

Australia doesn't protect free speech, but it could

Written by Misha Ketchell, Editor & Executive Director, The Conversation

Because we are so saturated in American culture, very few Australians realise that free speech in this country isn't really a thing. It is not merely not protected – it's far worse than that. If you read any of the vast array of laws that protect government secrets, disclosure in the public interest is discouraged, criminalised, punished, and deplored.

The closest we have ever come to having any positive protection of free speech is a series of High Court decisions which say that our Constitution creates an "implied freedom" to communicate so we can be informed citizens. But it is weak. It can be cancelled out by any law that is reasonable and proportionate to achieve another government objective. Former High Court judge Michael Kirby put it bluntly on the ABC yesterday: Australia has less protection of free speech than most Western countries.

Journalists have cared about this sorry state of affairs for a long time, but their pleas have been dismissed as mere self-interest. Yes, journalists are often victims of laws that protect secrecy and target whistleblowers. But what we want, and what everyone should want, is a healthy system of government that can serve the public interest by bringing important matters to light.

The [journalist and academic Denis Muller expresses the anger](#) felt by many when he writes that Australian Federal Police, in conducting raids on the ABC and the home of News Limited journalist Annika Smethurst, have allowed themselves to become a tool of "secretive, ruthless and vindictive executive government".

[Michelle Grattan writes](#)

that Prime Minister Scott Morrison, a keen defender of freedom when it comes to religion, is now faced with the perception that Australia is hostile to a free press.

Meanwhile, Peter Greste, now a Professor of Journalism at the University of Queensland, has long been advocating for greater media freedom as part of a group called the Alliance for Journalists' Freedom. In May they [put out a paper suggesting we should create a law that enshrines media freedom](#) as a positive aspect of our democratic system. Such a law would improve the balance between press freedom and national security, as well as provide a measure of protection from future legislative incursion. (Disclosure: I was part of a round table discussion during which this idea was developed.)

It's an idea that warrants serious consideration. It's not a First Amendment, but it could take

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what many of us already imagine to be the case and turn it into reality.

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