

**AIJAC's Submission to the Senate Legal and Constitutional Affairs
Legislation Committee's Inquiry regarding the *Commission of Inquiry into
Antisemitism at Australian Universities Bill 2024***

23 August 2024

The Australia/Israel & Jewish Affairs Council (AIJAC) appreciates the opportunity to make a submission to the Senate Standing Committee on Legal and Constitutional Affairs inquiry established on July 4, 2024, regarding the *Commission of Inquiry into Antisemitism at Australian Universities Bill 2024*.

AIJAC is the premier independent public affairs organisation for the Australian Jewish community and conveys the interests of the Australian Jewish community to government, media and other community organisations.

AIJAC is shocked by the strident manifestations of antisemitism that have pervaded many Australian university campuses since the Hamas terror attack on Israel on October 7, 2023. This phenomenon subverts Australian multiculturalism, threatens the security of Jewish students and their ability to participate freely in academic life and undermines academic freedom, not least by demonstrating the inability or unwillingness of many universities to enforce their own codes of conduct.

AIJAC therefore strongly supports the judicial inquiry proposed in the *Commission of Inquiry into Antisemitism at Australian Universities Bill 2024* and indeed, any and all well-considered efforts to combat antisemitism on Australian university campuses – a phenomenon which frankly has become something of a national crisis over the past 10 months. An inquiry that has the authority of judicial process, power to subpoena witnesses and take evidence in camera, expertise in legal interpretation and independence from political influence is needed. The currently available alternative processes for conducting such an investigation are inadequate.

Antisemitism on Australian University Campuses

Antisemitism is growing at an alarming rate across the tertiary sector in Australia. Furthermore, beyond its intrinsically repugnant nature and the threats that it poses to student safety and wellbeing, we are concerned that antisemitism on campus is also acting to curtail academic freedom.

A few Australian universities, particularly the Universities of Melbourne and of Sydney, have arguably put their institutions' reputations and funding at risk due to apparent breaches of their statutory duties to ensure academic freedoms for their staff and students in research and education. One of the main difficulties in tackling the problem of antisemitism on Australian campuses is the permissive attitude of Australian university senior executive bodies, especially in certain universities, including, in particular, the University of Sydney.

Sydney University is known as Australia's "first" university, the country's oldest, wealthiest and most prestigious. It has therefore provided a prime target for subversion. It was the first university in Australia where a pro-Palestinian

encampment was established, emulating New York City's Columbia University's encampment prototype.¹

Antisemitic activities at the University of Sydney have resulted in restrictions on academic freedom, disruption of classes, display of hate symbols, restriction on freedom of movement, intimidation and abuse, vilification and incitement, and racial discrimination. This has acted as a model for similar situations at numerous other universities, but Sydney's situation has arguably been the most egregious, and therefore is used as the primary example in this submission.

Disruption of Classes

In the first week of semester, an email was sent out to all staff in the University of Sydney's Faculty of Arts and Social Sciences warning them "that there may be attempted disruption of classes in the next few weeks. Although online classes have been specifically mentioned, physical classes may also be targeted," and alerting staff to keep the phone number of protective services handy.

Protesters did interrupt lectures throughout the semester, making announcements about the situation in Gaza. They asked students to raise their hands if they agreed that Israel was committing genocide and filmed them in intimidating fashion either doing so or not.

In an article published on May 16 in the *Australian*, Sydney University's Director of European Studies Peter Morgan described feeling "shaken" after his lecture theatre was "hijacked" by "several masked pro-Palestinian protesters" who refused to leave when asked to.² He said, "The speaker then shouted me down, accusing me of political cowardice and of supporting genocide. He was verging on physical menace. I again insisted, now extremely angry, that they get out of the lecture hall immediately, at which they began to move away, chanting 'for shame'." Professor Morgan told Vice-Chancellor Mark Scott in a complaint letter that the "university has effectively encouraged this behaviour."

In the same article, revealing that the above incident was not an isolated one, the *Australian* also reported that a Jewish psychology lecturer had repeatedly asked a group of protesters to leave, "with the male demonstrator and the female lecturer standing very close to each other and exchanging tense words," with the lecturer subsequently offered security for her ongoing lectures.

Display of Hate Symbols

In late 2023, posters and stickers with pro-Palestinian messaging were ubiquitous across university campuses, in both permitted and non-permitted spaces, stuck up by eco-socialist groups in solidarity with Muslim student groups.

¹ "Our university is scared": Sydney Uni students join wave of US college encampments", Daniella White, *Sydney Morning Herald*, April 24, 2024, <https://www.smh.com.au/national/nsw/our-university-is-scared-sydney-uni-students-join-wave-of-us-college-encampments-20240424-p5fm8r.html>

² "Menacing anti-Semites in fake keffiyehs": University of Sydney professor Peter Morgan with courage his uni is missing", Joanna Panagopoulos, *Australian*, May 16, 2024, <https://www.theaustralian.com.au/higher-education/menacing-antisemites-in-fake-keffiyehs-university-of-sydney-professor-peter-morgan-with-courage-his-uni-is-missing/news-story/0c7a632e63db24ccb72cbfac65f074>

The rhetoric on these posters was violent and called for intifada, a reference to the violent Palestinian riots and terrorism campaign from late 1987-1993 and 2000-2005, as well as weekly rallies, meetings on campus, and protests. Campus authorities were slow to remove the posters in unauthorised spaces, even after having been alerted to their existence by distressed Jewish students and staff, for whom it became a matter of personal safety should they be seen removing the posters themselves.

Sydney University's famed "graffiti tunnel" is today almost entirely coated in the colours of red, black and green, with graphics such as watermelons (the colours of the Palestinian flag) spraypainted all over the walls, surrounded by text including "free Palestine", "Palestinian martyrs", "divest", "Israel does not have the right to exist", "intifada", "occupied tunnel – free Palestine" amongst many others, including the word " Hamas" written in Arabic followed by a heart symbol. The images remained for indeterminate periods of time despite reports made to the University about their presence and assurances by the University they would be removed.

A sign that included a picture of the Israeli flag with the Star of David crossed out in red, was prominently hung in the student encampment before it was taken down. Islamist flags representing the Taliban and Hizb ut-Tahrir, the latter a proscribed terrorist group in a number of countries, have also been seen in several university encampments, and non-student activists affiliated with this openly antisemitic group have been alleged to have played a major role in many of the campus protests.³

Encampments Restricting Freedom of Movement

Occupants of an encampment at the University of Sydney engaged in intimidation of and incitement against Jewish students and staff.

The Gaza Solidarity encampment was set up on the front lawn of Sydney University's Camperdown campus on April 23 in front of the historic sandstone main quadrangle building. The encampment eventually grew to cover almost the entire expanse of the front lawn and featured makeshift tents with their occupants' towels and washing hung out to dry. It was an eyesore and inappropriate.

Those at the pro-Palestine and anti-Israel encampment escalated to attacks on Zionists on campus, who are mainly Jewish (sometimes referred to as "Zios"). Approximately 95% of Australian Jews support the existence and security of the State of Israel, where approximately half the world's Jewish population lives and where many Australian Jews have family and friends (often with close academic ties).

Monash University protest camps also reportedly featured "Zionists not welcome" signs, which would effectively have sought to bar most Jewish students from

³ "Unmasking the extremist group infiltrating pro-Palestine protests," *60 Minutes*, June 16, 2024, <https://www.youtube.com/watch?v=LrCLf57juLs>. For examples of antisemitism from Hizb ut-Tahrir in Australia, see "The hateful rhetoric of Hizb ut-Tahrir Australia" by Ran Porat, *Australia/Israel Review*, October 2020 - <https://aijac.org.au/australia-israel-review/the-hateful-rhetoric-of-hizb-ut-tahrir-australia/>.

campus, though the University did eventually order them removed.⁴ Notable in this context are statements in the judicial order issue following a recent US Court case directly against similar behaviour by protesters at UCLA, in which Judge Mark Scarsi was utterly scathing of the University's failings, describing that as "so unimaginable and so abhorrent to our constitutional guarantee of religious freedom."⁵ While the Australian legal environment is of course different, the moral and democratic force of Judge Scarsi's comments should also be applicable in Australia.

Racial Vilification and Incitement

Chilling chants were heard emanating from university encampments, including "there is only one solution, intifada, revolution," as well as the ubiquitous "from the river to sea, Palestine will be free."

These chants recall the violent and bloody Palestinian terror campaigns of the late-1980s and early 2000s which saw the murder of well over 1,000 Israelis in suicide bombings, shootings, knifings, car rammings and other methods with the intention of terrorising and slaughtering Jewish civilians.

It is notable that both sides of Australian politics agree that the "River to the Sea" chant is extreme and inappropriate, with Prime Minister Antony Albanese agreeing it can be characterised as very violent, and having no place in our community.⁶

These slogans, inappropriate on university campuses, were tolerated by University Administrators, including University of Sydney Vice-Chancellor Mark Scott.

Meanwhile, according to a report in the *Australian*, Sydney University sociology professor Sujatha Fernandes told a class of first year students in April that reports of Hamas' mass rapes on October 7 were "fake news" and a "hoax" and that the media was "distorting" the conflict.⁷ The *Australian* also reported the University's response that it would "look into the matter as a priority". It is not known what action has been taken.

Macquarie University academic Dr Randa Abdel-Fattah and the group "Families for Palestine" organised an excursion for schoolchildren to the University of Sydney to support the encampment, during which she encouraged the children to lead chants

⁴ "University orders removal of 'Zionist not welcome' signs as protests escalate", Paul Sakkal and Alex Crowe, *Sydney Morning Herald*, May 8, 2024, <https://www.smh.com.au/politics/federal/university-orders-removal-of-zionist-not-welcome-signs-as-protests-escalate-20240508-p5gr97.html>

⁵ "UCLA excluding Jews 'unimaginable, abhorrent,' per federal judge", *Jewish News Syndicate*, August 14, 2024, <https://www.jns.org/ucla-excluding-jews-unimaginable-abhorrent-per-federal-judge/>

⁶ "Anthony Albanese labels pro-Palestine chant 'From the river to the sea' a violent statement", Angira Bharadwaj, *Daily Telegraph*, May 8, 2024, <https://www.dailytelegraph.com.au/news/nsw/anthony-albanese-labels-propalestine-chant-from-the-river-to-the-sea-a-violent-statement/news-story/8b4e66e8eb8f2333188a1f356e000268>.

⁷ "Hamas mass rape a 'hoax' and 'fake news', says University of Sydney professor Sujatha Fernandes", Alexi Demetriadi, *Australian*, May 31, 2024, <https://www.theaustralian.com.au/higher-education/hamas-mass-rape-a-hoax-and-fake-news-says-university-of-sydney-professor-sujatha-fernandes/news-story/f2cfb80ee96d1ec6ef419c2215ba53d6>

of “intifada, intifada”, as the *Australian Jewish News* reported⁸. The article also quoted a Sydney University spokesperson who said that the gathering was “in no way an official University of Sydney event, and was led by a speaker who was not from the university,” but failed to condemn the involvement of children in the campus protests. “We have always welcomed the public, including families and their children, onto our iconic campus but parents or carers are responsible for decisions relating to their children and all visitors must abide by the law and our campus access rule” was all the paper quoted the spokesperson stating.

Academic Freedom Restrictions

On March 19, 2024, student protests resulted in a lockdown of the building hosting a student educational exchange fair at the University of Sydney.⁹ Students were prevented from learning about educational opportunities at Tel Aviv University and at other universities and were denied choices of academic courses and offerings there, in clear breach of Sydney University’s statutory obligations relating to academic freedom.

On May 22, while visiting Australia on a speaking tour, Colonel Richard Kemp attempted to engage in civil discourse with students at the University of Sydney encampment but was asked by security to leave the campus.

At the University of Melbourne, on April 11, 2024, protesters shut down a lecture to be delivered by an Israeli professor of aeronautics.¹⁰ A similar cancellation of a guest lecture by an engineer from Amazon occurred due to that company’s supposed collaboration with Israel. University of Melbourne engineering staff and students were prevented from engaging in intellectual inquiry about or discussing research in world class aeronautics and information technology research, in clear breach of the University’s legal obligations.

Racial Discrimination

On May 3, the *Daily Telegraph* reported Vice-Chancellor Mark Scott’s statement that Jewish students would have to deal with feeling “uncomfortable” with the rhetoric heard on campus and which was represented visually in the anti-Israel encampment

⁸ “Vile Hate on Campus”, Carly Adno, *Australian Jewish News*, May 2, 2024, <https://www.australianjewishnews.com/vile-hate-on-campus/>

⁹ Tel Aviv University officials locked in room with pro-Palestine activists at Sydney University after being targeted in protest, Sharri Markson, Sky News Australia, March 25, 2024, <https://www.skynews.com.au/australia-news/politics/tel-aviv-university-officials-locked-in-room-with-propalestine-activists-at-sydney-university-after-being-targeted-in-protest/news-story/9bb009dfb742db104c1a42d9840c4df7>

¹⁰ “University of Melbourne caves into threats as Israeli academic silenced”, Stephen Lunn, *Australian*, April 11, 2024, <https://www.theaustralian.com.au/higher-education/university-of-melbourne-caves-as-israeli-academic-silenced/news-story/98e35ca8addaa76437c3d39988ab1e55#:~:text=One%20of%20Australia's%20most%20prestigious,would%20be%20'severely%20disrupted'.&text=8%3A16PMApril%2011%2C%202024.&text=Israeli%20professor%20'cancelled'%20from%20giving%20Melbourne%20Uni%20lecture.>

that was awash with placards highlighting the latest incarnation of the age-old blood-libel; namely, that Israel is committing genocide in Gaza.¹¹

It is difficult to imagine another minority group that the University would urge to simply get used to being made to feel “uncomfortable” in the face of what is conveniently described as “free speech”. This is also despite the appeals made by representative Jewish communal bodies for the University to recognise that such rhetoric is considered “hate speech” by the overwhelming majority of the Jewish community.

Anecdotes from Australian Campuses

The *Australian* reported in March that “A broad section of students and staff at the University of Sydney – many of whom wished to remain anonymous for fear of retribution – say they are hiding their faith as the anti-Israel climate gets hotter.” This included not wearing identifying symbols like the *kippah*, or skullcap. One student alleged in an official complaint that fruit had been thrown at him after the October 7 attack.¹²

An anonymous non-Jewish University of Sydney professor, writing in the *Australian Jewish News* in May, spoke about the atmosphere on campus and said, “I can only imagine how it feels to be a Jewish student on campus. I am not even Jewish and I feel the hostility and threat. I honestly do not think Sydney University is a safe place for Jewish students anymore.” The reason they had to sign the article anonymously was “due to the threats from the toxic culture on campus.”¹³

Zac Morris, vice-president of the Australasian Union of Jewish Students (AUJS), said in May that “Students are afraid to go to class, they’re missing lectures and tutorials. They’re being filmed, followed, intimidated.” Morris said he was disappointed by the University of Sydney’s response after multiple meetings, and criticised rhetoric and posters to “globalise the intifada” and even explicit support for Hamas itself by some far-left groups. “Chanting for intifada is traumatic for us, however it is intended. Jewish students [on] campus have loved ones who were victims of the suicide bombings of the second intifada [in the 2000s],” he said.¹⁴

When University of Sydney students passed a motion supporting “armed resistance” (i.e. terrorism) in August, while rejecting a motion to condemn the actions of Hamas on October 7, Morris said, “Expressing support for the brutal terrorism of October 7

¹¹ “University of Sydney’s Mark Scott takes aim at ‘disastrous’ American response to Palestine protests”, Eilidh Sproul-Mellis, *Daily Telegraph*, May 3, 2024, <https://www.dailytelegraph.com.au/new-south-wales-education/tertiary/university-of-sydneys-mark-scott-takes-aim-at-disastrous-american-response-to-palestine-protests/news-story/7735ead1eb43f020deaeabef27ff4f11>

¹² “Jewish students hiding faith at Sydney University since October 7”, Alexi Demetriadi, *Australian*, March 15, 2024, <https://www.theaustralian.com.au/nation/1/news-story/d6fd3d4f1c555a3fc1a723f84a4ecf19>

¹³ “A pandemic of antisemitism and indifference”, *Australian Jewish News*, May 23, 2024, <https://www.australianjewishnews.com/a-pandemic-of-antisemitism-and-indifference/>

¹⁴ “Amid reports Jewish students in Sydney ‘afraid to go to class’ minister urged to condemn university encampments”, Caitlin Cassidy, *Guardian*, May 7, 2024, <https://www.theguardian.com/australia-news/article/2024/may/07/amid-reports-jewish-students-in-sydney-afraid-to-go-to-class-minister-urged-to-condemn-university-encampments>

as ‘resistance’ is an explicit endorsement of violence. For Jewish students who study and live on campus, that is absolutely terrifying.”¹⁵

Lack of Disciplinary Action

On March 28, 2024, a complaint was made to the University of Sydney’s Vice-Chancellor’s Chief of Staff Darren Goodsir by members of the Australian Academic Alliance Against Antisemitism (5A) at the University of Sydney. The complaint concerned the harmful campus situation. Key issues in the complaint included:

- Encampment activities that are hateful and intimidating
- Hateful posters on campus
- Hate speech on internal electronic discussion boards and all-staff distribution emails
- External professional agitators on campus
- Threats to the safety of Jews on-campus

It was treated as a complaint about student conduct and was passed to the Student Affairs Unit (SAU) under the Student Complaints Procedure. The SAU decided that there was no evidence that the conduct of any specific student breached University policies. The SAU dismissed elements of the complaint made by the University of Sydney 5A staff.

In its outcome letter concerning a complaint about protests during which students chanted the word “intifada”, the University acknowledged that use of the word “intifada” has an inherent link to violence in terrorist acts, and that at times violence and terrorism occurring across the Middle East has been a feature of events that were characterised as intifada, but declined to accept this interpretation in the cultural context of current pro-Palestine protests. It ludicrously asserted that use of the word is more appropriately viewed as an expression of a political stance in connection with pro-Palestinian activism as opposed to being a statement in support of terrorist acts.

Appeasement of Extremism

Sydney University also attempted to negotiate with anti-Israel students from the camp in a move to have the encampment disband. In a shocking display of appeasement and almost total capitulation to extremism, in an email to the University community on May 28, Vice-Chancellor Scott proposed, amongst other things, that the University would:

establish a working group to undertake a comprehensive independent review of our research partnerships,” and “The review would include, but not be restricted to: Analysis of existing University of Sydney institutional defence research ties with a view to maximising transparency of our research contracts, research grant arrangements, and the parties who support our research projects.

The working group would be comprised of representatives from the University’s student, staff and alumni communities, University leadership and independent

¹⁵ “USYD investigating ‘inappropriate’ student conduct”, Carly Adno, *Australian Jewish News*, August 8, 2024, <https://www.australianjewishnews.com/motion-backs-armed-resistance/>.

members, with student representatives of the encampment group being “invited to put forward names of individuals for membership in the working group.” No similar involvement was offered to Jewish student groups – thus giving the protest encampment activists an acknowledged and privileged role in permanently shaping university policies.

Yet this offer was categorically and immediately rejected by the encampment, and it did not disband. In fact, the Students Against War Instagram page stated in its rejection that “Next semester we will step up the fight. This means every classroom, every lecture hall and auditorium, every exam, every free space of the university’s walls, poles and cafes, must be filled with our demands: disclose, divest and cut ties now.” This suggests the problems – and abuse of Jewish students – at Sydney are likely to recur.

On June 5, Scott sent an email announcement to all students and staff that reiterated his appeasement offer. Like the offer on May 28, the renewed offer included the University’s “commitment to reviewing our investment and divestment policies,” and the establishment of a working group that would include a representation of the University’s student, staff and alumni communities, University leadership and independent members, again with student representatives of the encampment group being invited to put forward names of individuals for membership in the working group.

The offer also included a commitment, to disclose, subject “to relevant laws and regulations, including but not limited to confidentiality obligations, national security requirements, and the privacy, health and safety of our staff and students” all “defence- and security-related research activities including research contracts, research grants” and “our investments in defence- and security-related industries.”

Lip Service to Academic Freedom

Correspondence from Vice-Chancellor Scott to staff and students on June 5 defensively claimed that the University of Sydney maintains academic freedom:

We have been steadfast in our commitment to the principles of academic freedom and free speech. The University will therefore continue to support the right of our academics and students to do research, partner with industry and collaborate with people from around the world. Like other Group of Eight universities, we have been clear that we will not meet demands to restrict student exchanges, academic partnerships or institutional relationships.

Nevertheless, the University has not remedied its shutting down of access to information concerning academic exchanges with Tel Aviv University and other universities that were obstructed on March 19. There have since been no presentations by Israeli academics facilitated at the University of Sydney.

What has transpired at the University of Sydney illustrates the general climate of threats to academic freedom and safety and welfare at all Australian universities – which in turn threatens the ability of Jewish students of fully participate freely in Australian campus life.

The Regulatory Environment of Australian Universities

Australian universities operate within a highly complex regulatory environment. Federal and state laws apply to them, some legislated specifically to regulate their academic activities, others applicable generally to them as employers, workplaces, public spaces, speech platforms and community actors.

Federal laws legislated specifically to regulate the academic activities of tertiary education providers include the *Higher Education Support Act* (HES Act) and *Tertiary Education Quality and Standards Agency Act* (TEQSA Act). Federal laws applicable generally to universities as workplaces include the *Racial Discrimination Act 1975* and Australia's *Criminal Code*.

Under the federal TEQSA Act (Section 58), Threshold Standards can be adopted by the Minister to set out requirements that a higher education provider must meet. Among the Threshold Standards are obligations to ensure a 'safe environment is promoted and fostered' (section 2.3.4) and 'an institutional environment in which freedom of speech and academic freedom are upheld and protected' (section 6.4.1). Under the federal HES Act, quality and accountability requirements include that academic freedom requirements be met (section 19.15) and that the higher education provider comply with TEQSA standards.

Under the federal *Criminal Code*, it is prohibited to urge violence against groups (section 80.2A), advocate terrorism (section 80.2C), to display proscribed hate symbols (section 80.2E), or to harass, threaten or distribute violent extremist material via a carriage service (section 474). Cyber-bullying is prohibited under the federal *Online Safety Act* (section 46). Racial vilification is sought to be restrained under civil law provisions in the federal *Racial Discrimination Act 1975*, where vilification is defined as an act that is reasonably likely to "offend, insult, humiliate or intimidate" someone because of their race or ethnicity.

Australian universities are usually constituted under state laws, other than those universities located within Australian federal territories. Generally, a dedicated constitutive law, such as the *University of Sydney Act* enacted by the NSW Parliament, establishes the University and its fundamental structure. Other state laws are generally applicable to universities, including legislation on racial discrimination, racial vilification and equal opportunity, as well as criminal laws.

Under their constitutive legislation, Australian parliaments have delegated sufficient powers to university administrations to enable them to adopt regulatory and policy frameworks to implement each university's academic mission.

University chancellors and councils have statutory and fiduciary duties to oversee key performance indicators and put in place strategies to remedy failures to meet them.

In AIJAC's view, this framework has failed in the wake of the wave of the antisemitism crisis which has impacted universities since October 7, 2023. It is incumbent upon our political representatives to create mechanisms to identify the extent and nature of this failure, discover why it occurred, and consider remedies

which would prevent a continuation or repetition of the antisemitism crisis currently afflicting the Australian tertiary sector.

Governance Failures by Australian University Administrations

It is the contention of AIJAC that several other prominent Australian universities are also non-compliant with TEQSA standards requiring the promotion of a safe environment on campus and to ensure academic freedom. They have declined to take action using the powers available to meet their legal obligations to restrain racial vilification, threats of violence against groups, or distribution of violent, extremist or racist material. They have also failed to fulfil their statutory obligations to ensure a safe environment in which to learn and teach and have failed to protect academic freedom. They have failed to utilise the powers available to them to combat antisemitism.

University administrators might claim that they were forced to choose between campus safety and academic freedom and freedom of expression. However, in many cases, the respective vice-chancellors failed to design, adopt or implement appropriate policies. They failed to acknowledge or to condemn the breaches of academic freedom and campus safety. In each case, they failed to implement existing student and staff codes of conduct by means of disciplinary proceedings and failed to follow up with remedial action.

Most Australian universities have declined to adopt the working definition of antisemitism formulated by the International Holocaust Remembrance Alliance (IHRA) – while others that have adopted it appear to have failed to recognise when examples of antisemitism as set out in the definition have been occurring on their campuses, or take action accordingly.

Even though this definition makes it quite clear that legitimate criticism of Israel is not antisemitic, many academics have unjustifiably argued that the definition restricts free speech, and prevents criticism of Israeli policies toward the Palestinians.

AIJAC has been made aware of multiple occasions on which both students and staff have found that the grievance procedures at most universities proved inadequate. As mentioned above, students are frightened to make formal reports where they must include their names for fear that they will be penalised by their lecturers or targeted by fellow students. When students have reported a grievance, they have found the whole procedure difficult and time consuming. Where action was taken by the university administration, it was often felt that the outcome was unsatisfactory, and did not act as a disincentive for students to engage in antisemitic conduct or public speech.

Why a Judicial Inquiry is Needed

Given the above, AIJAC believes there are no satisfactory alternatives to a judicial inquiry focussed on antisemitism, able to provide a comprehensive picture of the state of antisemitism on University campuses, the responses of university administrations to date, and whether these response fulfill the legal and moral obligations of such administrations, the regulatory framework for universities in this respect, and whether changes to that framework are needed.

The Australian Human Rights Commission inquiry (AHRC) into racism at universities established by the Federal Government earlier this year is inadequate for the reasons explained below, and cannot substitute for an actual judicial inquiry focused exclusively on the antisemitism crisis.

Why an Australian Human Rights Commission Inquiry is Inadequate

The inquiry will comprise a \$2.5 million study into racism at universities. It will address all forms of racism, including antisemitism, Islamophobia and anti-Arab racism, and systemic racist practices against indigenous students and staff. It will investigate “systemic racist practices that limit people’s right to education and progression in employment.” It is due to report in 2026.

This is a broad-brush approach without a specific focus on antisemitism, which will, in all likelihood, fail to address the unique aspects of antisemitism. AHRC has announced it will have “a strong focus on First Nations students and staff” – antisemitism is thus likely to be at best a secondary issue or, at worst, an afterthought.¹⁶ It will be also conducted under the leadership of Race Discrimination Commissioner Giridharan Sivaraman, who has no record on combatting antisemitism and indeed, the AHRC has been widely criticised in the Jewish community for saying next to nothing about the explosive rise in antisemitism in Australia since October 7, 2023.

Another concern is that the Australian Human Rights Commission has no powers to compel vice-chancellors or other administrators to provide evidence.

Advantages of Holding a Judicial Inquiry

There are a number of substantive reasons for holding a judicial inquiry into antisemitism. The *Commission of Inquiry into Antisemitism at Australian Universities Bill 2024* specifies that the *Royal Commissions Act 1902* would apply to the proposed inquiry as if the latter were a Royal Commission. These include the advantages of judicial authority and independence, powers to compel evidence and to take evidence in camera and immunity from defamation suits.

This means that the inquiry would be able to:

- compel evidence as testimony or documents
- call vice chancellors and management to account, and
- hold interviews in camera for staff who fear adverse consequences such as losing jobs.

Furthermore, any evidence provided to the inquiry is privileged, which means that it is immune to threats of defamation proceedings. Nor would the inquiry be restricted in the way that it deals with agencies or employees of the Crown.

¹⁶ “Commission to lead historic anti-racism study into universities”, Australian Human Rights Commission website, 15 May, 2024 - <https://humanrights.gov.au/about/news/commission-lead-historic-anti-racism-study-universities>.

The chair of a commission of inquiry would be an independent federal judge with relevant experience. Preferably this would mean specialist experience in adjudicating matters concerning racism and/or university affairs. He or she would be able to seek assistance from individuals with professional or academic expertise specifically on identifying the varieties, forms and drivers of antisemitism – which all serious experts agree has quite distinct characteristics compared to other forms of racism and ethnic prejudice.

Given all the above, AIJAC believes there are no satisfactory alternatives to a judicial inquiry focussed on antisemitism on Australian campuses if there is to be any serious attempt to tackle this clear and present crisis. As noted above, we believe the goals of such an inquiry should be:

1. To provide a comprehensive picture of the state of antisemitism on university campuses.
2. To assess both the effectiveness of the responses of university administrations to date, and whether these responses fulfill the legal and moral obligations on such administrations.
3. And to review the regulatory framework for universities with respect to antisemitism and other forms of intolerance on university campuses, and whether changes to that framework are required to fulfill the obligations identified in goal #2 above.

AIJAC strongly urges the Committee to recommend the *Commission of Inquiry into Antisemitism at Australian Universities Bill 2024* be passed as essential to dealing with the ongoing antisemitism crisis in this country, and to Australia's ability, as a multicultural democracy, to protect a minority group currently under threat and also maintain the integrity of our vitally important higher education system.

Dr. Colin Rubenstein AM
Executive Director
Australia/Israel & Jewish Affairs Council