

Academic Freedom and the Future of Catholic Universities in Australia: Some Notes from ACU

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This article examines the challenges for preserving academic freedom and religious identity in Catholic universities in Australia, using a series of recent controversies at the Australian Catholic University (ACU) as a case study. ACU's problems once again highlight a fundamental tension between the expression of Catholic identity and the obligations of publicly funded institutions in pluralistic democratic societies. Debates about how to reconcile Catholic identity with open intellectual inquiry have been ongoing since the 1850s. However, contemporary challenges supersede arguments first raised in the 1960s which presume a binary between episcopal control and secular autonomy. The ACU case reflects the increasingly complex stakeholder landscape of a modern Catholic university, including the growth of competing claims to define Catholic identity, the subordination of mission to market imperatives, and multiple frameworks for governance and compliance. The article suggests that Catholic universities ought not to be able to claim full autonomy over institutional character if they are in receipt of substantial public funding and it advocates for more transparent governance mechanisms that balance competing stakeholder interests without privileging any one of them.

I. INTRODUCTION

When 90%+ of graduation attendees walked out of the Australian Catholic University's graduation ceremony in Melbourne in October 2024, they dramatised a fundamental question facing Catholic higher education worldwide: who determines authentic Catholic identity in a pluralistic democratic society? This issue, inseparable from questions of intellectual freedom, has dominated academic discourse about Catholic universities since at least the 1960s (and perhaps for a lot longer). Academics argue that Catholic identity cannot be reduced to simple episcopal diktat and that it must instead reflect the complex interplay between theological tradition, academic inquiry, and contemporary social engagement. This article nevertheless deconstructs elements of that scholarly consensus, using the examples of recent controversy at the Australian Catholic University to explain what is at stake in the contest to define Catholic university identity in the 2020s. A traditional binary between episcopal control and secular autonomy is clearly inadequate for contemporary institutions where the expansion of public funding has led to a diversification of stakeholders. Such institutions require new and transparent governance frameworks that balance the competing stakeholders so that they protect both academic freedom and authentic Catholic engagement without privileging any single interpretation of what it is to be Catholic.

II. CONTEXT: TOWARDS A PLURALISTIC CATHOLIC IDENTITY

The question of what constitutes authentic Catholic identity in higher education has evolved dramatically since John Henry Newman's seminal *Idea of the University* (1852), which first

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articulated a vision for Catholic liberal arts education in the mid-nineteenth century.¹ Newman envisioned a university where religious conviction would enhance rather than constrain scholarship—and he did his best to realise this vision through the Catholic University of Ireland (of which he was the founding Rector).² Critics like George Bernard Shaw quipped that ‘a Catholic University is a contradiction in terms’ and later tried to highlight a persistent tension between institutional religious commitments and academic freedom.³ However, only when the Second Vatican Council’s spirit of ‘openness’ and inquiry began to permeate Catholic university campuses in the 1960s were decisive actions to resolve this tension taken by university faculty or administrations.⁴ Neil McCluskey’s well-known *Land O’Lakes Statement* (1967), the first and one of the most influential of these attempts, set out principles for independent Catholic intellectual inquiry in university contexts.⁵ It responded to a severe case of theological censorship of professors at St John’s University, New York, in 1965, and was followed by the 1972 document *The Catholic University in the Modern World* (endorsed by the International Federation of Catholic Universities).⁶ Most Catholic Universities in the United States had by then established new boards of trustees independent of ecclesiastical authority, which were intended to guarantee their intellectual independence.⁷ The Vatican eventually developed its own provisions in the 1983 Code of Canon Law and via the Apostolic Constitution *Ex corde Ecclesiae* (1990), sometimes now seen as a rebuke to universities’ rejection of ecclesiastical oversight.⁸ The Code of Canon Law and *Ex corde Ecclesiae* both reassert the Church hierarchy’s right to regulate Catholic universities, at least when they retain the word ‘Catholic’ in their titles. Pope Paul VI had previously expressed concern that Catholic universities under independent boards of trustees might not be willing or capable of ensuring that their faculties taught theological orthodoxies.⁹ The matter has remained important to the hierarchy not least because many faculty at Catholic universities are still members of religious orders (e.g., Jesuits). They therefore remain subject to spiritual discipline even in vocational roles.

Ex corde Ecclesiae states that bishops have ‘the right and duty to watch over the preservation and strengthening of their Catholic character’ and that ‘[i]f problems should arise concerning this Catholic character, the local Bishop is to take the initiatives necessary to resolve the matter, working with the competent university authorities in accordance with established procedures

¹ John Henry Newman, *The Idea of the University* (University of Notre Dame Press, 1990).

² Colin Barr, *Paul Cullen, John Henry Newman, and the Catholic University of Ireland, 1845–1865* (Notre Dame University Press, 2003).

³ Quoted in ‘Education: God & Man at Notre Dame’, *Time Magazine* (online, 9 February 1962) <<https://time.com/archive/6871405/education-god-man-at-notre-dame/>> [accessed 2 August 2025].

⁴ Gerald O’Collins, *The Second Vatican Council: Message and Meaning* (Liturgical Press, 2014); John Sullivan, ‘Relative Autonomy and the Catholic University’ in Sean Whittle (ed), *Vatican II and New Thinking about Catholic Education* (Routledge, 2016) 215–35.

⁵ Neil McCluskey, ‘Land O’Lakes Statement’ in Alice Gallin (ed), *American Catholic Higher Education: Essential Documents, 1967–1990* (Notre Dame University Press, 1992) 7–12.

⁶ Luther Carter, ‘Academic Freedom: Lessons from the Crisis at St John’s’ (1966) 154 (3755) *Science* 1428, 1428–30. See also, Charles Curran, *Catholic Higher Education, Theology and Academic Freedom* (University of Notre Dame Press, 1990) 26–111.

⁷ James Jerome Conn, *Catholic Universities in the United States and Ecclesiastical Authority* (Rome: Pontificia Università Gregoriana, 1991) 153–84; Philip Gleason, *Contending with Modernity: Catholic Higher Education in the Twentieth Century* (Oxford University Press, 1995) 305–22.

⁸ John Paul II, ‘Ex corde Ecclesiae’, *The Vatican* (Web Page, 15 August 1990) <https://www.vatican.va/content/john-paul-ii/en/apost_constitutions/documents/hf_jp-ii_apc_15081990_ex-corde-ecclesiae.html> [accessed 1 August 2025]; Gleason (n 7).

⁹ David J. O’Brien, *From the Heart of the American Church: Catholic Higher Education and American Culture* (Orbis Books, 1994) 60.

... and, if necessary, with the help of the Holy See' (Article 5, §2).¹⁰ Canon 808 of the 1983 Code of Canon Law also contains provision for the Vatican to withdraw recognition of a university as Catholic if it does not comply with appropriate principles.¹¹ Catholic scholars since 1967 have nevertheless routinely pushed back against such presumptions.¹² Charles Curran, who was later dismissed by the Catholic University of America as part of a theological dispute, contended that authentic Catholic identity emerges not through compliance with episcopal directives but through intellectual engagement with Church teaching.¹³ Dennis O'Brien developed this idea further, advocating a 'sacramental' model that rejected the Vatican's 'institutional-juridical' approach.¹⁴ He argued for a framework that would respect different kinds of truth—scientific, artistic, and religious—while preserving both ecclesiastical and educational integrity. Most recently, Massimo Faggioli's *Theology and Catholic Higher Education* (2024) has documented threats from both reactionary Catholic tribalism and market-driven metrics (the neoliberal university).¹⁵ Faggioli, like O'Brien, seeks to promote pluralistic approaches that recognise the diversity of Catholic thought and practice.

Unsurprisingly, most of this theorisation of threats to intellectual freedom from the Church's adherence to dogmatic positions on social, as well as theological questions, has been generated in the United States. However, the situation for Catholic universities in Australia differs markedly from the American case across several dimensions. First, Australia has only two Catholic universities: (1) the Australian Catholic University, a multi-campus public university formed through a merger of multiple Catholic further education institutions in 1991; and (2) Notre Dame, a private university that also receives public funding (it currently has Table A status). Second, Australian universities operate within a constitutional framework that lacks the explicit free speech protections of the First Amendment to the United States Constitution, which results in comparatively weaker traditions of intellectual freedom in all spheres. Third, Australian academic culture, even more than American, has become increasingly dominated by a market-driven education model that prioritises revenue generation through tuition fees and research grants over other institutional values.¹⁶ Tensions between academic freedom and a university's wider objectives have been visible in a number of non-Catholic cases, most notoriously *Ridd v James Cook University* (2020) which crystallised debates about academics' rights to intellectual freedom against their obligations not to compromise their institution's broader objectives in their public conduct.¹⁷ The Federal Circuit Court overturned an original

¹⁰ Pope John Paul II, 'Ex corde Ecclesiae', *The Vatican* (Web Page, 15 August 1990) Art 5, §2 <https://www.vatican.va/content/john-paul-ii/en/apost_constitutions/documents/hf_jp-ii_apc_15081990_ex-corde-ecclesiae.html>.

¹¹ 'Nulla studiorum universitas, etsi reapse catholica, titulum seu nomen universitatis catholicae gerat, nisi de consensu competentis auctoritatis ecclesiasticae', 'Codex Iuris Canonici, Liber III', *The Vatican* (Web Page) Can. 808 <https://www.vatican.va/archive/cod-iuris-canonici/latin/documents/cic_liberIII_la.html> [accessed 1 August 2025].

¹² Besides the texts cited in this paragraph, see Gerhart Neimeyer, 'The New Need for the Catholic University' (1975) 37 *Review of Politics* 475; Daniel C. Maguire, 'Can a University be Catholic?' (1988) 74 *Academe* 12; Stephen L. Trainor, 'A Delicate Balance: The Catholic College in America' (2006) 38 *Change: The Magazine of Higher Learning* 14, 14–21; Melanie M. Morey and John J. Piderit, *Catholic Higher Education: A Culture in Crisis* (Oxford University Press, 2010); John M. Breen and Lee J. Strang, 'Academic Freedom and the Catholic University: An Historical Review, A Conceptual Analysis, and a Prescriptive Proposal' (2019) 15 *University of St. Thomas Law Journal* 253.

¹³ Charles E. Curran, 'Academic Freedom: The Catholic University and Catholic Theology' (1980) 66 *Academe* 126.

¹⁴ Dennis O'Brien, *The Idea of a Catholic University* (University of Chicago Press, 2002) 146–63, esp. 160–63.

¹⁵ Massimo Faggioli, *Theology and Catholic Higher Education: Beyond Our Identity Crisis* (Orbis Books, 2024).

¹⁶ Hannah Forsyth, *The Modern Australian University* (University of New South Wales Press, 2014); Simon Marginson, *Education and Public Policy in Australia* (Cambridge University Press, 2011).

¹⁷ *Ridd v James Cook University* (2021) 274 CLR 495.

judgment in favour of Dr Ridd. However, its verdict also established that employers cannot use general reputational concerns to suppress academic speech protected by enterprise agreements.¹⁸ Some leading Australian legal scholars have argued that the court's decision to prioritise an internal university code of conduct over intellectual freedom rights may have negative consequences for Australian universities.¹⁹

The question of academic freedom in Catholic universities in Australia has been raised, and has become urgent, in the past two to three years, in part because contemporary higher education is witnessing unprecedented challenges in the exercise of free speech everywhere.²⁰ It also, however, stems from a series of specific events which made ACU a focal point for discussion about the ongoing intellectual-ecclesiastical balance.²¹ Four incidents occurred in rapid succession and they raised fundamental questions about ACU's commitment to intellectual openness, as well as about how far episcopal influence penetrates its governance. An initial controversy in March 2023 concerned a prohibition against displaying the Pride Flag on campus.²² A second incident, the sudden closure of the Dianoia Institute of Philosophy in October 2023 and the simultaneous redundancy of dozens of other staff in the Humanities, soon led to considerable scrutiny of how ACU was interpreting its Catholic mission.²³ A third incident, the appointment of Professor Kate Galloway, a prominent advocate for abortion rights, as Dean of the Law School—and then her near immediate reassignment, seemed to many to illustrate starkly how external political positions could override academic qualifications in senior appointments at a Catholic institution.²⁴ Finally, a fourth incident (that referred to in this article's opening paragraph) took place on 21 October 2024. Former union leader Joe de Bruyn delivered a speech at a graduation ceremony in which he denounced abortion as 'the single biggest killer of human beings in the world, greater than the human toll

¹⁸ Ibid, paras 5, 24, 47, 51.

¹⁹ Adrienne Stone, 'The Meaning of Academic Freedom: The Significance of *Ridd v James Cook University*' (2021) 43 *Sydney Law Review* 241, 241–58. The Federal Circuit Court's decision was confirmed on appeal by the High Court. See Joshua Forrest and Adrienne Stone, 'The High Court's Defence of Academic Freedom in *Ridd vs JCU*', *Australian Public Law* (Blog, 17 November 2021) <<https://www.auspublaw.org/blog/2021/11/the-high-courts-defence-of-academic-freedom-in-ridd-v-jcu>> [accessed 8 December 2025].

²⁰ Neal H. Hutchens and Frank Fernandez, 'Academic Freedom as a Professional, Constitutional, and Human Right: Contemporary Challenges and Directions for Research' in Laura W. Perna (ed), *Higher Education: Handbook of Theory and Research* (Springer, 2023) 149; Michael Ignatieff, 'The Geopolitics of Academic Freedom: Universities, Democracy & the Authoritarian Challenge' (2024) 153 *Daedalus* 194, 194–206.

²¹ See e.g. John Ross, 'How Catholic should a Catholic University be?', *Times Higher Education Supplement* (online, 26 February 2025) <<https://www.timeshighereducation.com/depth/how-catholic-should-catholic-university-be>> [accessed 1 August 2025].

²² Lucy Carroll and Christopher Harris, 'ACU orders staff to remove public display of rainbow flags', *Sydney Morning Herald* (online, 15 March 2023) <<https://www.smh.com.au/national/nsw/university-orders-staff-to-remove-public-display-of-rainbow-flags-20230315-p5csaa.html>> [accessed 1 August 2025].

²³ Hannah Forsyth, 'Solidarity but only among managers, or the Future of the University Sector', *Overland* (Web Page, 25 September 2023) <<https://overland.org.au/2023/09/solidarity-but-only-among-managers-or-the-future-of-the-university-sector/>> [accessed 5 August 2025]; Kate Fullagar, 'Reflections on the Hunger Games' (2024) 21 *History Australia* 534, 534–37; Justin Weinberg, 'ACU proposes closing Dianoia Institute', *Daily Nous* (online, 16 September 2023) <<https://dailynous.com/2023/09/16/acu-proposes-closing-dianoia-institute/>> [accessed 1 August 2025]; Sherryn Groch, 'ACU facing redundancy despite rocketing up university rankings', *Sydney Morning Herald* (online, 24 September 2023) <<https://www.smh.com.au/education/an-australian-university-headhunted-them-from-oxford-cambridge-and-yale-now-they-face-redundancy-20230915-p5e4y7.html#:~:text=Last%20week%2C%20ACU%20stunned%20staff,in%20its%20signature%20theology%20studies>> [accessed 1 August 2025].

²⁴ John Ross, 'Catholic university pays A\$1.1 million to abortion row dean', *Times Higher Education Supplement* (online, 26 August 2024) <<https://www.timeshighereducation.com/news/catholic-university-pays-a-1-1-million-abortion-row-law-dean>> [accessed 1 August 2025].

of World War II' and declared that same-sex marriage contradicted 'every society on Earth'.²⁵ Most students, staff, and family members walked out of the Melbourne Convention Centre.²⁶ The university subsequently offered full refunds of graduation fees to affected students and provided free counselling services. It also, however, defended de Bruyn's right to express his personal beliefs.²⁷

III. AN INSTITUTIONAL IDENTITY CRISIS

The incidents afflicting ACU suggest that the university is struggling to define its Catholic character in a pluralistic academic environment—and also, that its senior leadership engages in reactive crisis management rather than the proactive implementation of clear principles that would govern the relationship between Catholic teaching and academic freedom. The four incidents stemmed from different sources and they reflect the unusual breadth of stakeholders who now profess an interest in shaping ACU's values and identity. ACU's stakeholders include not only students and staff (both faculty and management) but also the Catholic Church, which retains ownership rights in the university (its public status notwithstanding). The Church is represented on the university's senior committees by leading members of its Australian hierarchy (archbishops, bishops, provincial leaders of religious orders, etc).²⁸ Staff and students clearly often hold to very different interpretations of Catholic values from these ecclesiastical stakeholders. In fact, many who were responsible for the campaign to display the Pride Flag on campus would appear to have sought to assert their own liberal values at the expense not only of Catholic social teaching but also of a policy of institutional neutrality. The redundancies of many Humanities academics and the brevity of Professor Galloway's tenure as Law School Dean on the other hand were (or have been reported as being) management-initiated actions which show the senior leadership's very different interpretation of values again. The management's own 'Change Plan' (a paper outlining and justifying a proposed restructure) argued that the university had to adapt to changing circumstances, reducing staff capacity where student recruitment was insufficient to sustain research culture and growing it in 'areas of contemporary significance and strategic priority' (i.e. where opportunities existed to expand student revenues).²⁹ It made no comment on the impacts of such changes on Catholic identity and mission, although the areas where cuts were to be made have traditionally been seen as central to those things.

²⁵ Caitlin Cassidy, 'Former union head Joe de Bruyn's speech condemning abortion and same-sex marriage sparks walkout at Catholic university', *The Guardian* (online, 22 October 2024) <<https://www.theguardian.com/australia-news/2024/oct/22/joe-de-bruyn-speech-acu-walkouts-abortion-same-sex-marriage-ntwnfb>> [accessed 1 August 2025].

²⁶ 'Anti-abortion speech by former union boss sparks mass walkout at Australian Catholic University graduation', *ABC News* (online, 22 October 2024) <<https://www.abc.net.au/news/2024-10-22/acu-melbourne-student-walkout-over-anti-abortion-speech/104500510>> [accessed 1 August 2024]. The text of De Bruyn's speech is available here: <<https://melbournecatholic.org/news/joe-de-bruyns-acu-graduation-speech>>.

²⁷ Caitlin Cassidy, 'ACU to reimburse attenders and offer counselling after Joe de Bruyn's anti-same-sex marriage speech', *The Guardian* (online, 23 October 2024) <<https://www.theguardian.com/australia-news/2024/oct/23/joe-de-bruyn-anu-speech-same-sex-marriage-tickets-reimbursed-ntwnfb#:~:text=In%20a%20statement%2C%20the%20ACU,experience%20for%20many%20who%20attended%20>> [accessed 1 August 2025].

²⁸ 'Leadership and governance', *Australian Catholic University* (Web Page) <<https://www.acu.edu.au/about-acu/leadership-and-governance/governance/corporation>>; 'Senate', *Australian Catholic University* (Web Page) <<https://www.acu.edu.au/about-acu/leadership-and-governance/governance/senate>>; 'Constitution', <<https://policy.acu.edu.au/download.php?associated=1&id=192>> [accessed 1 August 2025].

²⁹ Australian Catholic University, *Academic Draft Change Management Plan* (12 September 2023) 2–3.

ACU's difficulty in defining its Catholic character has certainly been exacerbated by local factors. However, it also, in fact, reflects a more fundamental pair of quandaries faced by all Catholic institutions: what constitutes 'Catholic identity' and who has the authority to define it? These problems are worth discussing in historical context in order to create a framework for understanding recent difficulties. The Catholic Church's traditional position is that bishops determine orthodoxy, which is Catholic identity's key component.³⁰ However, the sheer complexity of the Church's approach to social teaching and dogma ('teachings', 'beliefs', or 'values') has always impeded any straightforward assertion of episcopal authority in this area. Councils (i.e., gathered assemblies of bishops rather than individual bishops) served as the most effective formulating bodies in the Early Church, yet they were frequently subject to secular interference by Emperors and, in the Middle Ages, were superseded by papal claims.³¹ Much of the Church's history can be understood as a story of ongoing tensions between competing presumptions to arbitrate the acceptable limits in relevant areas of teaching or the assertion of Catholic character. Tensions between popes, bishops, and theologians reached a modern climax at the First Vatican Council (1869–70), a body that declared that the pope could make infallible statements when speaking *ex cathedra*.³² Popes have exercised this power of pronouncement only once post 1870—and their very reticence to use the power contradicts the notion of it as settled teaching.³³ Catholic historians continue to dispute the presumption that Catholic values exist (indeed, can exist) outside of specific contexts—and nowhere has their changing nature been more apparent than in precisely those areas of contention that sparked the ACU incidents. For most of the Church's history, abortion (for instance) was not synonymous with murder, as the Church treats it today, because medieval theologians, under Aristotle's influence, understood the 'animation' sequence of the foetus quite differently.³⁴ Ecclesiastical attitudes toward homosexuality have similarly varied over time, being radically altered by an eleventh-century 'clerical celibacy' movement whose leaders were the first to denounce 'sodomy' as a special category of sin.³⁵

One conclusion which surely follows from this historical analysis is that legislators and policymakers need not recognise any source of authority (intellectual or juridical) as having a clear-cut or universally acknowledged right to determine or limit Catholic identity. The Vatican might be thought to hold such authority—indeed, this is implicitly the claim put forward by *Ex corde Ecclesiae*—and yet the pope's actual control over local Churches within the Catholic Communion has always been quite limited. Local bishops and metropolitans exercise autonomy over a wide range of matters including education. Governments therefore need not feel themselves obligated to accept Vatican statements, which are in any case the pronouncements of a foreign state (the Australian Government has long exercised vigilance regarding threats of foreign influence over higher education research, including on intellectual

³⁰ John Gilchrist, 'The Office of Bishop in the Middle Ages' (1971) 39 *Tijdschrift voor Rechtsgeschiedenis* 85, 85–101.

³¹ Ramsey MacMullen, *Voting about God in Early Church Councils* (Yale University Press, 2006); Kenneth Pennington, *Pope and Bishops: The Papal Monarchy in the Twelfth and Thirteenth Centuries* (University of Pennsylvania Press, 1984).

³² Christian Washburn, 'The First Vatican Council, Archbishop Henry Manning, and Papal Infallibility' (2016) 102 *Catholic Historical Review* 712, 712–45; John O'Malley, *Vatican I: The Council and the Making of the Ultramontane Church* (Belknap Press, 2019).

³³ Anton Houtepen, 'Modernity and the Crisis of Spiritual Authority in the Nineteenth Century. The Case of Papal Infallibility' in Judith Frishman, Willemien Otten, and Gerard Rouwhorst (eds), *Religious Identity and the Problem of Historical Foundation* (Brill, 2004) 95, 109.

³⁴ Stefania Tutino, *Uncertainty in Post-Reformation Catholicism: A History of Probabilism* (Oxford University Press, 2018) 326–50.

³⁵ Mark D. Jordan, *The Invention of Sodomy in Christian Theology* (University of Chicago Press, 1997).

freedom grounds). Some of the arguments concerning state sovereignty also, in fact, still apply in the case of local bishops: the state has no need to grant extensive rights over institutions dependent on public funds to them when they are private third parties. Furthermore, why should the state necessarily recognise the view that bishops possess greater authority to determine Catholic identity than lay Catholics do just because bishops themselves claim this? If lay Catholics regard an institution as authentically Catholic, does that not suffice in a secular state whose representatives must arbitrate between competing claimants? Ultimately, a ‘golden handcuffs’ problem also arises here: any institution that accepts substantial public funding cannot exercise full autonomy over its character where to do so would conflict with general non-discrimination principles. Australian case law has not yet addressed explicitly whether accepting Commonwealth funding implicitly limits the ability to discriminate on religious grounds. However, *Bob Jones University v United States* (1983), in which the United States Supreme Court upheld a decision to revoke the university’s tax-exempt status because of its racially discriminatory admissions policies, provides an international parallel.³⁶ Australian constitutional law differs substantially to United States law but it in general provides weaker religious freedom protections (as noted above).

Of course, in many respects, the controversies at ACU have concerned platforms as much as fundamentals, a distinction that illuminates the university’s failure to establish appropriate forums for contentious discussions. The respected Australian Jesuit, and former rector of Newman College at the University of Melbourne, Bill Uren, has articulated this point with particular clarity. Uren argued, in relation to de Bruyn’s graduation speech, that the subjects de Bruyn raised were simply too controversial to be appropriate for a celebratory forum in which those who dissented from his positions had no right of reply.³⁷ A seminar setting where students could engage critically with the arguments presented would have been far more suitable—and would have allowed de Bruyn and others who subscribe to what they identify as ‘traditional’ Catholic positions to articulate and defend their views against informed critique. ACU’s provision of a core curriculum that exposes students to Catholic social teaching could be said to provide precisely this kind of appropriate platform for engaging with contested issues. Its funding of a major research project on the nature of ‘Catholicity’ is also a worthy endeavour in that respect, so long as its participants’ academic independence is upheld.³⁸ De Bruyn cannot be held solely responsible for the broader dysfunction evident at ACU, in part because the choice to honour a figure so well-known for his conservative Catholic positions on social issues suggests a calculated attempt to regain the confidence of those alienated following Professor Galloway’s appointment. ACU’s alleged unwillingness to permit Professor Galloway to maintain private opinions on abortion independent of her professional role in the Law School might also be thought to indicate a worrying inability to adopt principled approaches to the separation of personal conviction and academic responsibility. Some Humanities academics targeted in the 2023 cuts have privately speculated whether their willingness to advocate for causes in tension with the interpretation of ‘Catholic values’ espoused by certain other university stakeholders influenced the university’s decision to target them for redundancy.

³⁶ *Bob Jones University v United States*, 461 U.S. 574 (1983).

³⁷ Bill Uren, ‘A controversial graduation address’, *Eureka Street* 34(24) (Article, 11 December 2024): <<https://www.eurekastreet.com.au/article/a-controversial-graduation-address>> [accessed 1 August 2025].

³⁸ ‘Major international project to reconstruct Catholic theologies for the 21st Century’, *Australian Catholic University* (Article, 12 July 2021) <<https://www.acu.edu.au/about-acu/news/2021/july/major-international-project-to-reconstruct-catholic-theologies-for-the-21st-century>> [accessed 8 December 2025].

IV. CATHOLIC IDENTITY IN THE NEOLIBERAL UNIVERSITY

A further question relevant to ACU's example, and its challenges in safeguarding academic freedom, relates to how Catholic universities ought to maintain their distinctive identity within the contemporary neoliberal higher education sector. The neoliberal university model emerged in the 1980s from a premise that the university's primary function was to enhance corporate competitiveness within a global knowledge-based economy.³⁹ This premise has fundamentally reshaped institutional priorities and academic culture across all Anglosphere universities over a generation or more. In practical terms, it has meant course structures, content, and pedagogy have privileged immediate workplace integration over critical or 'blue sky' thinking (a philosophy encapsulated in Australia by the governmental emphasis on producing 'jobs ready graduates'). This market-oriented approach has also frequently required universities to assume greater financial independence from government support, collecting fees from students who are now expected to bear the full economic cost of their education (a policy justified on the assumption that higher education represents an individual investment that yields subsequent economic returns). The neoliberal model has faced—and continues to face—substantial criticism from those who argue that higher education should not merely serve corporate needs and/or that students should be allowed to engage with ideas for their intrinsic rather than instrumental value.⁴⁰ Critics further contend that universities cannot function as authentically capitalist enterprises since they operate outside genuine competitive market conditions: their established status hierarchies create inherently anti-competitive environments, and they lack owners who would seek profit maximisation. University leaderships typically measure institutional success not through conventional business metrics such as profitability but rather through bureaucratic ones such as revenue scale or enrolment numbers. This also negates the market comparison.

For Catholic universities, like ACU, these tensions are not just academic. They have become particularly acute because such universities need to navigate not only between (1) market demands for vocational relevance and secular academic expectations for intellectual freedom, but also between (2) both of those things *and* ecclesiastical requirements for doctrinal fidelity. This double constraint makes coherent institutional identity and free intellectual inquiry increasingly difficult to maintain. ACU's various controversial incidents in 2023 and 2024 demonstrate this. Many staff felt that the senior management's eventual decision to give in to staff-student demands over the Pride flag in 2023 owed more to concern about the impact of negative publicity on student recruitment than to any particular principles.⁴¹ The proposal for large-scale redundancies amongst Humanities researchers likewise reflected the ascendancy of economic calculation over academic or Catholic mission in management calculations. In this case a previous opportunistic approach, by which ACU had pursued an expansion strategy in certain disciplines to capitalise on the fact that it was cheap to produce research in them (and also that other Australian universities had retrenched from them), was replaced by a new one when the Australian Government decided to suspend the ERA exercise in 2022.⁴² With

³⁹ Gay Tuchman, *Wannabe U: Inside the Corporate University* (University of Chicago Press, 2009); Stefan Collini, *What are Universities For?* (Penguin, 2012); Christopher Newfield, *The Great Mistake: How We Wrecked Public Universities and How We Can Fix Them* (Johns Hopkins University Press, 2016); Wendy Brown, *Undoing the Demos: Neoliberalism's Stealth Revolution* (Zone Books, 2015).

⁴⁰ Martha Nussbaum, *Not For Profit: Why Democracy Needs the Humanities* (Princeton University Press, 2024).

⁴¹ 'Pride flag win at Australian Catholic University', *3CR Local Radio* (12 May 2023) <<https://www.3cr.org.au/inface/episode/thea-ehre-till-end-night-noah-riseman-pride-flag-win-australian-catholic-university>> [accessed 1 August 2025].

⁴² Donna Lu, 'Academics welcome Australian Research Council overhaul following controversial grant decisions', *The Guardian* (online, 30 August 2022) <<https://www.theguardian.com/australia->

research quality no longer measured by government agencies, what point was there paying for it? The same mindset would appear to have extended to senior appointments, the hiring pattern for which exhibited a preference for candidates with broader sector experience at mainstream universities over those with distinctive Catholic institutional backgrounds or demonstrated commitment to Catholic educational principles. ACU's senior leadership team since 2021 has, in fact, possessed notably limited Catholic credentials, with most administrators having developed their careers within the Australian public rather than in the global Catholic university sector.⁴³

ACU's travails, though they have certainly reflected the tensions between neoliberal philosophies and Catholic identity, have also been affected by other factors—and these need to be acknowledged because they complicate any attempt to assess the link between these two phenomena within the university's evolution. One issue, raised variously, has been the quality of managerial judgment in relation to a series of decisions, both strategic and financial. Reports of serious financial mismanagement at ACU circulated extensively in both Australian and international media in 2023 and 2024. The university reportedly lost over a million dollars through an ill-conceived investment in an online educational company.⁴⁴ It also suffered a downturn in expected revenues from its own bespoke online learning platform ACU Online. Staff morale is reported to have deteriorated in both 2023 and 2024, its effect evident at a town hall meeting with Vice-Chancellor Zlatko Skrbis in Melbourne in September 2023 when Skrbis told the present author and other staff facing redundancy that they should pity him for the personal abuse he had endured as a result of his decision-making. In 2024, *The Australian* newspaper reported that a *Downfall* parody video mocking Skrbis was circulating amongst university staff.⁴⁵ Archbishop of Sydney, Anthony Fisher, resigned from ACU's Committee of Identity in November 2024 following the de Bruyn controversy while also writing to the Vatican's Dicastery for Culture and Education to urge a formal investigation into the university's governance and direction.⁴⁶ This implicit criticism of ACU's senior leadership suggests that Fisher had concluded the balance between market-driven strategy and Catholic identity had become fundamentally problematic and that only external intervention could resolve it. However, the Catholic bishops themselves appear to be divided on these issues. The (now emeritus) Archbishop of Brisbane, Mark Coleridge, was reportedly much more

news/2022/aug/30/academics-welcome-australian-research-council-overhaul-following-controversial-grant-decisions> [accessed 2 August 2025].

⁴³ Miles Pattenden, 'ACU and the demise of the Catholic University', *Catholic Leader* (online, 19 September 2023) This article has been removed from the newspaper's website but remains available: <<https://dailynews.com/wp-content/uploads/2023/09/acu-and-the-demise-of-the-catholic-university-the-catholic-leader.pdf>>.

⁴⁴ 'ACU makes strategic investment in OpenLearning', *Australian Catholic University* (Web Page, 29 November 2019) <<https://www.acu.edu.au/about-acu/news/2019/november/acu-makes-strategic-investment-in-openlearning>> [accessed 31 July 2025]; Yoni Bashan, 'ACU loses millions in failed bet', *The Australian Business Review*, Margin Call Column (online, 5 July 2024) <<https://www.theaustralian.com.au/business/margin-call/acu-loses-millions-in-failed-bet-tara-moriarty-video-bloopers/news-story/bc47b9d0bb4d62cbad50ca0be5e54d7d>> [accessed 13 July 2024].

⁴⁵ Yoni Bashan, 'ACU Chief gets a Downfall', *Australian Business Review*, Margin Call Column (online, 8 July 2024) <<https://www.theaustralian.com.au/business/margin-call/nsw-libs-battling-trust-issues-acu-chief-gets-a-downfall-meme/news-story/38613b1ac2d9a53259c6191d61575d01>> [accessed 1 August 2025].

⁴⁶ Luke Coppen, 'Archbishops urge Vatican probe of Australian Catholic University', *The Pillar* (online, 6 December 2024) <<https://www.pillaratholic.com/p/archbishops-urge-vatican-probe-of>> [accessed 29 July 2025]; Fisher's resignation letter was also leaked to *The Australian* newspaper: 'Australian Catholic University cops a broadside from Sydney Archbishop', *The Australian* (online, 25 November 2024) <<https://www.theaustralian.com.au/business/margin-call/australian-catholic-university-cops-broadside-from-sydney-archbishop-anthony-fisher/news-story/ba38f96b4a8087d3443cb814d9ecd856>> [accessed 6 August 2025].

supportive of ACU management than Fisher and a report in that archdiocese's newspaper *The Catholic Leader* recently lauded ACU's claimed \$73 million budget turnaround.⁴⁷ ACU may be split between a Brisbane faction (which would include Chancellor Martin Daubney) and a Sydney-based one that have formed very different assessments of the situation.⁴⁸ The resignation earlier this year of Sydney-based Dean of Arts Mary Ryan might also be indicative of ongoing tensions.⁴⁹

Fisher's intervention, in fact, raises a further particularly complex question about academic freedom that extends beyond direct university governance: what might be the consequences if a bishop, who holds a role in ACU's governance structure *ex officio*, was to censor an academic in contexts outside their university employment? Given that bishops exercise considerable influence, both formal and informal, over Catholic institutions and media throughout Australia, such scenarios are far from hypothetical. Consider, for instance, what would transpire if a bishop removed an ACU academic's writing from a Catholic newspaper under his diocesan oversight or prevented publication of scholarly work in Catholic journals susceptible to his pressure. The university's enterprise agreement explicitly guarantees academic freedom to its staff, yet the potential for such external censorship means there is a practical gap in its protections which is not considered in *Ridd vs James Cook University*.⁵⁰ The legal and ethical implications of such episcopal intervention would likely depend on several critical factors. If the censorship concerned theological argument that would be one thing. But if it concerned direct criticism of ACU's management or policies, it could reasonably be argued that it constituted an indirect violation of the university's academic freedom commitments, effectively circumventing contractual protections through alternative channels of authority. The situation becomes even more complex when considering whether such censorship would be legally actionable. University enterprise agreements typically govern employment relationships, yet external censorship by institutional stakeholders might fall outside their direct purview, creating potential loopholes in academic freedom protections. The nature of the censored content would significantly influence both the legal standing and moral legitimacy of any episcopal intervention. Censorship of scholarly debate within the academic's area of expertise could represent an even more serious breach of intellectual freedom than restrictions on general political commentary. However, even this distinction could become problematic were a bishop to assert doctrinal authority over academic discourse and thus transform theological arguments into questions of ecclesial obedience rather than intellectual inquiry.

⁴⁷ Joe Higgins, 'ACU makes \$73 million turnaround', *Catholic Leader* (online, 25 May 2025) <<https://catholicleader.com.au/news/acu-makes-73m-turnaround-vice-chancellor-hopeful-for-future-of-sector/>> [accessed 2 August 2025].

⁴⁸ Yoni Bashan, 'ACU told to cheer for its leaders', *Australian Business Review*, Margin Call Column (online, 10 December 2024) <<https://www.theaustralian.com.au/business/margin-call/acu-told-to-cheer-for-its-leaders-twiggys-company-squares-off-against-tudor-jones/news-story/7ee770858fd3c584523abb9c142a68a3>> [accessed 6 August 2025].

⁴⁹ Yoni Bashan, 'Promotion snub sparks another ACU departure', *Australian Business Review*, Margin Call Column (online, 28 April 2025) <<https://www.theaustralian.com.au/business/margin-call/executive-dean-mary-ryan-quits-acu-after-promotion-snob-from-zlatko-skrbis/news-story/8ef6e3264d0c298a2d47f3521c03355e>> [accessed 2 August 2025].

⁵⁰ 'ACU Staff Enterprise Agreement 2022–25: Intellectual Freedom', *Australian Catholic University* (Web Page) Section 1.10 <https://staff.acu.edu.au/people_and_capability/working-here/enterprise-agreements/acu-staff-enterprise-agreement-2022-2025/intellectual-freedom> [accessed 2 August 2025].

V. THE BISHOP WEARS TWO HATS

An important variant case for considering academic freedom in Catholic universities comes with the seminary. Such specialist training colleges for priests present unique challenges for institutional governance and intellectual freedom because they are not universities under either secular jurisdictions or canon law—a distinction Pope Francis emphasised through his promulgation of *Veritatis Gaudium* (2017).⁵¹ Seminaries are sometimes found within, or are affiliated to Catholic universities, a particular circumstance that can create a complex jurisdictional arrangement that blurs the canonical distinction. ACU has offered one such example of an institution (via the Xavier Centre for Theological Formation), but others are found worldwide, including at the Catholic University of America and Holy Apostles College and Seminary (both in the United States), the University of Santo Tomás in the Philippines, and at other locations. Roman universities such as the Pontifical Gregorian University, Pontifical Lateran University, and Pontifical Salesian University also similarly incorporate a role as a centre for priestly formation within one as an institution for wider academic study. *Veritatis Gaudium* articulates a conception of academic freedom that differs fundamentally from secular university norms—and which is not necessarily compatible with broader sector expectations. The framework through which *Veritatis Gaudium* operates subordinates intellectual investigation to ecclesiastical authority. It mandates doctrinal conformity through required canonical missions for theological faculty, establishes Vatican oversight, and creates a detailed mechanism for removing faculty who deviate from orthodox teaching. Such restrictions flow from a theological rather than secular understanding of academic freedom, where conformity with Church teaching becomes a condition of scholarly legitimacy rather than an external constraint on it. Canon 812 of the 1983 Code of Canon Law also requires an individual to teach Catholic theology in accordance with Church doctrine and to hold a formal ecclesiastical authorisation (a *mandatum*) stating that they are doing this from the relevant bishop.

The 1983 Code of Canon Law attempts to distinguish Catholic Universities from Ecclesiastical Universities and Faculties (i.e., seminaries) [Canons 807, 815]. However, Canon 812 would appear to apply to both kinds of institution. The fundamental potential for overlap between these two types of institution creates a significant challenge for Catholic universities such as ACU. Because they incorporate the latter into the former, their leaders must develop practical mechanisms for managing the competing normative frameworks, including with respect to questions of intellectual freedom and obedience. While it does not necessarily seem unreasonable for the Church to require those employed as theologians in seminaries to teach orthodox ideas, the Church has not necessarily limited its claims to this scenario. Moreover, a question still remains as to how to reconcile a restrictive view of what constitutes appropriate academic discourse within such contexts with broader higher education sector norms. And what of the hybrid arrangements? What should be done, for instance, when mixed classes of seminarians and other students are taught? Or what if a faculty member in a seminary or university becomes known for exploring heterodox ideas in research or the public sphere but not in formal classroom teaching? Exactly what counts as a theological discipline is more nebulous than canonical legislation implies. The discipline of Church History, which includes historical theology, is (for instance) essentially unbounded. Should a faculty member in this field be required to point out not only that the Church now views the ideas they are discussing as erroneous but also that they *are* wrong? The potential to compromise scholarly integrity by

⁵¹ Pope Francis, ‘Apostolic Constitution *Veritatis Gaudium*’, *The Vatican* (Web Page, 27 December 2017) <https://www.vatican.va/content/francesco/en/apost_constitutions/documents/papa-francesco_costituzione-ap_20171208_veritatis-gaudium.html> [accessed 1 August 2025].

subordinating analytical objectivity to contemporary doctrinal judgments is substantial—unsurprising, when the objective is to create a form of academic discourse more akin to catechesis than inquiry.⁵² In practice, and perhaps for some of these reasons, enforcement of the requirement for a *mandatum* is not always enforced rigorously where *Ex corde Ecclesiae* applies but not *Veritatis Gaudium* (this has been the case at ACU).

Other parties, such as governments, ought to take an interest in how the 1983 Code of Canon Law, and subsequent Apostolic legislation, impose constraints on academic freedom. Yet what should they do? At one level, the issue might seem minor because Catholic seminaries, and most Catholic universities with seminaries attached, are private institutions operating under ecclesiastical rather than state authority. The state therefore has a more limited obligation to uphold freedom of expression within them. On the other hand, Australia aspires to prohibit discrimination based on religion or philosophical beliefs, a circumstance which could easily be viewed as pertaining if a faculty member were to lose their post for failing to obtain a *mandatum*. *Curran v Catholic University of America* (1986) constitutes an important precedent from the United States where a court did uphold a university's decision to terminate a faculty member's employment following theological disagreement.⁵³ Australian law regarding this issue remains complex, and Churches pressed for exemptions from the proposed Religious Discrimination Bill (2021) on freedom of religion grounds (the government ultimately shelved the bill citing lack of consensus).⁵⁴ However, the state obviously has a more direct interest in the governance and employment practices of a Catholic university that receives substantial public funding (the 'golden handcuffs' issue noted above). In the case of ACU, this heightened interest has already been acknowledged via a confirmation that Australia's Higher Education Regulator (TEQSA) is investigating governance oversight and accountability.⁵⁵ The case of Swiss Catholic priest and theologian at the University of Tübingen Hans Küng offers a further parallel to the Australian situation in these circumstances. Küng was stripped of his ecclesiastical licence to teach Catholic theology after he publicly disputed the doctrine of papal infallibility.⁵⁶ However, for historical reasons, theological faculties in German universities have separate Protestant and Catholic faculties and Küng was able to continue at Tübingen as a faculty member in 'Ecumenical Theology', maintaining his academic career outside direct ecclesiastical control.⁵⁷

A crucial further question when discussing *Veritatis Gaudium* and even *Ex corde Ecclesiae* is this: how far do these documents really limit the actions of neoliberal university administrators? Massimo Faggioli's recent book *Theology and Catholic Higher Education: Beyond Our Identity Crisis* (2024) laments the 'Great Displacement of Theology' on progressive Catholic campuses, documenting a systematic marginalisation of theological education across American Catholic higher education.⁵⁸ Like Anthony Fisher, Faggioli laments that Faculties of Theology

⁵² See O'Brien (n 14) 147–48.

⁵³ Michael Scott Feeley, 'A Historical Account of the Curran Controversy' (1988) 32 *Catholic Lawyer* 1, 1–26.

⁵⁴ Australian Human Rights Institute, 'What is happening with religious discrimination laws in Australia?', *UNSW* (Web Page, 26 March 2024) <<https://www.unsw.edu.au/newsroom/news/2024/03/religious-discrimination-laws-australia>> [accessed 2 August 2025].

⁵⁵ Yoni Bashan, 'Embattled Australian Catholic University under investigation', *The Australian* (online, 25 December 2024) <<https://www.theaustralian.com.au/higher-education/embattled-australian-catholic-university-under-investigation-from-nations-higher-education-regulator/news-story/67677343d48c20c6e2399a77fb7b87ff>> [accessed 6 August 2025].

⁵⁶ John Jay Hughes, 'Hans Küng and the Magisterium' (1980) 41 *Theological Studies* 368, 368–89.

⁵⁷ Hermann Häring, 'Hans Küng' in Ståle Johannes Kristianse and Svein Rise (eds), *Key Theological Thinkers: From Modern to Postmodern* (Routledge, 2013) 379.

⁵⁸ Faggioli (n 15) 1.

have been cut, with traditional obligatory religion courses dropped (some schools, such as Marymount University in Northern Virginia, have eliminated Theology altogether).⁵⁹ Faggioli, unlike Fisher, however, blames both sides: he is against both the reactionary conservatives who want Catholic academic culture and traditions to be ring-fenced from the secular academy but also against the secular-minded administrators whose lack of principle puts Catholic mission at risk. The conflicts between ACU's senior leadership and Archbishop Fisher could certainly be seen as operating within such a paradigm, with each side holding to one of these opposing approaches. In practice, canonical legislation has not proved very effective at curbing the designs of neoliberal administrators. Indeed, a notable feature of ACU's Change Plan was its failure to engage at all with the precepts set out in *Ex corde Ecclesiae* or to understand, or distinguish between, theological disciplines when proposing cuts to faculty. In the event, the Change Plan protected academic areas where the faculty was dominated by Protestant scholars (such as early Christianity and New Testament studies) while cutting those more readily associated with the Catholic intellectual tradition (such as Medieval Studies). Several of ACU's more prominent Catholic staff in the Faculty of Theology left the institution in 2023, or have departed since, whereas many Protestant faculty members have remained. Ironically, this outcome represents not a great victory over Archbishop Fisher—whose conservative vision for what a Catholic university should teach did not align with the scholarly priorities or specialisations of the departing Catholic staff—but simply a significant loss for the kind of Catholic pluralism that Faggioli advocates.

VI. CONCLUSION

The recent crisis at the Australian Catholic University illustrates some of the fundamental challenges that face Catholic higher education institutions worldwide. However, in crisis is also opportunity. ACU and other Catholic universities must consider how they can develop responses to the various problems highlighted in this article: (1) the need for more transparent stakeholder governance models that help them to avoid conflicts of values; (2) the need for platform-distinction policies that separate occasions when institutional values may be appropriately expressed from academic forums where open inquiry must prevail; (3) the need for hiring criteria that value academic excellence without requiring conformity to particular political or theological positions on contested social issues; and (4) the need to foster pluralistic intellectual frameworks that cultivate diversity of authentic Catholic thought while maintaining institutional identity through curricular offerings, research priorities, and community engagement. The Australian government should look to help Catholic universities in Australia make progress in these areas by creating guidelines that build on the Australian Law Reform Commission's 2023 recommendations to distinguish between appropriate preservation of religious character and inappropriate discrimination in publicly funded institutions.⁶⁰ Catholic universities that embrace intellectual pluralism while maintaining religious engagement will prove more sustainable than those that retreat into sectarian isolation or which dissolve into secular indistinguishability.

⁵⁹ 'Marymount University cuts English, several other majors', *Washington Post* (online, 2 February 2023) <<https://www.washingtonpost.com/education/2023/02/24/marymount-university-humanities-majors-eliminated/>> [accessed 1 August 2025].

⁶⁰ Australian Law Reform Commission, *Religious Educational Institutions and Anti-Discrimination Laws: Consultation Paper* (27 January 2023) <<https://www.alrc.gov.au/publication/adl-cp-2023/>> [accessed 4 August 2025].