

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

HIGHER EDUCATION (FREEDOM OF SPEECH) BILL

Sixth Sitting

Wednesday 15 September 2021

(Afternoon)

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CLAUSE 1 under consideration when the Committee adjourned till
Thursday 16 September at half-past Eleven o'clock.
Written evidence reported to the House.

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

not later than

Sunday 19 September 2021

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The Committee consisted of the following Members:*Chairs:* SIR CHRISTOPHER CHOPE, † JUDITH CUMMINS

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| † Bacon, Gareth (<i>Orpington</i>) (Con) | Nichols, Charlotte (<i>Warrington North</i>) (Lab) |
| † Britcliffe, Sara (<i>Hyndburn</i>) (Con) | † Russell-Moyle, Lloyd (<i>Brighton, Kempton</i>) (Lab/
Co-op) |
| † Bruce, Fiona (<i>Congleton</i>) (Con) | † Simmonds, David (<i>Ruislip, Northwood and Pinner</i>)
(Con) |
| † Buchan, Felicity (<i>Kensington</i>) (Con) | † Tomlinson, Michael (<i>Lord Commissioner of Her
Majesty's Treasury</i>) |
| † Donelan, Michelle (<i>Minister for Universities</i>) | Webb, Suzanne (<i>Stourbridge</i>) (Con) |
| † Glindon, Mary (<i>North Tyneside</i>) (Lab) | † Western, Matt (<i>Warwick and Leamington</i>) (Lab) |
| † Hardy, Emma (<i>Kingston upon Hull West and Hessle</i>)
(Lab) | |
| † Hayes, Sir John (<i>South Holland and The Deepings</i>)
(Con) | Kevin Maddison, Seb Newman, <i>Committee Clerks</i> |
| † Holden, Mr Richard (<i>North West Durham</i>) (Con) | |
| † Jones, Mr Kevan (<i>North Durham</i>) (Lab) | |
| † McDonnell, John (<i>Hayes and Harlington</i>) (Lab) | † attended the Committee |

Public Bill Committee

Wednesday 15 September 2021

(Afternoon)

[JUDITH CUMMINS *in the Chair*]

Higher Education (Freedom of Speech) Bill

Clause 1

DUTIES OF REGISTERED HIGHER EDUCATION PROVIDERS

2 pm

Fiona Bruce (Congleton) (Con): I beg to move amendment 59, in clause 1, page 2, line 9, after “staff” insert “and students”.

This amendment seeks to protect the right of academic freedom for students in addition to academic staff.

The Chair: With this it will be convenient to discuss the following:

Amendment 61, in clause 1, page 3, line 26, after “staff” insert “and students”.

This amendment seeks to protect the right of academic freedom for students in addition to academic staff.

Amendment 62, in clause 4, page 5, line 31, after “staff” insert “and students”.

This amendment seeks to protect the right of academic freedom for students in addition to academic staff.

Amendment 63, in clause 4, page 6, line 1, after “staff” insert “and students”.

This amendment seeks to protect the right of academic freedom for students in addition to academic staff.

Amendment 64, in the schedule, page 13, line 8, after “staff” insert “and students”.

This amendment seeks to protect the right of academic freedom for students in addition to academic staff.

Amendment 65, in the schedule, page 14, line 9, after “staff” insert “and students”.

This amendment seeks to protect the right of academic freedom for students in addition to academic staff.

Amendment 66, in the schedule, page 14, line 36, after “staff” insert “and students”.

This amendment seeks to protect the right of academic freedom for students in addition to academic staff.

Amendment 67, in the schedule, page 15, line 16, after “staff” insert “and students”.

This amendment seeks to protect the right of academic freedom for students in addition to academic staff.

Fiona Bruce: I rise to speak to amendment 59. Freedom of speech and academic freedom are the lifeblood of higher education. Without the protection of these freedoms, and recognition of their value to society, universities risk losing the ability to be centres of intellectual debate, where prevailing norms can be challenged and where academics and students are able to pursue unconventional lines of inquiry. This is an issue of critical importance.

Universities function as critical influencers across society. The students of today will be the leaders of tomorrow, who will shape—and hopefully improve—society as a whole.

The Government have rightly sought to ensure that the meaning of academic freedom is clarified in the Bill to include the ability of academic staff members to question and test received wisdom and to put forward new ideas and controversial or unpopular opinions without placing themselves at risk of being adversely affected, either as a result of losing their jobs or privileges or reducing the likelihood of future promotions or other employment opportunities.

However, we heard in evidence from several witnesses that academic freedom is a right that needs to exist to protect not only academic staff but students, who are often more vulnerable to pressure and self-censorship. They may worry, for example, that they will be marked down and that their expression of unpopular or unfashionable views will have an adverse impact on their educational progress.

I will give a few examples. In his evidence, Professor Biggar mentioned a junior research fellow who would attend one of his events only on the condition that he was not photographed or named. He feared there would be repercussions for his present academic pursuits and future career if he associated in any way with Professor Biggar. That was a junior research fellow. How much more a student, who may feel a greater pressure to acquiesce to the prevailing culture and refrain from rigorous academic pursuit to ingratiate himself with his academic supervisor?

Another, deeply concerning case in the press last year involved Julia Rynkiewicz, a 25-year-old Catholic midwifery student, who was suspended from entering her programme’s hospital placement phase after her university learned of her leadership of a pro-life student group. She was subjected to a four-month fitness to practise investigation in 2019. Ultimately, she was completely vindicated of any wrongdoing and received an apology from her university, but she had already lost one year of her academic studies, and was, understandably, deeply distressed.

In their evidence, Professors Goodwin and Kaufmann were clear that the protection of academic freedom should apply not just to established academics, but to doctoral students. Indeed, their evidence was that students are the most likely to self-censor. Students do not want to irritate their colleagues or suffer reputational or educational consequences that will harm their career prospects. Professor Goodwin told the Committee:

“we know clearly from the King’s study...that a quarter of all university students in the UK are self-censoring, which is a very depressing statistic”—[*Official Report, Higher Education (Freedom of Speech) Public Bill Committee*, 13 September 2021; c. 91, Q186.]

My concern is that the very welcome clarity in the Bill concerning the protection of academic freedom for staff will function as a double-edged interpretive sword by excluding academic freedom for anyone who is not a staff member. Without the express inclusion of students, there is a risk.

Lloyd Russell-Moyle (Brighton, Kempton) (Lab/Co-op): The hon. Lady is making an important point for research students. I am just not quite sure how these points relate

to all taught students. Being a taught student sometimes requires instruction in order to learn the basics. Although we like to think higher education institutions are purely about thinking and knowledge generation, the reality is that the first year and the foundation years run out of universities are instructional and directive. That is important because students have to understand the basics of current academic knowledge before they can challenge it. I am just worried. Does the hon. Lady see the amendment including instructional elements for students so that they could reject information about, say, how lenses work, if they are studying to be optometrists? Or does she mean research students and other students involved in the creation of knowledge? Would an amendment that explicitly said “students involved in the creation of knowledge” therefore be better?

Fiona Bruce: I hear what the hon. Gentleman says. I would like to think that the very concerning case of the midwifery student is a case in point.

Emma Hardy (Kingston upon Hull West and Hessle) (Lab): I recognise the point that the hon. Lady is making. My concern is with the definition of academic freedom applying to academics and therefore not being applicable to students. I draw her attention to my amendment 44, which would insert the words “and in the conduct of research”

to cover PhD students and other students involved in research. The point my hon. Friend the Member for Brighton, Kemptown was making was that we cannot say that academic freedom, in its entirety, which belongs to academics, can apply to every student, whereas students involved in the conduct of research behave more like academics, so it could apply to them. That is my issue with the amendment.

Fiona Bruce: I thank the hon. Lady for that gracious intervention. It is a pity that I cannot speak to amendment 60 in the same moment, because I think that would help clarify my reasoning for this amendment. I am concerned that without the express inclusion of students, there is a risk that those most vulnerable to self-censorship and adverse consequences in academia, such as being marked down, will remain unprotected.

There is the argument that freedom of speech, as referred to in the Bill, is sufficient to adequately cover students without the need to cover them through the term “academic freedom”. However, I would question that, as demonstrated by the examples I have given involving Professor Biggar and the midwifery student. I look forward to the Minister’s comments and ask her to consider the amendment as the Bill progresses.

Matt Western (Warwick and Leamington) (Lab): It is a pleasure to serve under your chairmanship, Mrs Cummins. I listened to what the hon. Member for Congleton said. We have to be wary of where the amendment could take us in terms of the status conferred on academics by the term “academic freedom”. As the Minister herself said, it is a subset of a freedom of speech, but it is a really important one. That is why we sought to eke that out earlier, in order to make it sacrosanct: it stands alone, but it is linked to freedom of speech.

As regards the notion that students in their third week on campus could gain the status of academic freedom, I am not entirely sure, speaking from personal experience, that it would have been right for me to have been given that status when I had a degree of naivety about a particular subject, but I would be under the hon. Member for Congleton’s amendment. I do not think that that is right, because we are essentially putting students on the same level as those who have gone through a process of academic rigour to arrive at a position where they deserve this particular freedom and status.

Emma Hardy *rose*—

Sir John Hayes (South Holland and The Deepings) (Con) *rose*—

Matt Western: I will give way to my hon. Friend first.

Emma Hardy: We all agree that we want freedom of speech to apply to students. I wonder whether, as the Bill progresses, we might find an alternative place to make specific reference to them.

Matt Western: I now give way to the right hon. Gentleman.

Sir John Hayes: I am very grateful to the hon. Gentleman for giving way. I take his point about the technical difficulties with what is proposed. He is right about the different status and, indeed, different challenges faced by students and teachers. None the less, as my hon. Friend the Member for Congleton said, there is an issue—we heard this in evidence—about students self-censoring, and students may fear that they cannot say what they think. That could be outside teaching or it could be in seminars and so on. Therefore we do need to address the issue of students. Whether or not this proposal is the best vehicle to do so, I am sure the hon. Gentleman would agree with that.

Matt Western: I thank the right hon. Gentleman for his point and, likewise, my hon. Friend the Member for Kingston upon Hull West and Hessle for hers. I accept that there is a need for protection under freedom of speech. The differentiator for me is about academic freedom. I totally concur that all students, whether they be postdoctoral students or students in week two, arriving on campus in September or October of this year, have the right to freedom of speech, to say what they wish to say—with responsibility. But there is an area where I differ, and this was what I was edging towards in my questioning to various academics during the two witness sessions. What Professor Stock actually said was interesting. She made this very distinction. She thinks that

“the difference between academic freedom and freedom of expression”—

I am quoting her word for word—

“assuming there is one, can only be in principle grounded in expertise.”—[*Official Report, Higher Education (Freedom of Speech) Public Bill Committee, 7 September 2021; c. 11, Q17.*]

That is the case however we wish to define that expertise. And there is a problem, actually, about how people might consider what expertise is. I would say that the

[*Matt Western*]

expertise is much more to do with methodology and understanding of academic rigour and discipline and how an academic arrives at a process of thinking, which a student is not necessarily—

Emma Hardy: A student is learning.

Matt Western: Yes, learning—going through that development. That is why students are attracted to going into higher education. It is to understand about the process of that academic rigour and methodology.

Lloyd Russell-Moyle: Some of the evidence that we heard from a number of the Government and Opposition witnesses was that, actually, part of the problem is the commercialisation in higher education, whereby students see themselves as customers and consumers and then demand more and demand their rights. There are some advantages to that, but there are clearly some disadvantages to it. There is a danger, is there not, that if this were used in the consumeristic mind of certain students, it could prevent the instruction of certain basics that students must accept to progress? Students could claim, “You’re not letting me progress even though I reject the way light moves through a lens.” It is perfectly legitimate for an academic to do that at a higher level, but if someone is teaching optometry, they require the student to accept certain basic principles to be able to progress and to look into people’s eyes. There is a danger that, with a consumeristic mind and with a more litigious mind, some students might end up shutting down academics and actually stopping them doing their instructive part rather than their research part.

Matt Western: I thank my hon. Friend for his, as ever, valuable contribution—and specialism of optometry. I always try to look through a rose-tinted lens. More seriously, the point he makes is made very well—[*Interruption.*] I missed that point. To be serious for a moment, my hon. Friend’s point is well made. It is about consumerism. I guess one of the things that motivated me to get into politics was that, as a kid of the 1960s and ’70s, I enjoyed education and access to all sorts of things without the privilege of money. We need to row back on how consumerism is becoming so corrosive of relationships between all sorts of authorities—I am not talking only about universities. How people view public service, in whatever manifestation, seems somehow to be about getting one’s money’s worth, whether on council tax or, in this case, educational fees.

2.15 pm

To my mind, it is important that anyone who is able and keen to go to any form of higher education understands that it is a privilege, whatever they choose to study. That does not somehow give them the right to do or say certain things, just because they are paying £9,000—or £30,000 or £50,000 in total over three years—for that privilege. We need to disconnect that consumerist mentality from that kind of thinking, because it is damaging to relationships between academics, institutions and student cohorts.

Fiona Bruce: Will the hon. Gentleman reflect for a moment on the position of doctoral students, which was mentioned by Professors Goodwin and Kaufmann? A student studying for a doctorate has considerable expertise in their field and, at the same time, might be tutoring some more junior students—undergraduates. Is it not a somewhat distorted situation and a strange irony that they could claim the protection of academic freedom for anything said in the tutoring, but not as a doctoral student?

Emma Hardy *rose*—

Matt Western: I will give way to my hon. Friend, and respond to the interventions together.

Emma Hardy: I am sorry, Mrs Cummins, I did not realise that in declaring our interests we had to say what our partners do. My partner is at the University of Hull doing degree apprenticeships, which I am very proud of.

To respond to the hon. Member for Congleton, our amendment 44 includes the words “and in the conduct of research”, to close the loophole that she has just mentioned, of a doctoral student involved in research. We would like to close the loophole with that amendment.

Matt Western: I thank the hon. Member for Congleton and my hon. Friend for their interventions. Yes, there is a differentiation between doctoral and undergraduate students.

Vitality, with academic freedom, special status is conferred. It is not something someone gets just because they turn up on a campus, or sign up to the Open University or whatever; it has to be conferred on those individuals who are, in essence, academics in the traditional sense. What they have is founded on their research—that thinking, the methodology, the scholarly debate. Ultimately, because their work is peer reviewed, it is understood to have a robust methodology. They have earned that—I used “earned” in the witness sessions, which was perhaps slightly the wrong word, and there might be a better word. It is an appreciation that the academic has gone through the academic thinking that has led them to express a particular thought or piece of research and outcome.

To my mind, that is the essential element, the primacy of academic freedom, which is why it is so important to separate it out from freedom of speech—hence our points this morning. Academic freedom defends the right to express ideas based not simply on opinion, but on academic research. I stress that point.

In the evidence session, the hon. Member for Congleton said:

“I am thinking not only that academic freedom is important generally for anyone at a university, but that some students, such as doctoral students, may also be tutoring.”—[*Official Report, Higher Education (Freedom of Speech) Public Bill Committee, 13 September 2021; c. 97, Q196.*]

As she said earlier, that is an important distinction because that role has been given to them by the university. It has conferred on that person a status, and there is a responsibility that goes with it. That is a very important distinction.

John McDonnell (Hayes and Harlington) (Lab): I really do think that the hon. Member for Congleton has a point. The issue is how we define that point. I hope that it applies retrospectively as well, because I would not mind challenging some of my essay marks from about 50 years ago.

The point is that the only way that a large number of students can finance their PhD research is by doing separate tutoring at the university, and therefore they have an academic status. Somehow we must find a form of wording for this Bill that protects them. At the moment, it is too loose. Colleagues have tabled other amendments—actually, I have tabled amendment 45, which focuses on innovative research. I am fearful that someone who, like me, is a pain could challenge their mark for a particular essay purely and simply because they disagree with what is being taught, even if they are wrong.

One of the biggest contentious issues at the moment is climate change. There are rows going on while academics are trying to identify a whole range of the causes of climate change as well as some solutions to it, and it is incredibly contentious. Lecturers and professors do have a responsibility to point out where they think something is wrong or ludicrous, and mark it down on that basis.

Sir John Hayes: The right hon. Gentleman makes an extremely important point. It is easy to mistakenly see this through the prism of political ideas. However, it is actually not just about political ideas, but about all kinds of challenges to orthodoxy. Some of those challenges will be scientific, some will be technological and some will be about philosophical principles, which are not to do with the politics we enjoy here. The right hon. Gentleman is right: innovation is a much bigger subject than political debate.

John McDonnell: There are even elements in science itself where there are really contentious issues and we know that some scientific theories are being brought forward for political motives—we have seen that around race in the past, about genetics linked to racial groups and so on—but an academic would throw the whole essay out on that basis. There are some really contentious issues here.

The hon. Member for Congleton is right to point out the issue of non-inclusion of students, but we must find a definition that enables us to ensure that there is a level of academic expertise at which the student should be operating, which qualifies that person to have academic freedom and the right to free speech. I think that is very difficult.

To come on to the point made by my hon. Friend the Member for Brighton, Kemptown, in academia, people are now extremely litigious. They will challenge individual gradings or the award of the degree classification. What we often find now—ask any university—is that a large amount of money and time is being spent on defending the awarding of degrees due to this sense of being a consumer, of buying a product. It is as though they are challenging the quality of the degree awarded as though it were a washing machine. There is a real issue here.

Lloyd Russell-Moyle: My right hon. Friend makes some good points about the litigiousness, but also about the ability that people have to challenge the status quo

to create knowledge. That is when they then take part in research, and that is when they then take part in the production of knowledge.

For undergraduates, however, and even sometimes in taught masters programmes, particularly for professional qualifications, it is about instruction. Very often, in that purpose of instruction, students should be able to make an argument that is not their own. Their teachers want to say to them, “If you just make your own argument, I am going to mark you down.” We talked in the evidence sessions about debating societies. Teachers want to say to their students, “If you produce an essay which is your own argument, that is not going to be highly regarded. I want you to produce something you might vehemently disagree with, but that is the point of this exercise.”

There is a danger that, if students are given personal academic freedom, they will say, “Well, that is not my view. I have got an academic freedom to express what my view is.” The distinction must be between taught and research, and between the creation of knowledge and instruction. The flipside is a researcher or university member of staff enrolling in a course for academic interest, and then taking on a different role as a student and being instructed. The freedom does not stay with the person; the freedom is the role that the person is undertaking at that moment.

John McDonnell: Right, I am waiting for the Minister to say that this will be covered in guidance. On this occasion, I might well support her, because it is complicated. It is a combination of the level of the degree and the content and status of the research. In some instances, there will be very specific examples and we will see it playing out in individual cases and challenges setting a precedent. If we are not careful, I can see the vista being lawyers making a huge amount of money at the expense of universities.

The hon. Member for Congleton has raised a genuine issue and we should address it with subtlety, recognising that it could open the doors to a whole range of activities that would burden universities and confuse the individual academics and students themselves. I look forward to the guidance.

The Minister for Universities (Michelle Donelan): It is a pleasure to work with you today, Mrs Cummins. These amendments seek to extend academic freedom protections to students as well as academic staff. Where clause 1 provides that higher education providers must take reasonably practical steps to secure freedom of speech for staff and members, as well as students and visiting speakers, this includes securing the academic freedom of academic staff. Academic staff have studied and researched for many years to reach the positions they hold. It is wrong for them to fear for their jobs or career because they have taken a minority view or put forward a controversial opinion.

I am pleased to reassure Committee members that the Bill goes further than previous legislation, broadening the definition of academic freedom so that it will include promotion and new applicants for academic positions. Indeed, it goes even further, in that all academic staff, not just employees, will have the benefit of academic freedom. That means that the Bill covers those who hold honorary positions, whether they are paid or not, as well as PhD students who teach undergraduates.

[Michelle Donelan]

I must be clear that the additional protections afforded by academic freedom are relevant only to the academic staff of a provider. That is because the provision is about the risk of losing one's job or the possibility of promotion, which are not issues that apply to students.

Fiona Bruce: I am listening very carefully to my hon. Friend, as I did to the right hon. Member for Hayes and Harlington. It was refreshing to hear him make common cause with me, and I appreciate it. If academic freedom is not to be extended to students, would freedom of speech under this Bill have covered the situation of the midwifery student who lost a year of her academic life? It is a very important point and I would appreciate it if the Minister reflected on it.

Michelle Donelan: While it would not be appropriate for me to outline how the Bill would apply to a retrospective individual case, I can give guarantees that in broad terms it will be comprehensive, and freedom of speech will cover students in a range of scenarios, so it is not necessary to include academic freedom for students. However, I have listened to the arguments that have been made today, and I will keep them under consideration.

Fiona Bruce: I thank the Minister for her promise to keep under consideration the points that have been made today by Members on both sides of the Committee, and I look forward to her returning to this issue as the Bill progresses. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

2.30 pm

Sir John Hayes: I beg to move amendment 80, in clause 1, page 2, leave out lines 9 to 14 and insert—

“(6) In this Part, ‘academic freedom’, in relation to academic staff at a registered higher education provider, includes their freedom within the law—

- (a) to question and test received wisdom,
- (b) to put forward new ideas and controversial or unpopular opinions, and
- (c) to design and deliver their own teaching, notwithstanding direction as to the topic or occasion of their teaching.”.

This amendment affirms the freedom of academic staff to exercise their professional judgment in the design and delivery of their teaching. It allows that Departments may nonetheless direct academic staff as to the topic on which they should teach, and when.

The Chair: With this it will be convenient to discuss the following:

Amendment 28, in clause 1, page 2, line 10, leave out from “provider” to the end of line 16 and insert “includes freedom—

- (a) to question and test received wisdom,
- (b) to put forward new ideas and controversial or unpopular opinions, and
- (c) to express opinions about a registered higher education provider, including without limitation opinions concerning its curricula, governance, affiliations and the teaching and research conducted at the provider,

without unlawful interference, and without being adversely affected (or being placed at risk of being adversely affected) in any of the ways described in subsection (7).”

This amendment would enshrine the protections afforded to academics under ECHR case law (Article 10) to speak about their institution without unlawful interference.

Amendment 27, in clause 1, page 2, line 11, leave out “within their field of expertise”.

This amendment aims to ensure that the definition of “academic freedom” is not restricted by a requirement for it to be exercised within an academic staff’s “field of expertise”.

Amendment 45, in clause 1, page 2, line 13, after “new ideas” insert “, innovative research”.

This amendment would expand the definition of academic freedom to encompass innovative research carried out by academics.

Amendment 46, in clause 1, page 2, line 14, at end insert—

“(c) to freely pursue chosen topics for teaching and research without government or institutional interference, and

(d) to express their opinions in relation to higher education providers, including that at which they are employed.”.

This amendment would expand the definition of academic freedom to encompass an academic’s ability to freely pursue chosen topics for teaching and research, free from external interference, and express an opinion in relation to a higher education provider.

Amendment 49, in clause 1, page 2, line 14, at end insert—

“(c) to criticise or otherwise express opinions about—

(i) the governance of the higher education institution, and

(ii) decisions taken by the higher education institution, including decisions about affiliations with other bodies.”.

This amendment would provide protection to academics, under the auspices of academic freedom, to express opinions about the governance, decisions and affiliations of higher education institutions.

Amendment 47, in clause 1, page 2, line 20, after “the provider” insert “or other providers”.

This amendment seeks to expand the ways in which an academic cannot be adversely affected due to an exercise of their academic freedom, to include loss of their job or privileges at any other provider.

Amendment 48, in clause 1, page 2, line 20, at end insert—

“(c) the denial of a just and open path for career development, including fair procedures for appointment”.

This amendment seeks to expand the ways in which an academic cannot be adversely affected due to an exercise of their academic freedom to include the denial of a just and open path for career development.

Amendment 60, in clause 1, page 2, line 20, at end insert—

“and

(c) adverse impact on educational progress.”

This amendment seeks to protect the right of academic freedom for students in addition to academic staff.

Amendment 57, in clause 1, page 2, line 28, leave out “and within their field of expertise”.

This amendment is consequential on Amendment 27.

Amendment 58, in schedule, page 15, line 17, leave out

“and within their field of expertise”.

This amendment is consequential on Amendment 27.

Amendment 68, in schedule, page 15, line 27, at end insert—

“and

(a) adverse impact on educational progress.”

This amendment seeks to protect the right of academic freedom for students in addition to academic staff.

Sir John Hayes: My amendment would have been pertinent in any case, but it has been made more so by the debate we have just had and the progress of the Committee so far, which has drawn our attention to the distinction between freedom of speech and academic freedom. That was made clear in the evidence sessions by a variety of witnesses, and it has been amplified today by speakers from both sides of the Committee. My amendment attempts to revisit that matter and add it to the Bill.

This is not a straightforward affair, as has been widely acknowledged by the Committee. As the Minister has made clear, freedom of speech is a broad term, and it might be said to be sufficiently broad to encompass a range of liberties, including academic freedom. But there is something specific about academic freedom, and this is rooted in the very principle of university learning. I could wax lyrical about John Henry Newman and the idea of a university, but you would not allow me to do so, Mrs Cummins, and the Committee would not thank me for doing so. The Whips certainly would not, given that it would prolong our proceedings unduly.

The essence of university education is giving academics the space to innovate, as the right hon. Member for Hayes and Harlington made clear in his last contribution, but it is also about fuelling intellectual curiosity, which leads to creativity. That could be in all kinds of spheres of work. We are inclined, because of who we are and the job that we do, to see this through the prism of political discourse, but it is much wider than that. We really do need to recognise that academic freedom is a fundamental part of allowing that curious creativity, if I can put it in those terms, to flourish in our places of learning. There is some evidence, from what we have heard, that that is being restricted—being stymied, one might say. That is partly because, in the words of Professor Goodwin, many academics

“no longer feel particularly welcome, safe, secure, or ultimately able to say what they really think, and for every one of me, there are 20 or 30 people behind me who do not feel able to come and speak and voice their concerns”—[*Official Report, Higher Education (Freedom of Speech) Public Bill Committee*, 13 September 2021; c. 100, Q208.]

as he did when he gave evidence. There is a concern that some academics feel as though their academic freedom is being restricted.

We also heard from witnesses what that academic freedom amounts to, and I have tried to reproduce those ideas in my amendment. They include the freedom “to question and test received wisdom...to put forward new ideas”

and have those scrutinised, too, even where they are unpopular or controversial. The hon. Member for Brighton, Kemptown said that one of the tests of a good student is their ability to make a case that they do not believe in. By the way, I could say the same about a good teacher. When I taught at university before I became a Minister in 2010, I would often advance arguments that bore no relation whatsoever to what I thought, because I was teaching government and politics. All good teachers do that, all the time, and students should be tested on that basis too, exactly as the hon. Gentleman describes. That is what a vital and creative learning environment is all about. I think Members on both sides of this Committee would want to see that reinforced by the provisions of this Bill, and that is precisely what I am trying to do in my amendment.

Lloyd Russell-Moyle: Will the right hon. Gentleman give way?

Sir John Hayes: I will in a moment, but now that I am flowing poetically I do not want the hon. Gentleman to break into the stanza. [*Interruption.*] All of these things are a matter of opinion, John. There is also a point about what I might describe as top-down pressure. We know—Members who have been involved in higher education, including many on this Committee, will be familiar with this—that there is often a tension between university management and particular university departments; between the academic staff and the senior management team who are often long detached from their original academic roots. It is a concern that sometimes university authorities will instruct academics to teach particular things, possibly even in a particular way. Defending the integrity of the people at the academic coalface is really important, and that is what the second part of my amendment seeks to do.

Emma Hardy *rose*—

Lloyd Russell-Moyle *rose*—

Sir John Hayes: To whom should I give way first? I am terribly old fashioned, so I shall give way to the hon. Lady.

John McDonnell: Don't fall for it!

Emma Hardy: As a former teacher who had the statutory national curriculum and regular reviews from Ofsted on the best way to teach x, y and z, there is part of me that reads the right hon. Gentleman's proposed paragraph (c) and thinks, “Wonderful! Yes, the passion and the ability to teach in the way you want on the subjects you want”. However, as has been alluded to—and this is where we get to the detail of it—there are subjects at university that require things to be taught in a particular way to get through a certain amount of basic knowledge components on that course. It might be suitable for some courses, such as government and politics, where there can be greater freedom, but studying medicine, for example, might need to be more instructive. Therefore, much as in my heart I am with him, in my head I find that, as it stands, it is not quite the right sentiment.

Sir John Hayes: I am pretty certain that the hon. Member for Brighton, Kemptown is going to make a similar point, but I will let him do so when I give way to him.

Of course, the hon. Member for Kingston upon Hull West and Hessle is right that it cannot be a free-for-all. Every academic knows what their professional duty is: to transmit a body of knowledge, but also to stimulate a range of ideas, to stimulate people to think freely and openly about the subject matter, which they are missioned to teach and their students are missioned to study. I take the hon. Lady's point. The amendment is not saying, “Do what you like and it really does not matter”, because in the end academics have a responsibility to their students. That is an important professional duty as well as a responsibility. We must not be too permissive in our approach to what academics can or cannot say

[*Sir John Hayes*]

and do. However, I am just as concerned—in fact, I am more concerned—about the character of leadership in some universities.

We have talked informally outside this Committee about governance and accountability within universities. When the Minister has a spare moment after getting this Bill on the statute book and is looking for her next Bill, I think that all of us across this House, including those on the Front Bench, should spend time reflecting on and considering the very important issue of university governance.

Lloyd Russell-Moyle: I broadly agree with what the right hon. Gentleman says and with the subsequent amendments, some of which say similar things. My problem is around academic rigour, which universities must ensure is provided. Would he address the issue as it relates to basic instructional courses such as optometry, or any of the life sciences. I mention optometry because the University of Bradford has a very good optometry department. I have mentioned my connections with the University of Bradford, the University of Sussex and University and College Union before, and it is on the Register of Members' Financial Interests. It might be dealt with better in regulation than on the face of the Bill, but might there be something to be said for the freedom of the academics to sit around the table and work out their plans without interference from management, rather than the freedom of an academic to decide what they do?

I put that forward because academics sit down together and work out a course of teaching, so they have a duty to sometimes challenge each other and say, “You need to teach this. You might not want to, but we need to get through it.” Could the wording around that be better? It would also address some of the right hon. Gentleman's points on how academics have been removed from the management of course design over the years, and could restore their role at the heart of course design and teaching and learning. That would be a move forward.

Sir John Hayes: The hon. Gentleman is of course right about the changing balance of power within universities. Many senates no longer play the role they once did routinely. If anything, universities have become more pyramidal in their management structure. It is and always has been important to ensure rigour in the disciplines he describes, and validation of courses, including external validation, is an important part of assuring that rigour. I have been involved in that myself.

I take the hon. Gentleman's point, but my worry is that these days there may even be ideological top-down instruction, so that one has to sanitise one's curriculum in a particular way. It might be politically motivated, but it might be, as the right hon. Member for Hayes and Harlington implied, about all kinds of other things. It is not all about politics; it is sometimes about non-political orthodoxies. The whole point about academic freedom is that one can challenge what are assumed to be a priori assumptions. That is what the greatest among us have done over time.

I think I can find further agreement with the hon. Gentleman. The wording added may require further work to reflect the sentiment he articulated, but my purpose in tabling the amendment is to get the Government

to think again about the relationship between freedom of speech and academic freedom, which populated quite a lot of the evidence we received from witnesses. The concern that we, across the Committee, and the witnesses shared is that academic freedom should, of itself, be placed at the heart of the consideration. The Minister has been reassuring about that, and what she has said so far publicly and in Committee encourages me, but I wonder if we need something in the Bill to reinforce the point.

Emma Hardy: As I said, my heart is definitely in agreement with the principles being outlined, but one of the depressing realities we face—I know this from a particular university—is universities having to drop courses because they are not as marketable and attractive to students and they cannot get the people on. Universities are making decisions to wipe out entire courses, because it costs too much to run them. I would love to say that, yes, academics should have complete freedom to design and deliver courses however they want, but we have to be mindful that there is a cost involved. There have to be some conversations with the management team about whether the course they are putting on will make ends meet and will not end up costing university more in the long run. I wish we did not have to talk about this.

Sir John Hayes: The hon. Lady now really is opening a hornet's nest with the issue of money, how universities are motivated, and how far that is skewed. I have struggled against the narrow interpretation of learning as an entirely utilitarian matter for all my political career, including my ministerial career. As Committee members will know, I was a stout defender of adult and community learning, not because it was necessarily and directly linked to employment, but because it fed societal wellbeing. Let us make the case for the glory of learning for its own sake.

The hon. Lady provoked me into that digression, Mrs Cummins, but she is right to say that sometimes universities are driven by those utilitarian purposes, hence my point about senior management. We have recently heard about money from outside sources—China was mentioned in our witness sessions, and rightly so, given recent revelations. There are all kinds of ways in which what is taught and learnt at universities can be altered by factors that go well beyond the interests of either academics or students. I am concerned about the matters that the hon. Lady has raised, and the Government will have a watchful eye on all that, too.

I have a fundamental disagreement with Opposition Members, in that I think the Bill is welcome and a good thing. I know that they have reservations. However, I am equally sure that if the Bill is to be effective, it needs to be as well drafted as it can be. That is precisely what scrutiny is designed to do. In that respect, drawing out and codifying the distinction in some way seems to me to have value. I make no definitive judgment about how that should be done; my amendment is very much a first stab.

I should not say before the Minister has spoken that I will not press the amendment to a Division, or I will extract no concessions from her. Instead, I shall hang on, hold fire, and hear what she has to say. The amendment is very much designed to push and probe the Government, but if she says it is a complete load of nonsense, I will have to test the Committee's view.

I feel some responsibility to reflect the fact that the amendment is one of a group. There are some very good amendments in the group, tabled by Members on both sides. I will not name them all, but amendment 48, in the name of the hon. Member for Warwick and Leamington, is helpful, and amendment 60, in the name of my hon. Friend the Member for Congleton, brings value to what we are doing. A number of strong amendments in the group are designed in a constructive way to hone and improve the Bill. I will not go through them all because that would be tedious and people can speak for themselves, but there are some good amendments worthy of further consideration by the Committee and the Government.

Matt Western: I thank the right hon. Gentleman for his remarks and his amendment, which has generated a huge amount of debate. It is interesting that several of us have had a go at the same provision to embellish and improve it. The definition of academic freedom is loose and hard to pin down. The fact that three amendments are addressing it emphasises how concerned we all are about how it is defined.

The right hon. Gentleman's amendment seeks to expand academic freedom to encompass how a teacher delivers their classes. The amendment tabled by the hon. Member for Congleton goes a little further in seeking to protect academics under the umbrella of academic freedom whenever they express an opinion about the practices of a provider. I guess that this is where we get into subjective interpretations of what academic freedom should be.

During my research I came across part 6 of the UNESCO definition of academic freedom, which guides my thinking and that behind amendment 46, tabled by me and my right hon. Friend the Member for Hayes and Harlington. Under the UNESCO definition, the concept of academic freedom is broken down into five parts: freedom of teaching and discussion; freedom in carrying out research and disseminating and publishing the results thereof; freedom to express freely their opinion about the institution or system in which they work; freedom from institutional censorship; and freedom to participate in professional or representative academic bodies.

My concern about the amendments tabled by the right hon. Gentleman and the hon. Member for Congleton is that they are trying to nail down a definition, but may have left out a couple of crucial components. Amendment 46, tabled by me and my right hon. Friend the Member for Hayes and Harlington, is a compromise with the position of the right hon. Gentleman and the hon. Lady. It touches on two of the most of crucial elements in providing that clarity: freely pursuing chosen topics and expressing views of their institution. Interestingly, the University and College Union favours an amendment in the realm of ours. It is also deeply concerned that narrowing the definition of academic freedom will limit the ability and willingness of education staff to speak out on wider social or political issues, or indeed against their employers. An amendment such as ours would offer expansive protection for the academic freedom of staff, including from pressure and censorship by public authorities like the Department for Education and the Office for Students or by employers.

The amendments would offer protection against redundancies targeted at particular academic disciplines or those perceived to be politically motivated.

Emma Hardy: My mistake, Mrs Cummins, for not realising that the amendments are grouped and that I should be talking about all of them. An aspect of academic freedom and the importance that we want the Bill to place on the role of academics is illustrated by amendment 27, tabled by the hon. Member for Congleton. We should not restrict academics with the narrow definition including:

“within their field of expertise”.

We do not know who will make the definition. That is an important issue, too.

Matt Western: I thank my hon. Friend and I shall address that important point shortly.

Amendment 47 would protect academics against not securing promotion in respect of different jobs in other institutions. It aims to ensure that academic freedom is protected across the range of roles that someone may hold, not simply where an issue may arise. For instance, an academic may be employed by two HE institutions or hold various visiting professorships. The amendment would ensure that an institution cannot punish an academic for disagreeing with research or published work at another institution.

This links with open, transparent career development—an honest approach. We heard from Tom Simpson that decisions on research grants and appointments are made in the culture of the office. To a certain extent, that is inevitable. That is the reality of how organisations work, but I get what he was trying to say. Amendment 48 would prevent a university from denying training opportunities, as a way to punish an academic for the views they hold. The essential difference from our amendments is that they seek to protect those who can benefit from academic freedom.

Amendment 60, tabled by the hon. Member for Congleton, on the inclusion of adverse impacts on educational progress, implies that academic freedom ought to be given to students. We had a long debate about that. I have reservations about it, and I am not convinced by the argument that was made in the previous debate. The experience that I have gleaned from discussions with higher education institutions in the past six months is that many assessment methods are anonymised. Each student is given a unique number and papers or their equivalent are marked by several academics to avoid discrimination. Institutions do their utmost to ensure that discrimination does not prevail and damage students' progress.

For those who can and should benefit from academic freedom, I have sought to expand the definition to include innovative research. Amendment 45 would ensure that the definition of academic freedom includes the world-class innovative work carried out in our universities. The current definition in the Bill simply covers new ideas or controversial or unpopular opinions, but most of the socially or scientifically beneficial or prize work conducted by academics is innovative, rather than falling into those narrow categories. The right hon. Member for South Holland and The Deepings expanded on that point, and said that it would be valuable to include that,

[*Matt Western*]

mentioning Galileo and Darwin, who conducted innovative research centuries. The two go hand in hand. Think about Rosalind Franklin and the ground-breaking work she did in the face of a counter-view in society about genetics; she clearly did incredibly important research. More recently, we have Oxford's work on vaccines. That kind of work has to be protected at all costs.

One of our witnesses, Dr Ahmed, believes that certain forces are leading academics not to pursue lines of research that they think might be fruitful. Research is fundamental, and it is important to protect it. I can well understand the perspective of institutions on the work that is done and why they seek to have some sort of direction over research and teaching wherever possible. Various Members, however, spoke about how institutions present themselves in what has become an incredibly marketised sector. The institutions did not create that situation; it is the result of what was put in place years ago, and they have to respond not just to a UK market but to a global market for higher education. They are trying to appeal to the needs of the UK, what students wish to study and what research is needed, as well as looking at trends, approaches and the needs of global society.

Emma Hardy: I risk straying from the Bill, so I will be quick. The evidence that we heard and our discussions today show that the marketisation of higher education has had a negative impact on the student experience. I hope that the Minister takes that evidence seriously, as well as the remarks that Members on both sides of the Committee have made about the impact of marketisation on education, so that in a future Bill Committee we can secure consensus on an alternative model.

3 pm

Matt Western: I thank my hon. Friend for her intervention. I totally agree.

In response to the point raised by right hon. Member for South Holland and The Deepings about the detransitioning research at the University of Bath, Professor Whittle said that

“had Bath addressed it properly, they could have done more to say, ‘This needs sorting and this does before we will consider it.’”—[*Official Report, Higher Education (Freedom of Speech) Public Bill Committee*, 7 September 2021; c. 41, Q75.]

The amendment would incorporate innovative research under the academic freedom duty, which would push the likes of the University of Bath towards exploring further how such research proposals can be encouraged.

The issue goes both ways and cuts across the political divide, as we have heard. A briefing I received from Ruth Pearce from the Center for Applied Transgender Studies revealed examples of where research has been disrupted by aggressive anti-liberal voices. That included Peel and Newman's survey on legal gender, which received an uptick in polarised, confrontational responses after being shared on a UK anti-trans forum. Stein and Appel describe how a survey on young LGBTQ people's experience of cyber-bullying in Germany was derailed, with nearly every dataset containing expletives and hate speech.

That work needs to be protected under the legislation, and most academics would agree that this kind of work falls within their academic freedom. Amendment 47 would also bring us in line with the German model, which is based on the Humboldtian approach and focuses on the unity of teaching and research, with both staff and students able to enjoy academic freedom. It is important to include innovation within the definition of academic freedom in the Bill.

Amendment 27 addresses the point about field of expertise, which was raised by the hon. Member for Congleton. I share some concerns about this, as do my colleagues. Indeed, my hon. Friend the Member for Kingston upon Hull West and Hessle commented in the evidence session on the submission from Professor Anderson, saying:

“His concern is around changing the wording in the Bill from ‘freedom within the law to question and test received wisdom’ to ‘freedom within the law and within their field of expertise’.”—[*Official Report, Higher Education (Freedom of Speech) Public Bill Committee*, 7 September 2021; c. 10, Q17.]

I have concerns that a Bill allegedly intended to promote academic freedom could limit it if people are limited to what their field of expertise is.

Sir John Hayes *rose*—

Matt Western: And speaking of expertise.

Sir John Hayes: I entirely agree, and I wanted to say that on the record. Professor Biggar made that point, too, as the hon. Gentleman will remember. The problem is how we define someone's field of expertise. If we define it too narrowly, they will not be covered. The Minister, I know, will have an explanation of this and a counter-argument that may satisfy us, but I am concerned, as witnesses were and the hon. Gentleman is, that we risk getting this wrong in the Bill unless we take account of the fact that people's field of expertise is often broader than the definition of what they do professionally. Expertise is a complex thing. I think we need to look again at this. I am sure the Government will have heard what the hon. Gentleman and others have said.

Matt Western: I thank the right hon. Gentleman for his intervention. Yes, we heard virtually all the academic witnesses and others express the importance of this point. Dr Ahmed, referring to Professor Stock, spoke about Professor Richard Dawkins, saying:

“theology is not his area of expertise. Many... would argue that it is not even his area of competence. I would dispute that myself, but it could be argued. Nevertheless, we would certainly want a Bill that protects his freedom to muse about religion as he likes. That is one issue.”—[*Official Report, Higher Education (Freedom of Speech) Public Bill Committee*, 7 September 2021; c. 11, Q18.]

Emma Hardy: This is crucial. This small amendment would remove five words from the Bill; it is incredibly small and very easy for the Minister to agree, but incredibly important. If the Bill is what it is claimed to be—a Bill on freedom of speech and academic freedom—and if the Minister honestly believes that that is what is written here, she will accept the amendment to remove “within their field of expertise”,

because that is a limitation on academic freedom. It is clear, and no future guidance will change it. If those words are left in the Bill, academic freedom is limited. I cannot put it any more strongly than that. All the evidence we heard made the same point. I hope the Minister will accept the amendment.

Matt Western: I thank my hon. Friend again for a valuable intervention.

Sir John Hayes: Is this not about areas of interest versus fields of expertise? An academic may have areas of interest that extend beyond the strict and narrow definition of their expertise in their subject. By using that sort of term—I am sure the lawyers will go one better—we might be able to solve the problem.

Matt Western: I thank my—I was about to say hon. Friend. I thank the right hon. Gentleman for that point. I am sure that my hon. Friend the Member for Kingston upon Hull West and Hessle will elaborate.

The reality of the academic community in higher education is that their areas of work are fluid. They do not see themselves as necessarily specialists in one field or another. As we heard in our evidence session, a statistician is a mathematician, but a mathematician could become a specialist or well versed in issues such as migration or epidemiology—medical science, in essence. How does one define “their area of expertise”? We have to be extremely careful. The right hon. Gentleman’s suggestion may well be in the right area, but much more consideration is needed, and for the purposes of the Bill we have to remove these words.

I will not expand on what Professor Nigel Biggar said. That has been done already.

Charlotte Nichols (Warrington North) (Lab): On amendment 27, I am interested in what form of words other than

“within their field of expertise”

could be used to act as a safeguard, because we might see cases in which academics are picked up for use of their freedom of speech more widely, but there is a distinction between freedom of speech and academic freedom.

Matt Western: My hon. Friend is quite right. We have not proposed anything that necessarily refines that. At this stage, I think, it is important to remove the words, and minds greater than mine—perhaps in the House of Lords—may come up with an alternative. It is a really important area that needs to be defined.

Lloyd Russell-Moyle: My hon. Friend has already developed the phraseology and wording in his comments about research and academic interest. Were a matter within an academic’s research and interest areas, that would be their definition. It would be broad enough; it would also go to amendment 80 and the right to teach in areas of their academic interest and research, and resolve my concerns about that amendment. It would be good if the Government were to reflect on that phraseology.

Matt Western: I totally agree.

Emma Hardy: The original definition of academic freedom did not have these five additional words. The Government chose to add them. I do not believe we need to rewrite or put in words. Originally, the definition of academic freedom was:

“freedom within the law to question and test received wisdom...put forward new ideas and controversial or unpopular opinions, without placing themselves at risk”.

The Government added the unnecessary words “and within their field of expertise”.

Matt Western: My hon. Friend is right. I sense that we agree across the Committee—

Emma Hardy: Some of us.

Matt Western: Some of us are agreed that it should not be in there, and I think the House of Lords should explore whether further definition is required.

From talking to academics over the last six months and more, I want to stress how incredibly fluid the areas of research they work in are. They go through wholesale change in areas of interest and exploration. That is the kind of innovative research we want, and it is one of the great things about our institutions. People talk about UK universities being the best in the world in different categories, but we genuinely do have a very strong reputation for higher education globally. It needs to be protected.

We support the amendment by the hon. Member for Congleton on the removal of those words. We will, of course, support the amendments standing in my name and that of my right hon. Friend the Member for Hayes and Harlington.

Fiona Bruce: I will speak to my amendments 26 and 27 and, very briefly, to 60. I had hoped that the short but crucial amendment 27 might attract support from both sides of the Committee. Judging by some of the comments from Committee members today, not least the hon. Member for Kingston upon Hull West and Hessle, I continue to live in hope. I had hoped even the Minister might give a positive response to the amendment.

The hon. Member for Warwick and Leamington has already made the point that the Bill is intended to protect and promote academic freedom, but may in fact restrict it if academic freedom is defined as an academic’s freedom to express views only within their field of expertise. There are real problems with this phrase. We have heard some of them already, as my right hon. Friend the Member for South Holland and The Deepings has said.

To elaborate on some of the comments made, an initial difficulty is that of defining an academic’s field of expertise. Giving evidence, Dr Ahmed raised the very good example of Professor Richard Dawkins, who is an expert in evolutionary biology. Dr Ahmed said that one could argue that theology is not within his field of expertise, or even competence, yet his freedom to critique religion and contribute to the debate on God should not be denied to him merely due to an arguable lack of specific expertise.

Sir John Hayes: Or just because he is wrong.

Fiona Bruce: My right hon. Friend may have his view, but I could not possibly comment.

Without another look at the words “field of expertise”, academics could find themselves with fewer free speech rights than those in other vocations, since straying outside of their perceived field of expertise might lead to more complaints, increased disciplinary action and dismissal—outcomes clearly at odds with the intention and purpose of the Bill.

A second difficulty is that an academic’s expertise often stretches over a variety of fields. A biologist could have an insight into economics, and a theologian may well have useful musings about sociology. The interaction between a variety of subjects is often how ideas are tested from fresh perspectives, leading to innovation and thought-provoking insights for the benefit of society as a whole. A requirement to stay within one’s field of expertise could have an unintended chilling effect, which I will elaborate on when I speak to amendment 28. Academics, particularly junior academics, might seek to modify their speech and academic inquiry in a bid to ensure that they qualify for protection under the law.

It cannot be right to penalise an academic simply because he opines on the issues of the day. The issues may be completely outside his field of expertise, and he may speak from a political perspective or with faith-based views, such as on marriage or being pro-life, but is not deliberating on issues of the day a key part of university life?

3.15 pm

Charlotte Nichols: I am interested in the examples that the hon. Member has raised as things that should be protected as part of academic freedom, but I would draw the distinction back between academic freedom and freedom of speech.

Just because someone is an academic, for example, does not mean that any topic that they choose to wax lyrical about should necessarily be protected, particularly if they are engaging in harmful stereotypes, discriminatory behaviour and so on. As much as I agree with the broad thrust of taking this out, I think that we need to reflect in the legislation a way in which we might draw that distinction between academic freedom and freedom of speech. Does the hon. Member not agree?

Fiona Bruce: The objective of the Bill is to secure freedom of speech within the law. We are saying that, provided that someone speaks within the law—whether about their field of expertise or not—they should be covered by the Bill. They should have the freedom, as academics, to express views and not be penalised if those are unpopular, unfashionable or not mainstream. I hope the Minister will look at amendment 27 very seriously, above all those I have put down, and consider it in a positive light as the Bill progresses.

Amendment 28 is self-explanatory, setting out a number of factors that need to be covered and clarified in the definition of academic freedom. Not the least of those is the importance of academics being able to set the reading matter for subjects that they are teaching. I will set the amendment in context, underneath amendment 27.

A deeply concerning trend has emerged in our universities that has seen academics lose their jobs, students suspended from courses and refused affiliation with their unions, and visiting speakers refused a platform, due only to their expression of non-mainstream viewpoints. Some are not, in fact, non-mainstream. In his evidence, Matthew Goodwin, a professor of politics and international relations, told us he was an outlier when speaking of Brexit, with only 10% of academics sharing his support of it. However, Brexit was actually voted for by over 50% of those who voted in the referendum across our country.

We also heard of instances of academics being subject to vilification or discrimination for exercising their right to academic freedom and freedom of speech within the law. Although we did not hear of these instances in evidence, I will give two examples. In 2019, I raised in this House the well-publicised and worrying experience of respected academic John Finnis, an emeritus professor of law and legal philosophy who had taught at the University of Oxford for some 40 years at that point, yet students were calling for him to be removed from office simply for holding traditional Catholic views. Much more recently in the press, we had the case of David Palmer, a Catholic who was denied recognition by Nottingham University for the post of chaplain due to comments he made on social media expressing no more than the Church’s traditional views on euthanasia and abortion.

Professor Goodwin told us:

“This is how it typically works: a group of students will make a complaint about an academic. They may take that academic’s words out of context. They may imply that something was said that may not have been said—who knows? That academic is typically investigated and, as we saw in the case at Edinburgh recently, they are suspended and asked to leave campus for six weeks or so while the case is investigated. There is a reason why academics say that the punishment is the process. The reputation of that academic is now in tatters. Nobody will hire that academic. His or her chances of getting a research grant are probably minimal, and those of getting published have been severely damaged. That individual is tainted.”—[*Official Report, Higher Education (Freedom of Speech) Public Bill Committee*, 13 September 2021; c. 97, Q197.]

Given that Professor Kaufmann told us how there can be over 100 applicants for any post in academia, that is a serious disadvantage that can be experienced and suffered. We were also told by more than one witness that self-censorship by academics is the most pervasive impact of all—the so-called “chilling effect”.

We heard about that from several witnesses during the course of evidence. The case of Dr Ahmed is particularly instructive. We heard how he struggled to get just 25 signatures of people willing to put their name publicly to a motion on whether to change the wording of a university’s policy. That goes directly to the reason why we need amendment 28. Once it was put to a vote by secret ballot, it passed by 80%. Some witnesses spoke of staff and students refraining from saying things they considered to be important or not pursuing lines of research they thought would be fruitful, because they feared adverse consequences, such as disciplinary action or another form of marginalisation or vilification.

Amendment 28 seeks to augment and clarify that academic freedom should include the freedom to express opinions about a university, including its curricula, governance, affiliations, teaching and research, without

the risk of being adversely affected. Amendment 60 seeks to ensure that students do not suffer any impact on their educational process, such as being marked down. We have already had a good debate on amendment 59, with which amendment 60 is linked, so I will leave that with no further comment, save the hope that the Minister will reflect on amendment 60 with amendment 59.

John McDonnell: I want to repeat my declaration of interest as an honorary fellow of Birkbeck, University of London, which is the same as the hon. Member for Ruislip, Northwood and Pinner. I failed to declare that my wife is an educational psychologist and is now a part-time tutor at the Institute of Education at University College London. I just want to make sure that our register of interests is full. I cannot think of any other family who are involved, but at least I will get that on the record.

Before considering the amendments, I want to reflect on the fact that we have come a long way since section 28 in the 1980s. We are no longer tolerating any Government interference in matters—for example, at that stage, in just talking in an educational setting about LGBT rights. It is interesting and gratifying that we have come this far.

On amendment 80, I want to warn the Minister. The right hon. Member for South Holland and The Deepings has a propensity to get people into trouble. On one occasion some years ago, the Speaker called for a question in the House and shouted out “Hayes, the Whip”, but nobody was there and I got the blame for it, even though it was John Hayes, not the Member for Hayes and Harlington, so I caution the Minister. Ever since *Pepper v. Hart*, material in the House can be taken into account in legal actions, and the right hon. Gentleman is enticing the Minister into expressions around his amendment. I actually have some time for his amendment. All we are trying to do today is get a formulation—maybe by Report stage and certainly by the time the Bill gets to the Lords, which is packed full of legal experts—with more than even the Commons—who might well be able to assist us. I can understand exactly where he is coming from in wanting to maximise that freedom of expression of freedom of academic activity.

I want also to consolidate the alliance I now have with the hon. Member for Congleton. It is interesting that a number of witnesses raised the point that this form of words does not work—we have to find some other formulation. I have worked with a whole range of economists in recent years who have commented on a whole range of matters unrelated strictly to economic matters—for example, wellbeing, health, social care. Areas of interest evolve over time. They cannot be defined just by the job description of that academic. We are digging ourselves into a hole by leaving this in the Bill. To the hon. Member for Congleton, I say: screw your courage to the sticking place, because if we had a vote on that today, we would most probably win it. I would be careful about the assurances that she may get from the Minister, which might not completely eradicate that form of words from the Bill.

Charlotte Nichols: The Minister may find herself promoted and able to follow through on the assurance she has given today, so perhaps the vote is the right way to make sure that we sort that out.

John McDonnell: Given the way that heads are toppling at the moment, anything could happen. The guillotine is out there, certainly.

I now come to amendments 45, 46 and 48 in the name of my hon. Friend the Member for Warwick and Leamington, to which I also put my name. I want to be completely honest about this: those amendments have come from discussions that we have had with individual academics and trade unions. Those matters also came up in the evidence sessions. One issue that came up time and again is employment protection for academics. Their biggest anxiety is not just their ability to exercise freedom of speech and academic freedom but retaining their jobs, having access to appropriate promotion and so on.

The three amendments seek to provide that enhanced protection. My hon. Friend the Member for Warwick and Leamington has covered amendment 45. It seeks to make it absolutely clear on the face of the Bill that the provision pertains to innovative research as well. That was one of the issues that came from the evidence sessions: the biggest feeling of insecurity is among people who are doing leading-edge research that challenges existing establishment views and that, maybe for some, goes over the edge of acceptability. However, it is often the case—and I cite section 28 here—that those sorts of statements, activities and expressions of view become accepted wisdom within a period of time. All those equalities things that I can remember being condemned for personally in the *Evening Standard* throughout the 1980s are now accepted as Government policy and by all political parties. Putting “innovative research” in the Bill would close a door and clarify the situation.

Amendment 46 seeks to re-emphasise the ability of academics to freely pursue their teaching and research without—this is where section 28 comes into it—“government or institutional interference”. It is fundamentally important that we say that. We need to learn the lesson of section 28. Given the policies that have been developed on equalities by all our political parties, I think we have learned that lesson, but it is worth legislating to that effect as well. I do not want to be here in another period of moral panic over a particular issue, with a rush to Government activity that seeks to influence institutions in a way that means people suffer as a result, and in subsequent years people realise their mistake, by which time, unfortunately, too many people have been harmed.

The reference to “government or institutional interference” is quite significant. I say “institutional interference” because these days a large amount of policy development, and even policy making, is undertaken by agencies other than Government, agencies established by Government or institutions that have been funded and established to perform a role on behalf of Government.

The other issue—the prickly one, really—is the right of an employee or academic to criticise the institution that they work within. That is quite fundamental. The Minister might argue that the protections are there already in employment law and so on, but the message we were getting from the evidence sessions is that they are not. The way in which people are victimised by their institutions—“providers”, as we call them—or their employers can be quite subtle, and quite undermining in a way that might not stack up if they go to an

[John McDonnell]

employment tribunal, so it is worth putting on the face of the Bill that a person can challenge the institution that employs them and have that protection.

3.30 pm

Of course, if any of these cases ever did come before the courts, there would have to be some test of reasonableness, but I think English law can cope with that. Having this protection on the face of the Bill would just give people more confidence. It is a reflection of what we heard and our own individual experiences when we have talked to academics and others working in this sector.

Amendment 48 covers the issue, which others have referred to, of not being denied career development. There are too many examples of people saying that it was about not just the appointment, but the ability to go on training courses and be supported in areas that would lead to career enhancement.

On amendment 47, we must ensure that these protections are all-encompassing. A person might be trying to be protected from the provider they are working for or operate within, but we also want to ensure that they are protected from the activities of other providers that they may want to work for or with in the future. That is why we are inserting “other providers”.

We are setting out a comprehensive range of protection. I say again to the Minister that if this form of words is not acceptable today, let us work on it and try to get it sorted for Report, or failing that, when the Bill goes to the House of Lords—although it is an institution I think we should have abolished years ago. If we can get a comprehensive range of protections, this Bill, which I still think is inappropriate, at least might reflect what we heard and what we know is happening on the ground, which is a serious cause of concern.

One of the reasons I am not happy with the Bill is that I believe most of these protections should be installed in employment law, which would mean that they are much stronger than they are in a Bill of this sort, but the Government have chosen to go down this path, and that is why we tabled these amendments. I think they are completely reasonable, and I cannot understand why anyone would not support them. If it is a matter of wording, semantics or whatever, let us work on them and resolve the issues. Either we should accept them today or we should get a very strong commitment that a similar form of words will be introduced into the Bill.

Michelle Donelan: Amendments 80, 28, 45, 46 and 49 seek to set out the type of speech that the definition of academic freedom in clause 1 covers, and to ensure it includes the right of academic staff to express opinions about the curricula, governance, affiliation and the teaching and research at their provider, to design and deliver their teaching and do innovative research. Amendment 28 would also remove the limitation in the current provision that it covers only law speech that is within the person’s field of expertise, and makes other changes that I will discuss shortly.

As currently drafted, the definition of academic freedom includes the freedom to put forward new ideas and controversial or unpopular opinions. To be clear, that includes the right of academic staff to put forward

opinions about any issue, including the curricula, governance, affiliation and teaching and research of their provider. It would also include the right to put forward research proposals that some might see as controversial or to pursue a range of methods when designing and delivering high-quality course material. There is therefore no need to specify in the Bill the type of opinions and speech that are covered, since all opinions and speech are covered as long as they are within the law and one’s academic field of expertise—a point I will return to in a minute. Of course, I shall consider once again the comments made in the debate.

Amendment 28 would make other changes to the definition of academic freedom. The first is the requirement that academic freedom means freedom within the law, which is a vital qualification in the Bill. Let me be clear once again that the Bill does not cover unlawful speech. The amendment would remove the qualification, but I do not see why the lawfulness of speech should not apply to academic staff as it does to anyone else on campus. Amendment 28, as well as amendment 80, would also remove the requirement that the protected speech should be within an academic’s field of expertise.

I commit to the Committee that I will take the topic away. We have heard a very compelling case from both Opposition Members and Government Members today. I want to outline why the provision is in the Bill, but I commit to taking the topic away.

Emma Hardy: Does the Minister commit to taking away the topic relating to amendment 28? Or was it amendment 27?

Michelle Donelan: Sorry; I commit to taking away the topic of field of expertise, which is covered in amendment 28, as well as amendment 80.

I will outline the reason why the topic is in the Bill in the first place. Academic staff will have extra protection under the Bill, in addition to the more general protection for freedom of speech. That is the reason that the additional protection only covers speech where an individual has expertise. For example, a maths professor should not have greater protection than a non-academic colleague or a student when they are speaking about matters unrelated to their role as an academic, but in that case the professor would still benefit from the same freedom of speech protections.

Lloyd Russell-Moyle: I understand exactly what the Minister is trying to say, although there is some advanced maths that could move into philosophy and so on, depending on how deep we want to go. It is about the word “expertise”. That is why I put forward the idea of academic “interest”, which is a much lower bar and means that someone just needs to demonstrate that they have had an academic interest or research in that area. Would she go away and think about the bar that the word “expertise” sets—who proves that expertise?—compared with other qualifications that might fulfil the Minister’s purpose, but give people the right to explain a broad range of academic interests?

Michelle Donelan: I thank the hon. Member for that helpful point. I commit to taking away that very topic.

Emma Hardy: I take the commitment, but it does not have a lot of detail. A commitment to do what? A commitment to rewrite those five words? A commitment

to reassess whether those five words need to be in there or not? I would like a little more detail on what the Minister is committing to.

Michelle Donelan: I and the Government commit to taking the topic away, listening to Members from across the Committee today and their very valid points and concerns on the topic, and to look at the topic again.

On the rationale behind the topic, the Government intend the definition to be interpreted broadly, so that a maths professor who uses their mathematical or statistical skills to analyse a non-mathematical subject would be covered, for example—that references the point made by the hon. Member for Brighton, Kemptown. It would also cover situations where an academic discusses teaching generally or the governance of their department—all that is within their area of work and subject expertise.

The wording reflects Strasbourg case law, where it has been held that academic freedom is not restricted to academic or scientific research, but also extends to an academic's freedom to freely express their opinions in the area of their research, professional expertise and competence. Our courts must take this judgment into account when considering the question of what academic freedom is.

Further on amendment 28, I will move on to the inclusion of the wording that seeks to clarify that academics should enjoy academic freedom without “unlawful interference”. That is unnecessary, because any such interference with academic freedom will by definition be unlawful, which does not need to be stated in the Bill.

Finally, amendment 28 adds “without being adversely affected” to the definition. Being placed “at risk” of adverse effect is already covered by the Bill. It would be sufficient for an academic to show that they were at risk of adverse effect. It would not be necessary to go further and show that there had actually been adverse effect. Even a threat to damage an academic's career, for example, could be sufficient. Therefore that aspect of the amendment is not required, as the current drafting is actually wider.

Amendments 27, 57 and 58 all seek to broaden the definition by removing the requirement for speech to fall within an academic's field of expertise—once again, we shall cover this topic. Clause 1 provides that higher education providers must take reasonably practicable steps to secure freedom of speech for their staff and members. This includes securing the academic freedom of academic staff. As I have already said, this means that academic staff will have particular extra protection, in addition to the more general protection that the Bill offers for freedom of speech. This will allow academics to bring complaints to the Office for Students or a tort claim before the courts, which will reflect the high level of importance that the courts have consistently placed on academic freedom. I have outlined our rationale behind the “field of expertise” requirement and that it should be interpreted broadly, but as I have already stated to the Committee, I will take away and consider the issues raised regarding this topic.

John McDonnell: I hate to raise this subject, but it was suggested that someone in any field of academic expertise would somehow be denied the ability to talk about or comment on Brexit. Can we just clarify that?

Michelle Donelan: This particular element of the Bill does not deny people the ability to speak on anything, because as I have already stated, academic freedom is a subset of the broader term “freedom of speech”, so they would be covered by that as well.

Matt Western: I heard the Minister's point about committing to go away and discuss this issue and so on. Things are clearly moving quite fast in the reshuffle. I would like to think that she will still be in her post and perhaps will not have been promoted—perhaps she wishes to be promoted—but the essence of this is so important that I think it goes beyond the words of this Minister because in two weeks' time we could have a very different person actually handling this particular issue.

Michelle Donelan: I can see what the Opposition are cleverly trying to do here to push me to go further than my words, but I am sure that the hon. Member will understand that the words that I am using today will be on the record in *Hansard* for ever more and for any future Ministers in my position or, indeed, me to revisit in a few weeks' time.

Amendments 60 and 68 seek to extend the concept of academic freedom to students as well as academic staff. There are long-standing reasons why academic freedom for academic staff is considered so important and particularly worthy of protection under article 10 of the European convention on human rights. Academic freedom for academic staff is a long-standing concept that is already used in legislation—including the Higher Education and Research Act 2017—and is understood in the sector. It has also been considered in an international context. An example is the 1997 UNESCO Recommendation concerning the Status of Higher-Education Teaching Personnel. As is clear from that recommendation's title, academic freedom concerns teaching personnel, not students. Strasbourg case law also confirms that, in determining whether speech has an “academic element”, it is necessary to establish whether the speaker can be considered an academic.

Accordingly, the academic freedom provisions in this Bill are relevant only to those who are academic staff. That will include those who are employees of the provider, but also those staff who do not have employee status. That could include staff who undertake teaching or research as part of an honorary appointment for which they are not paid. Similarly, it will mean that PhD students who teach undergraduates at the provider can be considered to be academic staff for that purpose. However, as I have committed to this morning, I will consider this topic once again.

A first-year undergraduate student would not be considered to have the particular protection afforded by academic freedom. But I reiterate that all those on campus, whether a student, a member of staff, members of the provider or visiting speakers, are nevertheless covered by the freedom of speech duties placed on providers. That is made very clear in the Bill. I hope that Committee members will be reassured by what I have said and understand the rationale behind maintaining that the additional layer of protection for academic freedom should be reserved for academic staff, but I will, as I said, consider this.

3.45 pm

Amendments 47 and 48 relate to the definition of academic freedom, making specific provision regarding opportunities to move to another job or another university and career development. As regards amendment 47, proposed new section A1(8) and (9) of the 2017 Act, in clause 1 of this Bill, already set out a new duty on higher education providers to protect external applicants for academic posts. An external applicant must not be adversely affected because they have previously exercised their academic freedom

to question and test wisdom, or put forward new ideas or controversial or unpopular opinions. It must not be the case that an individual's career journey grinds to a halt because they are seeking new opportunities at another university. Academic freedom is not enough if a person only has it within their own institution.

Equally, as regards amendment 48, proposed new section A1(7)(b) to the Higher Education and Research Act 2017 already sets out a new provision that academic freedom covers not only the risk of losing one's job or privileges—as is currently the case under that Act—but the risk of not securing promotion or another job within one's university. Again, academic freedom is not enough if it only prevents a person from losing their job, and does not allow them to progress their career.

John McDonnell: I apologise to the Minister for interfering again. I want to be absolutely clear about these amendments, though, because at the moment, I am not. She has dealt with amendment 45; could she make it absolutely clear that, even if she will not accept the amendment to include “innovative research” on the face of the Bill, the Bill does encompass protections for innovative research?

With regard to amendment 46, the Minister has made no reference to the protections against Government interference in academic work. Again, it would be helpful to get assurance about that, and if we cannot get that assurance I would urge my hon. Friends to press amendment 49 to a vote, which is about protections enabling members of staff, academics and others to criticise their own institution.

Michelle Donelan: Academic freedom would indeed cover academics' own research; the research of students would be covered by the broader freedom of speech. If it were the Government interfering with an academic's freedom of teaching or research, that would be covered in just the same way as if it were the institution interfering. I hope that reassures the right hon. Member.

I understand the concerns that have been raised today, and I assure Members that it is not our intention to unnecessarily limit the right of academic freedom. I therefore will, as I have already stated, commit to exploring this issue, particularly as regards the field of expertise.

Sir John Hayes: I have heard what the Minister has said. I am not entirely satisfied, although I appreciate her point about taking this issue away and looking at it again. There is a debate to be had about how explicit legislation should be, and there is a case to be made—and the Minister has made it well—that much of what we are asking for is implicit: that freedom of speech is a sufficiently broad term to allow those who will have the power to oversee these matters, particularly the new regulator,

to take into account many of the points that have been made by Members of this Committee. However, I am inclined to the view that we do need to be more explicit in respect of academic freedom, and I am mindful of what the witnesses have told us and Members from both sides of the Chamber have reinforced: that, if there is indeed a climate of fear and a culture of silence given expression by self-censorship, as we heard from Professor Goodwin, Dr Ahmed and others, we need to be crystal clear about the protections that the Bill will afford.

Nevertheless, mindful of the integrity of the Minister and her assurances, I hope she will look at this issue again, and on that basis I am happy to withdraw the amendment that stands in my name in order to facilitate our progress. In doing so, let me just say that I also welcome her assurance about the amendment in the name of my hon. Friend the Member for Congleton in respect of fields of expertise. I do think that “areas of interest”, or some such similar phrase, might be more appropriate, and would deal with some of the points that have been raised by Members. Furthermore—the right hon. Member for Hayes and Harlington knows I have form on this subject—I am very happy to support his remarks about the need to protect employees' interests from employers. My views on that are just as deeply held as his, as he knows from previous exchanges that we have enjoyed. It is important to take that away and think of it afresh, as the Minister has suggested she will. On that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Amendment proposed: 46, in clause 1, page 2, line 14, at end insert—

- “(c) to freely pursue chosen topics for teaching and research without government or institutional interference, and
- (d) to express their opinions in relation to higher education providers, including that at which they are employed.”.—
(*Matt Western.*)

This amendment would expand the definition of academic freedom to encompass an academic's ability to freely pursue chosen topics for teaching and research, free from external interference, and express an opinion in relation to a higher education provider.

Question put, That the amendment be made.

The Committee divided: Ayes 6, Noes 10.

Division No. 5]

AYES

Glendon, Mary	Nichols, Charlotte
Hardy, Emma	Russell-Moyle, Lloyd
McDonnell, rh John	Western, Matt

NOES

Bacon, Gareth	Hayes, rh Sir John
Britcliffe, Sara	Holden, Mr Richard
Bruce, Fiona	Simmonds, David
Buchan, Felicity	Tomlinson, Michael
Donelan, Michelle	Webb, Suzanne

Question accordingly negated.

Amendment proposed: 48, in clause 1, page 2, line 20, at end insert—

- “(c) the denial of a just and open path for career development, including fair procedures for appointment” .—(*Matt Western.*)

This amendment seeks to expand the ways in which an academic cannot be adversely affected due to an exercise of their academic freedom to include the denial of a just and open path for career development

Question put, That the amendment be made.

The Committee divided: Ayes 6, Noes 10.

Division No. 6]

AYES

Glindon, Mary
Hardy, Emma
McDonnell, rh John

Nichols, Charlotte
Russell-Moyle, Lloyd
Western, Matt

NOES

Bacon, Gareth
Britcliffe, Sara
Bruce, Fiona
Buchan, Felicity
Donelan, Michelle

Hayes, rh Sir John
Holden, Mr Richard
Simmonds, David
Tomlinson, Michael
Webb, Suzanne

Question accordingly negated.

Charlotte Nichols: I beg to move amendment 32, in clause 1, page 2, line 20, at end insert—

“(7A) The objective under subsection (2) does not apply to any person or body that—

- (a) has made any statement in public that amounts to the denial of genocide; or
- (b) intends to make any statement that amounts to the denial of genocide within the premises of the provider or to any students of the provider.”

This amendment ensures that the objective of securing freedom of speech within the law does not cover those who make statements that amount to a denial of genocide.

The Chair: With this it will be convenient to discuss the following:

Amendment 69, in clause 1, page 2, line 36, at end insert—

- ““denial of genocide” means the malicious condoning, denying or trivialising of an act of genocide;
- “genocide” has the meaning set out in Article II of the United Nations Convention on the Prevention and Punishment of the Crime of Genocide.”

This amendment defines genocide denial against Article II of the United Nations Convention on the Prevention and Punishment of the Crime of Genocide Amendment 54.

Amendment 33, in clause 1, page 3, line 28, at end insert—

“(2) For the purposes of this section, “freedom of speech” and “academic freedom” do not extend to any statement that amounts to the denial of genocide.”

This amendment ensures that the objective of securing freedom of speech and academic freedom do not cover those who make statements that amount to a denial of genocide.

Amendment 34, in clause 2, page 4, line 13, at end insert—

“(4B) The objective under subsection (2) does not apply to any person or body that—

- (a) has made any statement in public that amounts to the denial of genocide; or
- (b) intends to make any statement that amounts to the denial of genocide within the premises of the students’ union or to any members of the students’ union.”

This amendment ensures that the duty on students’ unions to secure freedom of speech within the law does not cover those who make statements that amount to a denial of genocide.

Charlotte Nichols: It is an honour to serve under your chairmanship, Mrs Cummins. The amendment would make it clear and explicit in the Bill that the legal protections afforded to academics for their freedom of speech would not cover denial of the holocaust or other genocides recognised by the UK Government, namely the subsequent genocides in Rwanda, Darfur, Cambodia and Bosnia.

As I have previously explained, I feel that my concern is justified by the Minister’s comments on the radio about how holocaust denial constitutes lawful free speech, however objectionable everyone in this room would find it. There was a swift back-peddalling on that, with the newly sacked right hon. Member for South Staffordshire (Gavin Williamson) saying in the Chamber that freedom of speech would not protect holocaust deniers. However, I am not sure that assurances will be enough, and that is why it needs to be explicit.

One of the witnesses who came before the Committee, Professor Goodwin, stated that he would invite a speaker to address his students

“from the British National party or the National Front”.—[*Official Report, Higher Education (Freedom of Speech) Public Bill Committee, 13 September 2021; c. 91, Q187.*]

Mr Griffin has a degree from the University of Cambridge, so he could potentially argue that he would be covered by academic freedom when promoting his views. Clearly, this is not an extreme hypothetical; this is someone who has been invited to address a number of universities, including my own, the University of Liverpool. He has also addressed the Cambridge Union society, taking part in a panel debate with Abu Hamza. When we consider the academic rigour of courses and the benefit of what students are being taught, I am not sure that any of us could argue that there was academic rigour in a debate between an Islamic fundamentalist and an out-and-out renowned Nazi. Mr Griffin has engaged in holocaust denial on a number of occasions, including at the trial for his 1998 public order offence, where he said:

“I am well aware that the orthodox opinion is that six million Jews were gassed and cremated and turned into lampshades. Orthodox opinion also once held that the world is flat.”

Over the course of our debates on the Bill, we have heard a lot about the need to challenge certain orthodoxies: that such debate is healthy in an academic setting and improves academic rigour, allows students to develop their critical thinking and debating skills, and so on. However, there must be a limit. Professor Goodwin made it clear that, if the Bill were enacted, he could invite someone such as Nick Griffin on to his campus. That is why it needs to be explicit in the Bill that, if he were to do so and his university provider tried to cancel the event, that is not something for which Mr Griffin would be able to seek damages against the university.

4 pm

Emma Hardy: My hon. Friend is making an absolutely excellent speech. To pre-empt what the Minister will say—“Well, everything is allowed unless it’s unlawful”—I refer back to the evidence given to us by Sunder Katwala, who said:

“Most racist and antisemitic speech does not meet the legal threshold of being unlawful. Intimidation and violence are unlawful, and other forms of stirring up are unlawful, but holocaust denial is not unlawful.”—[*Official Report, Higher Education (Freedom of Speech) Public Bill Committee, 13 September 2021; c. 101, Q209.*]

[Emma Hardy]

So having a definition of allowing speech unless it is unlawful is not enough to stop holocaust denialists coming and speaking at universities.

Charlotte Nichols: I thank my hon. Friend for that really important contribution. As we have heard from a number of witnesses, holocaust denial—as I said, I am sure that everyone present finds it objectionable—is, in fact, lawful free speech that could be protected under the regulations currently in the Bill, unless we ensure that the limitations of free speech and academic freedom are spelled out explicitly on the face of the Bill.

As we have talked about a lot over the past couple of days, it is really important that speakers, academics and students have academic freedom. Clearly, other pieces of legislation that are in place—not least libel law, the limits that are set out in the Prevent duties that universities have to abide by, and the limits set out in the Equality Act 2010—must be read alongside the Bill, but none of those is sufficient to prevent holocaust denial. I am particularly keen to expand the definition of holocaust denial to genocide denial. Just as we not only commemorate the Nazi holocaust of Jews, disabled people, Roma and Sinti, LGBT people, trade unionists and other minority groups within Europe on Holocaust Memorial Day every year, we also commemorate the subsequent genocides in Rwanda, Darfur, Cambodia and Bosnia.

We have spoken about universities trying to appeal not only to a market within the UK, but to a global market. If there are no limitations on free speech, what message would it send to students from places such as Rwanda, Darfur, Cambodia and Bosnia? What would it say to students from Germany, where they have much more robust laws in place to ensure that holocaust denial and denial of other genocides—which is of course a disgusting desecration of all those who lost their lives and who suffered in those genocides—is not perpetuated within higher education institutions? The duty of care that institutions have towards their students is incredibly important, and it is something that we need to ensure is not lost as a result of the unforeseen consequences of passing a Bill that does not have the limitations that I have set out in amendment 32. The following amendments, which are in the name of my hon. Friend the Member for Warwick and Leamington, clarify some of the technical points throughout the Bill to ensure that amendment 32 can stand.

I think that any right-minded person would want to ensure that protections are in place. It is something in which there is a clear public interest, because it is objectionable that universities might have to spend money to fight legal cases against genocide deniers who demand a right to a platform on their campuses. There is also a really important public order point, because when people from the far right are invited to speak on university campuses, there is often, naturally, a reaction from the student body, who protest their presence. Nick Griffin turning up on various campuses over the years has meant skirmishes. Sometimes, such people bring along heavies with them, who will cause problems, start fights with students and make students on that campus fundamentally less safe while they are there. Of course, they are there to radicalise people and bring them round to their far-right cause. They are there to recruit,

so the idea that it is an academic exercise is for the birds—these are people coming on to campuses to radicalise young people.

We expect a vote shortly and we want to discuss a lot of other things, but I want to ensure that the amendment is given proper consideration and that those safeguards are put in the Bill to make sure that the well-meaning, I am sure, assurances of the Government do not turn out to be meaningless in effect.

Matt Western: Briefly, I thank my hon. Friend for her clear and considered speech in support of the amendments, some of which are in my name, given that we were not entirely sure how they would fall over the four days of the Committee.

In the evidence sessions and on Second Reading, we heard just how concerned people are. My hon. Friend the Member for Kingston upon Hull West and Hessle mentioned the evidence given by Sunder Katwala, but I am think too of the moving comments by my hon. Friend the Member for Leeds North West (Alex Sobel) about his experience at Leeds University and the prospect of having the likes of David Irving or Nick Griffin coming on to campus to speak. I will also just pick up on the point made by Professor Whittle:

“If, for example, somebody who clearly denies the holocaust wishes to speak at a university, I would think that was not acceptable. There are certain historical facts that are sacrosanct and you cannot say that they do not exist, unless you have extremely good evidence to the alternative.”—[*Official Report, Higher Education (Freedom of Speech) Public Bill Committee, 7 September 2021; c. 39, Q73.*]

The amendment seeks to draw a line under the question, what constitutes reprehensible but lawful speech that is inimical to academic freedom? I cannot see any academic benefit to denying any genocide, and it would do great harm to an academic were such views espoused on campus, as well as to the wider academy, let alone damaging student welfare.

Michelle Donelan: Amendments 32 to 34 and 69, taken together, seek to exempt providers and student unions from the duty to secure freedom of speech of persons who speak or intend to speak to deny genocide. The Government, however, are clear that genocide denial, including denial of the holocaust, is abhorrent and morally reprehensible. The new director will produce extensive guidance to assist universities, further to the points made by hon. Members. That guidance will make it clear that the European Court of Human Rights has held that holocaust denial is not protected speech under article 10 of the European convention on human rights. As such speech is intolerable in a democratic society, and that holocaust denial, even if dressed up as impartial historical research, must be seen—

Emma Hardy: I refer the Minister to the evidence given by Sunder Katwala:

“Comparing the Israeli Government to Nazi Germany, for example, is a lawful position that we wish to stigmatise.”—[*Official Report, Higher Education (Freedom of Speech) Public Bill Committee, 13 September 2021; c. 102, Q209.*]

He complimented—if that is the right word—the Government on trying to get universities to adopt the International Holocaust Remembrance Alliance definition; likewise, we support that. However, that is still a “lawful

position". What this amendment would do is to make that, even though it is within the law to hold those opinions, we do not want them in our universities.

Michelle Donelan: If the hon. Member will forgive me, I will carry on and respond to her point regarding the balancing act that universities will perform.

Holocaust deniers often have clear links with neo-Nazi extremism, and with antisemitic violence and intimidation. As I said on the Floor of the House, the Government are clear that there is no place in our universities for an extremist view that is a complete work of fiction and one that grotesquely seeks to misrepresent our global history.

Let me once again be clear that nothing in the Bill encourages providers or student unions to invite speakers who have denied or deny genocide. The Bill will not give anyone the right to a platform, and on that I am categorical.

Charlotte Nichols: As we have heard about the broad range of individuals and organisations covered by the Bill, any student society that sought to invite a holocaust denier or genocide denier on to campus could technically have protection under the Bill as drafted. For example, if a free speech society wishes to test the absolute limits of what its university would tolerate regarding free speech and decided, as the Oxford Union did, to invite Abu Hamza and Nick Griffin along, I think it would be irresponsible of the university to allow such events to go ahead. There is nothing to say that the university has to invite them, but clearly there is nothing to say that a society or the students union could not invite them, or what would that mean for the university if it chose to intervene accordingly.

Michelle Donelan: Two points are being made. One is about the right to a platform, whereby an individual can, in essence, demand to speak at a university. In no way does the Bill give anyone the right to a platform.

The second point that the hon. Member is referring to is if an individual is invited by a society, a union or a university itself. With regard to that, freedom of speech is not an absolute right; it does not include the right to harass others, or incite people to violence or terrorism. The Bill requires reasonably practicable steps to be taken to secure freedom of speech within the law. That is the crucial point. The Bill is not about unlawful speech.

Lloyd Russell-Moyle: But the Bill does require student unions to allow students to set up societies regardless of their viewpoints; such societies must be able to be registered and cannot be denied. There could be a group of three students—three deluded, holocaust-denying students—and the student union would not be able to deny them an affiliation, according to the Bill, and they would be given a right to speak in the student union. I am just trying to be clear, especially because of the tort element. That is the particular problem here, because that is not in regard to the Office for Students; it is separate to the courts. If there is not a protection here in the Bill, can the Minister give assurances that no group of three students can take a student union to court for tort, for being denied a room to preach genocide denial?

Michelle Donelan: The hon. Member is absolutely incorrect, because universities and student unions will only have to take reasonably practicable steps to ensure that freedom of speech exists. University student unions or other bodies will also have to balance that with the Equality Act, with the public sector equality duty and with the Prevent duty, and also criminal law may apply. This is about balancing competing duties, not about giving primacy to freedom of speech, which was in fact the aim of the Opposition amendment.

Question put, That the amendment be made.

The Committee divided: Ayes 6, Noes 9.

Division No. 7]

AYES

Glendon, Mary
Hardy, Emma
McDonnell, rh John

Nichols, Charlotte
Russell-Moyle, Lloyd
Western, Matt

NOES

Bacon, Gareth
Britcliffe, Sara
Bruce, Fiona
Buchan, Felicity
Donelan, Michelle

Hayes, rh Sir John
Simmonds, David
Tomlinson, Michael
Webb, Suzanne

Question accordingly negated.

Amendment proposed: 69, in clause 1, page 2, line 36, at end insert—

“‘genocide’ has the meaning set out in Article II of the United Nations Convention on the Prevention and Punishment of the Crime of Genocide.”—(*Charlotte Nichols.*)

This amendment defines genocide denial against Article II of the United Nations Convention on the Prevention and Punishment of the Crime of Genocide Amendment 54.

Question put, That the amendment be made.

The Committee divided: Ayes 6, Noes 9.

Division No. 8]

AYES

Glendon, Mary
Hardy, Emma
McDonnell, rh John

Nichols, Charlotte
Russell-Moyle, Lloyd
Western, Matt

NOES

Bacon, Gareth
Britcliffe, Sara
Bruce, Fiona
Buchan, Felicity
Donelan, Michelle

Hayes, rh Sir John
Simmonds, David
Tomlinson, Michael
Webb, Suzanne

Question accordingly negated.

The Chair: I invite Members who have not already done so in this session to declare their interests for the record.

Sir John Hayes: I draw the attention of the Committee and others to my entry in the Register of Members' Interests, which cites my professional connection to the University of Bolton, where I am a professor.

John McDonnell: I register my interest as an honorary fellow of Birkbeck College, and my wife is a tutor at University College London.

David Simmonds (Ruislip, Northwood and Pinner) (Con): Similarly, I am an honorary fellow of Birkbeck.

Lloyd Russell-Moyle: I have a professional connection with the University of Sussex and the University and College Union, and I am a trustee of the University of Bradford union.

Matt Western: I wish to register that my wife works at a particular higher education provider.

Emma Hardy: Again, my partner works at the University of Hull's degree apprenticeship course.

Ordered, That further consideration be now adjourned.
—(*Michael Tomlinson.*)

4.17 pm

Adjourned till tomorrow at half-past Eleven o'clock.

Written evidence reported to the House

HEFSB20 Office of the Independent Adjudicator for
Higher Education

HEFSB21 Professor Dennis Hayes, Director, Academics
For Academic Freedom

HEFSB22 Dr David Merry, a research fellow at the
university of Nottingham

