



Transcript - Freedom of Speech

Kate: I think we'll move on to our last contemporary issue that we're going to talk about, which is freedom of speech. It's one of our human rights that we have recognized here in Australia. So what does freedom of speech involve and where has that right come from?

Lorraine: Well, freedom of speech is what I'd call a foundational human right in that without freedom of speech, without freedom of thought, you actually can't exercise your other human rights, so it's absolutely essential. And freedom of speech, of course, doesn't start with the Universal Declaration of Human Rights. Our human rights started well before then, but the Universal Declaration sets out freedom of expression, and importantly, it's not just freedom of speech, but the freedom of receiving and imparting information, freedom of conscience, freedom of belief, as well as freedom of expression. So there's a whole variety of things that are encompassed within that. It is recognized, and it's an important thing to recognize, that freedom of speech is a powerful human right, but it is also a right that can be restricted. And the way that human rights law describes that is freedom of speech carries special responsibilities to ensure that you're using that freedom in ways that don't unduly restrict other human rights. So freedom of speech is absolutely fundamentally important, but it is a right that can be limited and restricted. The really significant question that we all need to think about is what restrictions are we willing to accept in terms of freedom of speech and where do those lines get drawn? Because that's something that reasonable people can disagree on.

Kate: So in your opinion, where do you think the line is between freedom of speech and, say, discrimination or harassment? Because they're also kind of human rights as well, to not be discriminated against and to not be harassed. So where does that line, where do we draw the line?

Lorraine: You know, it's really hard to say there is an absolute set line and it's really clear and objective because, again, people have different opinions about it. My personal view is that we need to give the widest possible scope for freedom of speech, and it should be in only rare cases that we draw the line and say we actually will not allow this form of speech. To my mind, that line should be drawn at the point of incitement to violence. So the minute your speech is going to produce an action that will cause harm, that's somewhere where the line should absolutely be drawn. Having said that, it's really important to say that the law is one response to these types of things. And by saying that the legal line should be drawn at incitement, you're not saying that all other forms of speech are acceptable or are - or should be encouraged. So, for example, when we talk about taking offense and if I say something that's really offensive to you, I don't think the law should stop me from doing that. I think it should be allowed in a free society. But I absolutely think you should be able to call me out on that, and the community should be able to criticize what I say. So freedom of speech doesn't mean freedom from accountability or responsibility, but the question we have to ask is when do we want the law to get involved and when do we actually want to stop speech, as opposed to simply saying we should be able to have robust discussions. I think the final point that's really important to make is, look, everybody says they believe in freedom of speech. It's a really easy right to say you believe in. But if freedom of speech only means the freedom to say nice things about issues that everybody agrees on, then it's really a freedom that's meaningless. Freedom of speech is at its most important when it means you're standing up for the right of people to say things that you might vehemently disagree with, but you recognize that in a democratic society, it's absolutely critical that we have diversity of thought, diversity of perspectives, and that we're able to actually engage with different ideas, because if we can't do that, we really lose an important part of who we are as a nation and a community.

Kate: So you talked about where we draw the legal line of what is freedom of speech and what restricts that. There are some restrictions on freedom of speech and I'm thinking in particular about Section 18C. Can you explain what those restrictions are and how they impact our human rights?

Lorraine: Sure, so Section 18C of the Racial Discrimination Act is a provision that effectively, and I'm paraphrasing here, but effectively makes it unlawful to say something that offends, insults, humiliates, or intimidates somebody else in a public place in relation to their racial or ethnic background, and that is definitely a paraphrasing of it. The really critical thing to understand with 18C is, again, it covers a wide range of behaviours. So at one end, there is the incitement to violence, effectively, where there are very few people who would say that that's an exercise of free speech. But at the other end, there is the question of offensive language. And again, there aren't many people who'd say we want people to be offensive, we want people to say terrible things to each other. The question is, do you think that behaviour should be unlawful? And that's a really important question, because if we start making that type of speech unlawful, my concern in relation to



racism, for example, is if you start outlawing offensive speech, what you're actually doing is you're masking the symptom, but you're not actually dealing with the cause. Ultimately, when it comes to something like racism, you actually need to change hearts and minds, you actually need to address the cause of the behaviour. And by simply banning speech, you're not really addressing the issue, you're just masking the symptom.

Kate: Yeah, definitely. So, its the key to preventing racism almost, is having free speech, because if we limit it - then we're not really actually solving anything. So, are there any other examples which you can give us as to why that freedom of speech is such a fundamental human right, especially in an Australian context?"

Lorraine: Well, I think any student on a university campus at the moment knows why freedom of speech is so important, because if you can't ask questions, if you can't say what you're thinking, if you can't explore ideas, how can you ever learn? How can you ever develop? How can you ever understand or grow your opinions? So, freedom of speech is essential not just in terms of being able to hear things that you agree with, but it's actually even more important when it comes to hearing things that you disagree with, and even to the point of hearing things that you find offensive and insulting, I don't want people to be offended, I don't want people to feel insulted, and it is really important to make sure that we're not discriminating against people, but what we really need to start thinking about is how we can respectfully engage in conversations that can be difficult, and accept the fact that democracy is robust, and democracy is about exchanging and challenging ideas, accepting different opinions, and one of the concerns I do have on university campuses, particularly at the moment is that students don't feel free to be able to do that, they don't feel free to be able to express their opinions. They don't feel free to be able to explore different views, and its incredibly important that in the very places that are meant to be centres of learning, we actually allow that robust exchange of ideas.

Kate: So, without the robust exchange of ideas, I guess we can't even really promote human rights if we're feeling like they're being restricted.

Lorraine: Well, I think another really important point there is, we often think in terms of human rights that there's only ever one answer, and in actual fact, we should have robust discussions around human rights, and particularly how do we balance out competing rights, and they're things that, unfortunately, we don't seem to really want to discuss in an open way. There's often a lot of fear around giving different opinions or having a different view. We do need to be free to discuss these ideas because they're so critical to not only our country at the moment but the pathway heading on into the future. And if we want to build a stronger, fairer, better society, you can only do that by having that open exchange of ideas and the freedom to discuss different views and different values.

Kate: So it's all about finding that balance between the different lines, and that's how we can best promote and protect our human rights, and knowing how to do that is a great way just to be able to enforce them and not lose sight of them because we don't want them to be taken away because anything that we're given can be taken away as well.

Lorraine: Exactly. And I think that's part of the reason that, you know, we really do need to emphasize the fact that human rights are often expressed through law, but they're not a gift of the law, because if human rights are only found in laws that are written by government, if they're the gift of government, then government can take them away. And my view, and it's set out in the Universal Declaration, is human rights are inherent in us. They're certainly expressed through legislation, but that's not actually where they ultimately reside. And it's really important that we all think about what our human rights are, why they matter to us, and what we can do to help strengthen human rights in Australia without just leaving that to be entirely the responsibility of government.

Kate: You've given us some great things to think about, Lorraine. Thank you so much. That kind of wraps up our contemporary issues.

Lorraine: Thank you so much.

Kate: Thank you so much for coming.