

## **Kara Wansbury – TLA 2026 1st place winner**

### **Are the concepts of cancel culture and lawful freedom of expression irreconcilable?**

In 1874, collective action in County Mayo, Ireland in response to rising rents and widespread expulsions, embedded the word *boycott* into the English lexicon.<sup>1</sup> The organised economic and social ostracization of Captain Boycott, the estate manager at Lough Mask, functioned as a form of collective disapproval. A century and a half later collective disapproval persists—now in digital form.

The contemporary term for this long-standing practice is ‘cancel culture’, commonly understood as the social or professional backlash directed at individuals for speech or actions perceived as offensive or harmful. It is considered both a mechanism for accountability and an impermissible form of silencing.<sup>2</sup> Stripping away the emotionally charged discourse reveals two recurring forms of cancel culture—ostracization and accountability. Focusing on these forms clarifies the central legal question: where, and if at all, should the legal framework engage with cancel culture, and at what threshold? The answer shows that cancel culture is a form of expression that does not undermine, but rather rests upon, the same foundation Article 10 exists to protect.

Article 10 of the European Convention on Human Rights (ECHR), incorporated into UK law by the Human Rights Act 1998, protects individuals from state restrictions on expression, subject to certain qualifying restrictions.<sup>3</sup> The courts have long made clear that Article 10 protects speech that offends, shocks, or disturbs.<sup>4</sup> Cancel culture, as a form of collective disapproval conducted by individuals, falls within the diverse forms of expression that Article

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<sup>1</sup> Tyler Crogg, ‘Irish Tenant Farmers Stage First “Boycott”’ (EBSCO, 2023) <<https://www.ebsco.com/research-starters/history/irish-tenant-farmers-stage-first-boycott>> accessed 11 January 2026.

<sup>2</sup> Elizabeth-Jane Peatfield, *Free Speech in Contention: An Interdisciplinary Approach* (Palgrave Macmillan 2025).

<sup>3</sup> Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), Article 10; Human Rights Act 1998, s 1.

<sup>4</sup> *Stoll v Switzerland* [2007] ECHR 69698/01, 101.

10 presumes. Expressive acts such as public criticism, social shunning and refusal of association are values judgements and forms of counter-speech. They are not legal violations.

The first form of cancel culture, ostracization—social exclusion, withdrawal of support, or reputational harm—can be harsh but is not unlawful. Life for Captain Boycott was undoubtedly unpleasant during the period of coordinated action against him. He required government assistance to farm the estate-owned land and ultimately left, unable to draw the farmers back or sustain a livelihood. Neither the choice to withdraw support nor its consequences though were unlawful. Contemporary cancel culture operates in much the same way; the boycott of books and merchandise in response to an author's views is not unlawful.<sup>5</sup> Nor is the ongoing professional and personal reputational harm suffered by a senior ex-BBC news presenter.<sup>6</sup>

By contrast, in its second form as a mechanism for accountability, cancel culture addresses transgressions of professional or social norms through demands for explanation, apology, or reform, and is not censorship. It is often the most contested and publicly visible manifestation of cancel culture. Public discourse tends to fixate on the loss of platform—usually by those already privileged enough to have one. It is framed as silencing, where the individual claims an entitlement to continued exposure and characterises collective refusal as a violation of free speech.<sup>7</sup> Often accountability for the original transgressive behaviour is then entirely lost in the ensuing free speech debate.<sup>8</sup>

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<sup>5</sup> Amelia Hansford, 'Activists call out JK Rowling with chalk messages outside Harry Potter and the Cursed Child' (Pink News, 8 January 2026) <<https://www.thepinknews.com/2026/01/08/jk-rowling-trans-chalk-messages-activists-harry-potter/>> accessed 11 January 2026.

<sup>6</sup> 'Timeline: How the Huw Edwards scandal unfolded' (BBC, 16 September 2024) <<https://www.bbc.com/news/articles/c9x8zllw84zo>> accessed 11 January 2026.

<sup>7</sup> Sam Fowles, 'Battle of Ideas: Weaponising the Free Speech Fallacy' in Chris Brown and Graham Handscomb (eds), *The Ideas-Informed Society* (EP 2023).

<sup>8</sup> *ibid.*

Cancel culture is an aggregate of individual moral choices: not watching a television series, unfollowing a newsreader on social media, or choosing a different service provider. These are exercises of individual autonomy and freedom of association, not collective acts requiring legal supervision. A pluralist legal order is premised on the freedom to approve, ignore, or reject ideas and speakers. It cannot and should not extend to policing social disapproval. Any attempt to distinguish 'good' from 'bad' cancellation would require normative moral judgments beyond what the law can decide.<sup>9</sup>

Article 10 does not impose a positive obligation to protect speakers from social consequences. Its function is negative: to restrain state interference with expression as a democratic necessity in a plural, tolerant, and broad-minded society.<sup>10</sup> That limit is decisive. To extend Article 10 to shield speakers from social backlash or to enforce continued platforming where it has been removed would require people to watch, read, associate, or engage against their will. This would overturn the logic of free expression and undermine its democratic foundation—and, with it, the rule of law.

Expression, when weaponised to cause specific legal harm, attracts protection for the victim. Where speech functions as a means of causing such harm or undermining the rights of others, Article 17 (ECHR) is engaged.<sup>11</sup> It operates to ensure that free speech is not used as a shield for conduct that is contrary to established ECHR rights.<sup>12</sup> UK free speech law goes further, drawing a boundary to exclude expression that damages individuals or threatens social cohesion.<sup>13</sup> The legal framework then recognises limits to free expression where it causes harm, though these limits are contested.

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<sup>9</sup> *Redmond-Bate v DPP* [2000] HRLR 249.

<sup>10</sup> Eric Barendt, *Freedom of Speech* (2nd edn, UOP 2007).

<sup>11</sup> ECHR (n 3), Article 17.

<sup>12</sup> *Glimmerveen and Hagenbeek v The Netherlands* (1982) 4 EHRR 260.

<sup>13</sup> Public Order Act 1986, s 18 and ss 29B - 29F Part 3A; Communications Act 2003, s 127; Malicious Communications Act 1988, s 1.

The effects of cancel culture, however, can extend beyond expression. Online campaigns can develop into harassment, sustained intimidation and real-world violence, as seen at Lough Mask. In these circumstances, when legal thresholds are crossed, established laws addressing intimidation, coercion, or other criminal acts are engaged. The law intervenes only where conduct causes harm; the expression itself, even if offensive, remains outside its scope. That is the proper boundary of legal involvement.

Collective disapproval is neither novel nor avoidable; it has long operated as a feature of expressive life. From farmlands in Ireland where withdrawal of support, patronage and association operated in response to conduct that was perceived as unjust, to calls to boycott an author chalked on a pavement in London, people continue to engage in collective disapproval. Cancel culture as a form of expression is not irreconcilable with Article 10; it engages and relies on the same democratic foundation. Moral and value judgments are a defining feature of a pluralist society; however unpleasant and uncomfortable it must be for those on the receiving end of a trending hashtag. These judgements though are not the purview of our legal system. Where their effects cross legal thresholds then the existing framework is engaged to punish hate speech and other criminal acts. The law is well equipped to respond to centuries-old problems in new forms, and whilst the mechanism is new, the social practice is not.

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