Florida's public higher education system*. AAUP.
- American Association of University Professors. (2025). *Academic freedom and tenure: Muhlenberg College (Pennsylvania)*. AAUP.
- American Studies Association. (2022, February 10). *Resolution on defending academic freedom against attacks on "critical race theory"*. ASA.
- An Act respecting academic freedom in the university sector, SQ 2022, c 21 (Québec).
- Arkansas Times LP v. Waldrip, 37 F.4th 1386 (8th Cir. 2022) (en banc).
- BBC News. (2018, June). [Reporting on the inquest into the death of Dr Malcolm Anderson, Cardiff University]. BBC News.
- BBC News. (2019, February). [Reporting on calls by Dr Anderson's widow for changes to workload allocation at Cardiff University]. BBC News.
- BBC News. (2021, November). [Reporting on a Prevention of Future Deaths report issued to Cardiff University following a student's death]. BBC News.
- Bérubé, M., & Ruth, J. (2022). *It's not free speech: Race, democracy, and the future of academic freedom*. Johns Hopkins University Press.

- Bouwer, G. (2025, May 19). Academic freedom for some: How New Zealand universities marginalise pro-Israel voices. Israel Institute of New Zealand.
- Brown, R. (2025). *Why Charlie Kirk's rhetoric would identify him as an extremist in NZ*. New Zealand Listener.
- Butler, J. (2015). Exercising rights: Academic freedom and boycott politics. In A. Bilgrami & J. R. Cole (Eds.), *Who's afraid of academic freedom?* Columbia University Press.
- Center for Culture-Centered Approach to Research and Evaluation. (2026a). *The classroom as frontline: How academic freedom is dismantled through the lecture hall, and how to defend it* (CARE White Paper, revised edition). Massey University.
- Center for Culture-Centered Approach to Research and Evaluation. (2026i). *The freedom that silences: The Free Speech Union, the far right, and the infrastructure of managed speech in Aotearoa New Zealand* (CARE White Paper). Massey University.
- Center for Culture-Centered Approach to Research and Evaluation. (2026c). *The Cat Pausé Act: Protecting academic gatherings from far right intrusion* (CARE White Paper). Massey University.
- Center for Culture-Centered Approach to Research and Evaluation. (2026d). *The freedom that silences: The Free Speech Union, the far right and the construction of free speech against the margins* (CARE White Paper). Massey University.
- Center for Culture-Centered Approach to Research and Evaluation. (2026e). *Rankings and the erasure of academic freedom* (CARE White Paper). Massey University.
- Center for Culture-Centered Approach to Research and Evaluation. (2026f). *Twenty a day: The British press corpus and the targeting of Professor Jason Arday* (CARE White Paper). Massey University.
- Center for Culture-Centered Approach to Research and Evaluation. (2026g). *Eliminating equity: Project 2025 and communicative eliminationism in health equity* (CARE working paper). Massey University.
- Center for Culture-Centered Approach to Research and Evaluation. (2026h). *Enclosure by metric: A culture-centered critique of the Tertiary Education Strategy 2025-2030* (CARE White Paper). Massey University.
- Centrist. (2025, September 15). Labour and Greens block Seymour's motion on Charlie Kirk tribute. Centrist.
- Companies House. (2024). International Free Speech Unions Limited (Company No. 15917711) [Register entry]. Companies House.
- Coroners Act 2006 (NZ).
- Couch, D., Devine, N., & Stewart, G. T. (2022). The Teaching Council and initial teacher education: False binaries and academic freedom. *New Zealand Journal of Educational Studies*, 57(1), 1–5.
- Cumin, D. (2024, January 6). Academic dishonesty is not academic freedom. Israel Institute of New Zealand.
- Darian-Smith, E. (2025). *Policing higher education: The antidemocratic attack on scholars and why it matters*. Johns Hopkins University Press.
- Doerfler, P., Forte, A., De Cristofaro, E., Stringhini, G., Blackburn, J., & McCoy, D. (2021). "I'm a professor, which isn't usually a dangerous job": Internet-facilitated harassment and its impact on researchers. *Proceedings of the ACM on Human-Computer Interaction*, 5(CSCW2), Article 373.
- Douglass, J. A. (Ed.). (2021). *Neo-nationalism and universities: Populists, autocrats, and the future of higher education*. Johns Hopkins University Press.
- Dutta, M. J. (2008). *Communicating health: A culture-centered approach*. Polity.

- Dutta, M. J. (2011). *Communicating social change: Structure, culture, and agency*. Routledge.
- Dutta, M. J. (2014). A culture-centered approach to listening: Voice, communicative infrastructures, and social change. *International Journal of Listening*, 28(2), 67–81.
- Dutta, M. J. (2015). Decolonizing communication for social change: A culture-centered approach. *Communication Theory*, 25(2), 123–143.
- Dutta, M. J. (2018). Culture-centered approach in addressing health disparities: Communication infrastructures for subaltern voices. *Communication Methods and Measures*, 12(4), 239–259.
- Dutta, M. J. (2020). *Communication, culture and social change: Meaning, co-option and resistance*. Palgrave Macmillan.
- Dutta, M. J. (2022). *The right-wing version of academic freedom and communicative inversions*. Massey University.
- Dutta, M. J. (2023a). *The far-right's attack on communication and media studies*. Massey University.
- Dutta, M. J. (2023b). *The far-right, misinformation, and academic freedom*. Massey University.
- Dutta, M. J. (2023c). Disinformation, Zionist propaganda and the attack on academic freedom. Culture-Centered Approach blog.
- Dutta, M. J. (2025a, September). The whitewashing of Charlie Kirk in New Zealand's mainstream media. Culture-Centered Approach blog.
- Dutta, M. J. (2025b, September). How a National Party MP weaponized violence to target academic criticism. Culture-Centered Approach blog.
- Dutta, M. J. (2026). *Enclosure by statement: A culture-centered analysis of the academic freedom and freedom of expression provisions of the Education and Training Amendment Act 2025* (CARE White Paper Series). Center for Culture-Centered Approach to Research and Evaluation, Massey University.
- Dutta, M. J. (in press). The communicative inversions of academic freedom. *Journal of International and Intercultural Communication*.
- Dutta, M. J., & Pal, M. (2010). Dialog theory in marginalized settings: A subaltern studies approach. *Communication Theory*, 20(4), 363–386.
- Education Act 1989 (NZ).
- Education and Training Act 2020 (NZ).
- Education and Training Amendment Act 2025 (NZ).
- Education and Workforce Committee. (2025). Education and Training Amendment Bill (No 2): Report of the Education and Workforce Committee. New Zealand House of Representatives.
- Elers, C. H., & Jayan, P. (2020). "This is us": Free speech embedded in whiteness, racism and coloniality in Aotearoa, New Zealand. *First Amendment Studies*, 54(2), 236–249.
- Ferber, A. L. (2018). "Are you willing to die for this work?" Public targeted online harassment in higher education. *Gender & Society*, 32(3), 301–320.
- Finkin, M. W., & Post, R. C. (2009). *For the common good: Principles of American academic freedom*. Yale University Press.

- Free Speech Union & Inter-University Council on Academic Freedom. (2026, July 8). Censorial editorial boards a glaring red flag for open scholarship [Letter to Professor Damon Salesa, Vice-Chancellor, Auckland University of Technology]. FSU.
- Ganesh, B. (2018). The ungovernability of digital hate culture. *Journal of International Affairs*, 71(2).
- Giroux, H. A. (2006). Academic freedom under fire: The case for critical pedagogy. *College Literature*, 33(4), 1–42.
- Giroux, H. A. (2014). *Neoliberalism's war on higher education*. Haymarket Books.
- Gosse, C., Veletsianos, G., Hodson, J., Houlden, S., Dousay, T. A., Lowenthal, P. R., & Hall, N. (2021). The hidden costs of connectivity: Nature and effects of scholars' online harassment. *Learning, Media and Technology*, 46(3), 264–280.
- Halberstadt, J., Basu, A., Hughes, B., Hughes, R., Johnston, M., Kierstead, J., & Rozado, D. (2022). Perceived freedom of expression at New Zealand universities. *Social Sciences*, 11(11), 502.
- Hall, M. (2023, November 15). Academics smeared as antisemites, extremists over Israel criticism. In Context.
- Harmful Digital Communications Act 2015 (NZ).
- Health and Safety at Work Act 2015 (NZ).
- Higher Education (Freedom of Speech) Act 2023 (UK).
- Honeyfund.com Inc. v. Governor, State of Florida, 94 F.4th 1272 (11th Cir. 2024).
- Hook, G. R. (2008). Cultural relativism and academic freedom within the universities of New Zealand. *MAI Review*, 1, Article 8.
- Israel Institute of New Zealand. (2026, May). Blind spots in the battle against extremism. Israel Institute of New Zealand.
- Johnson, M. (2023). Decolonising universities? Myth-histories of the nation and challenges to academic freedom in Aotearoa New Zealand. *Transactions of the Royal Historical Society*, 1, 329–347.
- Jones, D. G., Galvin, K., & Woodhouse, D. (2000). *Universities as critic and conscience of society: The role of academic freedom*. New Zealand Universities Academic Audit Unit.
- Kamola, I. (2019). Dear administrators: To protect your faculty from right-wing attacks, follow the money. *Journal of Academic Freedom*, 10.
- Kamola, I. (2024). *Manufacturing backlash: Right-wing think tanks and legislative attacks on higher education, 2021–2023*. American Association of University Professors.
- Kaufmann, E. (2021). *Academic freedom in crisis: Punishment, political discrimination, and self-censorship*. Center for the Study of Partisanship and Ideology.
- Kaufmann, E. (2023a, May 22). The Higher Education (Freedom of Speech) Bill is a triumphant pushback against illiberalism. ConservativeHome.
- Kaufmann, E. (2023b, March 23). A necessary intervention: Government must regulate universities to protect free speech. City Journal (Manhattan Institute).
- Kaufmann, E. (2024, February 14). The crisis of academic freedom in Canada, and how to address it. Macdonald-Laurier Institute.
- Keashly, L., & Neuman, J. H. (2010). Faculty experiences with bullying in higher education: Causes, consequences, and management. *Administrative Theory & Praxis*, 32(1), 48–70.

- Keith, K. J. (1998). *Why is academic freedom important for New Zealand? In Troubled times: Academic freedom in New Zealand* (p. 247). Dunmore Press.
- Kelsey, J. (2000). *Academic freedom: Needed now more than ever. In Troubled times: Academic freedom in New Zealand* (pp. 227–258). Dunmore Press.
- Koontz v. Watson, 283 F. Supp. 3d 1007 (D. Kan. 2018).
- Lewis, R. (2018). *Alternative influence: Broadcasting the reactionary right on YouTube*. Data & Society Research Institute.
- Manawatū Standard. (2019, December 2). Free speech under threat. Manawatū Standard.
- Marwick, A. E. (2021). Morally motivated networked harassment as normative reinforcement. *Social Media + Society*, 7(2).
- Marwick, A. E., & Caplan, R. (2018). Drinking male tears: Language, the manosphere and networked harassment. *Feminist Media Studies*, 18(4), 543–559.
- Massanari, A. (2017). #Gamergate and The Fapping: How Reddit's algorithm, governance, and culture support toxic technocultures. *New Media & Society*, 19(3), 329–346.
- Massive Magazine. (2025, September 22). Calls for Massey dean to be deported for speaking out against Charlie Kirk. Massive Magazine.
- Mathias, C. (2023, August 4). This man has the ear of billionaires, and a white supremacist past he kept a secret. HuffPost.
- McAllister, T., Kidman, J., Rowley, O., & Theodore, R. (2019). Why isn't my professor Māori? A snapshot of the academic workforce of New Zealand universities. *MAI Journal*, 8(2), 235–249.
- Ministry of Education. (2024, October 10). Education report: Freedom of speech in the tertiary education system (METIS No. 1337135) [Report to Hon Penny Simmonds and Hon David Seymour; proactively released]. Te Tāhuhu o te Mātauranga.
- Naepi, S. (2019). Why isn't my professor Pasifika? A snapshot of the academic workforce in New Zealand universities. *MAI Journal*, 8(2), 219–234.
- Naepi, S., & Davis, P. (2025, June 26). Free speech concern in universities is a manufactured crisis. The Post.
- Naepi, S., Jack, K., Waymouth, M., Naepi, C., & Vandewiele, C. (2026). The right to speak: Exploring academic freedom in turbulent times. *Higher Education*, 91(4), 1399–1418.
- National Communication Association Task Force on Academic Freedom and Tenure. (2025). *Final report*. National Communication Association.
- New Zealand Herald. (2017). [Reporting revealing Peter Thiel's 2011 grant of New Zealand citizenship]. NZ Herald.
- New Zealand Herald. (2024). Outrage over Māori lecturer who lined up New Zealand colonisation with Palestine, and what the university bosses had to say. NZ Herald.
- New Zealand Herald. (2025). Charlie Kirk vigil held in Auckland. NZ Herald.
- New Zealand Initiative. (2024). *Unpopular opinions: Academic freedom in New Zealand*. The New Zealand Initiative.
- Newsroom. (2025, November 6). Who benefits: The rise and rise of the Free Speech Union. Newsroom.

- Oksanen, A., Celuch, M., Latikka, R., Oksa, R., & Savela, N. (2022). Hate and harassment in academia: The rising concern of the online environment. *Higher Education*, 84(3), 541–567.
- Olszen, M. (2000). The neo-liberal appropriation of tertiary education policy: Accountability, research and academic freedom. *Access: Contemporary Issues in Education*, 19(2), 142–188.
- O’Neil, R. M. (2008). *Academic freedom in the wired world: Political extremism, corporate power, and the university*. Harvard University Press.
- O’Neil, R. M. (2016). Academic freedom: Past, present, and future. In M. N. Bastedo, P. G. Altbach, & P. J. Gumpert (Eds.), *American higher education in the twenty-first century (4th ed.)*. Johns Hopkins University Press.
- openDemocracy. (2022, June 15). Revealed: Policing bill was dreamed up by secretive oil-funded think tank. openDemocracy.
- Pernell v. Florida Board of Governors of the State University System, 641 F. Supp. 3d 1230 (N.D. Fla. 2022) (appeal sub nom. Pernell v. Lamb, No. 22-13992 (11th Cir.)).
- Policy Exchange. (2019). *Academic freedom in the UK*. Policy Exchange.
- Popović, M., Matei, L., & Joly, D. (2022). *Changing understandings of academic freedom in the world in a time of pandemic*. OSUN Global Observatory on Academic Freedom, Central European University.
- Post, R. (2017). *The classic First Amendment tradition under stress: Freedom of speech and the university* (Yale Law School Public Law Research Paper). SSRN.
- Project 2025. (2023). *Mandate for leadership: The conservative promise*. The Heritage Foundation.
- Reichman, H. (2019). *The future of academic freedom*. Johns Hopkins University Press.
- Reichman, H. (2025). *Understanding academic freedom (2nd ed.)*. Johns Hopkins University Press.
- RNZ. (2025, October 1). Whanganui mayor regrets speaking at Charlie Kirk vigil after backlash. Radio New Zealand.
- Royal Commission of Inquiry into the Terrorist Attack on Christchurch Masjidain. (2020). *Ko tō tātou kāinga tēnei*. New Zealand Government.
- Sacks, D. O., & Thiel, P. A. (1995). *The diversity myth: Multiculturalism and the politics of intolerance at Stanford*. The Independent Institute.
- Salmond, A. (2025, October 7). Academic freedom and its enemies. Newsroom.
- Scholars at Risk. (2024). *Free to think 2024: Report of the Scholars at Risk Academic Freedom Monitoring Project*. Scholars at Risk Network.
- Schrecker, E. (1986). *No ivory tower: McCarthyism and the universities*. Oxford University Press.
- Scott, J. W. (2017). On free speech and academic freedom. *Journal of Academic Freedom*, 8.
- Scott, J. W. (2019). *Knowledge, power, and academic freedom*. Columbia University Press.
- Spannagel, J., & Kinzelbach, K. (2023). The Academic Freedom Index and its indicators: Introduction to new global time-series V-Dem data. *Quality & Quantity*, 57, 3969–3989.
- Stewart, G. T. (2022). Whiteness masquerading as academic freedom. In *Handbook on academic freedom* (pp. 178–190). Edward Elgar Publishing.
- Stewart, G., Benade, L., & Devine, N. (2019). Freedom of academic speech in Aotearoa-New Zealand. *New Zealand Journal of Educational Studies*, 54(1), 1–4.

- Sutherland, K. A. (2017). The changing academic profession in New Zealand universities. In *Early career academics in New Zealand: Challenges and prospects in comparative perspective* (pp. 21–35). Springer.
- Täuber, S., & Mahmoudi, M. (2022). How bullying becomes a career tool. *Nature Human Behaviour*, 6(4), 475.
- Te Ira Tangata. (2021). *A place at the table. Te Ira Tangata: Women, Equity and Activism in Aotearoa*, 2. Te Hautū Kahurangi | Tertiary Education Union.
- The Critic. (2026, April). A step forward for academic freedom. The Critic.
- Times Higher Education. (2014, December 4). [Reporting on the death of Professor Stefan Grimm and the posthumously circulated email on grant income pressure at Imperial College London]. Times Higher Education.
- Times Higher Education. (2015, April 9). [Reporting on the inquest into the death of Professor Stefan Grimm, West London Coroner's Court]. Times Higher Education.
- Times Higher Education. (2018, January 11). UCL launches investigation into secret eugenics conference. Times Higher Education.
- Times Higher Education. (2025, January 15). Phillipson plans wholesale changes to make campus free speech act work. Times Higher Education.
- Turning Point New Zealand. (2025). *About Turning Point New Zealand*. tpnz.org.nz.
- UK Parliament. (2026, April 20). Higher education freedom of speech statement (HCWS1525) [Written ministerial statement]. House of Commons.
- UNCIVIL Collective. (2025). *The civility industrial complex*. uncivilcollective.org
- UNESCO. (1997). *Recommendation concerning the status of higher-education teaching personnel*. UNESCO.
- Universities New Zealand | Te Pōkai Tara. (2025). Submission on the Education and Training Amendment Bill (No 2) 2025: Freedom of expression. Universities New Zealand.
- University of Auckland. (2026). Freedom of expression and academic freedom at the University of Auckland [Notice]. Waipapa Taumata Rau, University of Auckland.
- University of Chicago. (1967). *Report on the University's role in political and social action* (Kalven Report).
- Vats, A., & Dutta, M. J. (2020). Locating freedom of speech in an era of global white nationalism. *First Amendment Studies*, 54(2), 156–180.
- Veletsianos, G., Houlden, S., Hodson, J., & Gosse, C. (2018). Women scholars' experiences with online harassment and abuse: Self-protection, resistance, acceptance, and self-blame. *New Media & Society*, 20(12), 4689–4708.
- Waitangi Tribunal. (2011). *Ko Aotearoa tēnei: A report into claims concerning New Zealand law and policy affecting Māori culture and identity* (Wai 262). Legislation Direct.
- Wiles v University of Auckland [2024] NZEmpC 123.
- WorkSafe New Zealand. (2024). [Guidance on managing psychosocial hazards at work]. WorkSafe New Zealand.
- Zepke, N. (2012). What of the future for academic freedom in higher education in Aotearoa New Zealand? *Policy Futures in Education*, 10(2), 155–164.

ENDNOTE

1. Statement on the use of generative artificial intelligence. This white paper was prepared with the assistance of a large language model (Claude, Anthropic), used under the author's direction for editing text, for the production of the figures under the author's guidance, and for document production. The analysis, the theoretical framework, the argument and every recommendation are the author's. The author developed the conceptual framework, developed the analytical tools, selected the sources, verified the citations against the records identified in the method note, and reviewed and revised the full text. Responsibility for the content, including any errors, rests with the author. This disclosure is made in line with emerging scholarly norms on the transparent reporting of AI assistance in research writing.