

The Senate

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Legal and Constitutional Affairs  
Legislation Committee

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Commission of Inquiry into Antisemitism  
at Australian Universities Bill 2024 (No. 2)

October 2024

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# List of recommendations

## Recommendation 1

**2.258** The committee recommends that, in collaboration with the Tertiary Education Quality and Standards Agency (TEQSA) and the Special Envoy to Combat Antisemitism, all Australian universities urgently review their complaints processes and give effect to any and all changes necessary to ensure these processes are known to and understood by students and staff, and deliver real and meaningful outcomes for complainants.

## Recommendation 2

**2.260** The committee recommends that the Attorney-General immediately refers an inquiry into antisemitism at Australian universities to the Parliamentary Joint Committee on Human Rights.

## Recommendation 3

**2.262** The committee recommends that the Senate does not pass the Bill.



# Acronyms and abbreviations

ACJC	Australian Centre for Jewish Civilisation, Monash University
AGD	Attorney-General's Department
AHRC	Australian Human Rights Commission
AIJAC	Australia/Israel & Jewish Affairs Council
AJA	Australian Jewish Association
ANU	the Australian National University
APAN	Australia Palestine Advocacy Network
AUJS	Australasian Union of Jewish Students
BDS	Boycott, Divestment and Sanctions
the Bill	Commission of Inquiry into Antisemitism at Australian Universities Bill 2024 (No. 2)
the committee	Legal and Constitutional Affairs Legislation Committee
CSG	Community Security Group (Victoria)
ECAJ	Executive Council of Australian Jewry
Go8	Group of Eight
HE	Higher Education
Human Rights Committee	Senate Standing Committee for the Scrutiny of Bills
IHRA	International Holocaust Remembrance Alliance
IHRA definition	IHRA working definition of antisemitism
JCA	Jewish Council of Australia
JCCV	Jewish Community Council of Victoria
JDA	Jerusalem Declaration on Antisemitism
MVM	Muslim Votes Matter
NSO	National Student Ombudsman
NTEU	National Tertiary Education Union
Scrutiny of Bills Committee	Parliamentary Joint Committee on Human Rights
the Study	Respect at Uni: Study into Antisemitism, Islamophobia, Racism and the experience of First Nations people
the Survey	Australian Jewish University Student Experience Survey

TEQSA	Tertiary Education Quality and Standards Agency
TEQSA Act	<i>Tertiary Education Quality and Standards Agency Act 2011</i>
Threshold Standards	<i>Higher Education Standards Framework (Threshold Standards) 2021</i>
UNSW	UNSW Sydney
UPJ	Union for Progressive Judaism
UTS	University of Technology Sydney
ZFA	Zionist Federation of Australia
5A	Australian Academic Alliance Against Antisemitism

# Chapter 1

## Introduction

1.1 On 4 July 2024, the Senate referred the Commission of Inquiry into Antisemitism at Australian Universities Bill 2024 (No. 2) (the Bill) to the Legal and Constitutional Affairs Legislation Committee (the committee) for inquiry and report by 4 October 2024.<sup>1</sup>

### Conduct of the inquiry and acknowledgement

1.2 In accordance with its usual practice, the committee advertised the inquiry on its website and wrote to organisations and individuals, inviting them to make a submission by 23 August 2024. The committee received and published 669 submissions, which are listed at Appendix 1. The committee received 129 short statements (of 250 words or less), of which 13 were published as submissions. The committee also received two form letters: Form letter 1 (46 received in total) and Form letter 2 (2822 received in total).

1.3 The committee held public hearings in Canberra on 17 September 2024 and 20 September 2024. The lists of the witnesses who appeared at the hearings are at Appendix 2.

1.4 The committee thanks those organisations and individuals who made submissions and who gave evidence at the public hearing.

1.5 The committee particularly thanks and acknowledges those who shared their personal stories with the committee.

### Structure and scope of the report

1.6 This report comprises two chapters:

- Chapter 1 provides background information and identifies the Bill's key provisions; and
- Chapter 2 examines the key issues raised in relation to the Bill before setting out the committee's findings and recommendations.

### Note on references

1.7 In this report, references to the *Committee Hansard* are to the proof (that is, uncorrected) transcript. Page numbers may vary between the proof and the official transcript.

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<sup>1</sup> *Journals of the Senate*, No. 119, 4 July 2024, p. 3637.

## Purpose of the Bill

- 1.8 The Bill would establish a commission of inquiry, with Royal Commission-like powers, to inquire into antisemitism at Australian universities, led by a current or former Judge.
- 1.9 It is proposed that the inquiry would ‘examine incidents of antisemitic activity on campus both before and after 7 October 2023’ and in doing so, would ‘consider whether the response of university leaders, regulators, representative organisation and others has been adequate’.<sup>2</sup>
- 1.10 The Bill’s Explanatory Memorandum states the commission of inquiry would have the ‘power to grant privileges and immunities, hear evidence confidentially without witnesses needing to fear reprisals, and be assisted by skilled silks’ with the aim of effectively investigating the rise of antisemitism on university campuses.<sup>3</sup>
- 1.11 In her second reading speech, Senator the Hon Sarah Henderson explained that ‘addressing antisemitism on campus is so important because what happens on campus today sets the tone for the Australia of tomorrow’.<sup>4</sup>

## Background to the inquiry

- 1.12 The Australian Jewish University Experience Survey, released in August 2023, showed that 64 per cent of Jewish university students had experienced antisemitism on campus.<sup>5</sup> The survey also reported that 61 per cent of Jewish university students that complained following an occurrence of antisemitism were not satisfied with the response.<sup>6</sup>
- 1.13 In its 2023 Report on Antisemitism in Australia, the Executive Council of Australian Jewry (ECAJ) reported that 495 anti-Jewish incidents were logged with ECAJ for the period 1 October 2022 to 30 September 2023.<sup>7</sup> The number of incidents in 2023 represented a 3.5 per cent increase from the number of

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<sup>2</sup> Senator the Hon Sarah Henderson, *Senate Hansard*, 25 June 2024, p. 41.

<sup>3</sup> Commission of Inquiry into Antisemitism at Australian Universities Bill 2024 (No. 2), *Explanatory Memorandum*, p. [1].

<sup>4</sup> Senator the Hon Sarah Henderson, *Senate Hansard*, 25 June 2024, p. 39.

<sup>5</sup> Senator the Hon Sarah Henderson, *Senate Hansard*, 25 June 2024, p. 39.

<sup>6</sup> Senator the Hon Sarah Henderson, *Senate Hansard*, 25 June 2024, p. 39.

<sup>7</sup> Executive Council of Australian Jewry (ECAJ), *Report on Antisemitism in Australia 2023*, 31 December 2023, p. 6.

incidents in the previous 12-month period.<sup>8</sup> Overall, from 2013 to 2022, there has been an average of 316 antisemitic incidents logged with ECAJ each year.<sup>9</sup>

- 1.14 In December 2023, ECAJ released provisional statistics on the number of antisemitic incidents logged with ECAJ that October and November. ECAJ reported that 316 antisemitic incidents were logged with ECAJ in October 2023 and 346 in November 2023, a total of 662 incidents during those two months.<sup>10</sup>

### **Key provisions**

- 1.15 The Bill covers the following topics necessary to set up a commission of inquiry: the appointment of the commissioner, matters for inquiry, and procedural and administrative matters relating to the inquiry.

### **Appointment of commissioner**

- 1.16 The Bill would require the minister to appoint a judge, by notifiable instrument, to conduct a commission of inquiry into matters set out in the Bill, make recommendations relating to those matters and report to the minister on such matters and recommendations.<sup>11</sup>
- 1.17 Clause 5 states that only current or former judges of a Supreme Court of a State or Territory, the Federal Circuit and Family Court of Australia, the Federal Court of Australia or the High Court of Australia would be eligible for appointment.<sup>12</sup>

### **Matters for inquiry**

- 1.18 Clause 6 of the Bill proposes a range of matters for the commissioner to investigate as part of their inquiry. These include, but are not limited to:
- the incidence of antisemitic activity on university campuses;
  - the responses to antisemitism on university campuses;
  - steps taken by universities to recognise, understand and reject antisemitism;
  - the adoption and implementation of an appropriate definition of antisemitism such as the International Holocaust Remembrance Alliance (IHRA) definition of antisemitism;
  - the arrangements to deal with antisemitism on campus;
  - the adequacy of arrangements relating to the security and safety of Jewish students, academics, staff and visitors;

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<sup>8</sup> ECAJ, *Report on Antisemitism in Australia 2023*, 31 December 2023, p. 6.

<sup>9</sup> ECAJ, *Report on Antisemitism in Australia 2023*, 31 December 2023, p. 6.

<sup>10</sup> ECAJ, *Preliminary statistics concerning surge in antisemitic incidents following Hamas atrocities in Israel on 7 October 2023*, 15 December 2023, p. 2.

<sup>11</sup> Commission of Inquiry into Antisemitism at Australian Universities Bill 2024 (No. 2), clause 5.

<sup>12</sup> Commission of Inquiry into Antisemitism at Australian Universities Bill 2024 (No. 2), *Explanatory Memorandum*, p. [3].

- steps taken to ensure antisemitic content is not included in courses; and
- the support provided to academics, staff and students experiencing antisemitism on or off campus.<sup>13</sup>

1.19 The commissioner would be required to report on, and make recommendations in relation to, these matters.

### **Procedural and administrative matters**

1.20 The Bill also includes provisions relating to procedural and administrative matters that would establish the operating environment for the commission of inquiry. Such matters include that:

- hearings may be held, with the location and procedure of the hearings to be at the commissioner's discretion;<sup>14</sup>
- the commissioner would not be bound by the rules of evidence;<sup>15</sup>
- the commissioner may be assisted by departmental employees at the agreement of the Secretary;<sup>16</sup>
- the *Royal Commissions Act 1902* would apply as if the commission of inquiry were a Royal Commission, and the commissioner were a member of a Royal Commission;<sup>17</sup> and
- the commission of inquiry would not be bound by the *Privacy Act 1988*,<sup>18</sup> and it would be excluded from the operation of the *Freedom of Information Act 1982*.<sup>19</sup>

1.21 The Bill would also allow the minister to make rules, by legislative instrument, prescribing matters required or permitted to be prescribed by the rules, or matters necessary or convenient to be prescribed for carrying out or giving effect to the Bill.<sup>20</sup>

### **Consideration by other parliamentary committees**

1.22 When examining a bill, the committee takes into account any relevant comments published by the Senate Standing Committee for the Scrutiny of Bills (Scrutiny of Bills Committee) and the Parliamentary Joint Committee on Human Rights (Human Rights Committee).

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<sup>13</sup> Commission of Inquiry into Antisemitism at Australian Universities Bill 2024 (No. 2), clause 6.

<sup>14</sup> Commission of Inquiry into Antisemitism at Australian Universities Bill 2024 (No. 2), clause 7.

<sup>15</sup> Commission of Inquiry into Antisemitism at Australian Universities Bill 2024 (No. 2), clause 8.

<sup>16</sup> Commission of Inquiry into Antisemitism at Australian Universities Bill 2024 (No. 2), clause 9.

<sup>17</sup> Commission of Inquiry into Antisemitism at Australian Universities Bill 2024 (No. 2), clause 11.

<sup>18</sup> Commission of Inquiry into Antisemitism at Australian Universities Bill 2024 (No. 2), clause 12.

<sup>19</sup> Commission of Inquiry into Antisemitism at Australian Universities Bill 2024 (No. 2), clause 14.

<sup>20</sup> Commission of Inquiry into Antisemitism at Australian Universities Bill 2024 (No. 2), clause 15.

- 1.23 The Scrutiny of Bills Committee examined the Bill and noted there may be concerns in relation to two matters: the appropriate review of decisions in relation to procedural fairness, and undue trespass on personal rights and liberties in relation to significant penalties and in relation to privacy.<sup>21</sup>
- 1.24 The Human Rights Committee examined the Bill and noted that as the Bill is intended to prevent antisemitism, it 'may promote a number of human rights'.<sup>22</sup> Additionally, it noted that rights may be limited 'to the extent that the Bill applies the powers in the *Royal Commissions Act 1902*'.<sup>23</sup>

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<sup>21</sup> Senate Standing Committee for the Scrutiny of Bills, *Scrutiny Digest 8 of 2024*, 3 July 2024, p. 16.

<sup>22</sup> Parliamentary Joint Committee on Human Rights, *Report 6 of 2024*, 24 July 2024, p. 1.

<sup>23</sup> Parliamentary Joint Committee on Human Rights, *Report 6 of 2024*, 24 July 2024, p. 1.



# Chapter 2

## Key Issues

- 2.1 A majority of submitters and witnesses expressed support for the Commission of Inquiry into Antisemitism at Australian Universities Bill 2024 (No. 2) (the Bill). Many considered this mechanism to be the most appropriate for addressing antisemitism on university campuses and bringing about cultural change although some considered the scope of the Bill to be too narrow. Other submitters and witnesses expressed that there were other mechanisms better suited to addressing the issue.
- 2.2 This chapter sets out the key issues raised by submitters and witnesses to the inquiry, such as:
- the experience on campus;
  - university responses;
  - the purpose and scope of the Bill;
  - the commission of inquiry mechanism;
  - matters for inquiry by a commission;
  - actions of regulators;
  - alternative mechanisms for addressing antisemitism; and
  - other responses.

### Experience on campus

- 2.3 Throughout the inquiry many submitters and witnesses shared their personal experiences of antisemitism with the Legal and Constitutional Affairs Legislation Committee (the committee). Such testimony came from a wide range of students and staff across many universities which conveyed an extreme depth of feeling.
- 2.4 The Australasian Union of Jewish Students (AUJS) expressed the current feeling of many Jewish students on campus. It stated:

Jewish students have reported feeling unsafe, ostracised, and targeted for their identity. The pervasive nature of these incidents, including verbal abuse, hostile rhetoric, physical threats, and discriminatory actions, has led to a significant decline in their sense of belonging and safety on campus. Many students have expressed a loss of motivation to attend classes, participate in university activities or even openly express their Jewish identity. The constant exposure to antisemitism both on campus and in the wider world has created an environment where Jewish students feel marginalised and fearful.<sup>1</sup>

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<sup>1</sup> Australasian Union of Jewish Students (AUJS), *Submission 134*, p. 12.

- 2.5 Submitters expressed that the environment on campus has, at times, affected the mental health of many staff and students.

As the husband of a Jewish staff member at the University of Sydney, I have observed firsthand the detrimental impact this environment of hatred has on Jewish staff, academics, and students. My wife, who is deeply committed to her work, frequently returns home in tears, overwhelmed by the relentless chants calling for her death and the genocide of our community in Israel.<sup>2</sup>

Since the beginning of my university experience, the protests...have heavily affected my mental health and ruined my intended university experience. The biggest thing is the lack of support from the university, which "passively" provides support but doesn't "actively" support us. We want the university to acknowledge the pain and suffering Jewish students have faced since October 7<sup>th</sup>, and, building on this, support Jewish students on campus by allowing us, as paying students, to enjoy the same experiences as other paying students, equally.<sup>3</sup>

- 2.6 Several submitters expressed disappointment at the lack of support they received from their university when reporting antisemitic incidents; some to the point that they changed universities.<sup>4</sup>
- 2.7 For example, a submitter made a complaint to their university about an incident that occurred at their graduation ceremony which they considered to be antisemitic. While acknowledging the university responded, the submitter was not fully satisfied with the response:

...I do not believe they have understood the gravity of my complaint and was disappointed that the Chancellor, Vice Chancellor and the other senior academics at the University did not take my complaint seriously enough to respond themselves. I also believe that the response, while sympathetic, highlights that there is a lack of understanding at a policy and procedure level about what antisemitism is and its detrimental effect on its Jewish students. I felt that my concerns were brushed off and that the University does not intend to take any steps to better uphold its own rules and terms and conditions at ceremonies in the future.<sup>5</sup>

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<sup>2</sup> Name Withheld, *Submission 456*, p. 1.

<sup>3</sup> Adelaide University Jewish Students Society, *Submission 606*, p. [4].

<sup>4</sup> Name Withheld, *Submission 50*, p. 3.

<sup>5</sup> Name Withheld, *Submission 369*, p. 2.

- 2.8 The conduct of pro-Palestine encampments varied from university to university. It was reported that some were respectful protests while others felt they created an environment which was unwelcoming to those with opposing views.

...the actions of the encampment go further than belittling and degrading all Jews on campus. The immediate effect of these and other actions of the encampment have resulted in a palpable level of anxiety and at times fear among my Jewish peers on campus...Just simply talking with my friends and community, it is clear that many of us are frightened and scared walking around campus and do not feel comfortable nor safe at times.<sup>6</sup>

I am writing a submission to express my concern that pro-Palestine student activists are being portrayed as antisemitic without due cause. Throughout my time campaigning for a free Palestine, I have noticed that my peers and fellow activists have been lambasted by the media as “antisemitic”. I myself have witnessed not one instance of antisemitism from these students. On the contrary, the student movement for Palestine makes a point of platforming Jewish voices, I proudly campaign with my Jewish peers and am grateful to learn from them.<sup>7</sup>

- 2.9 An overwhelming number of submitters spoke about being afraid of wearing symbols of that identify them as Jewish.

Post October 7 however, the reality of life on campus for Jewish students has only gone downhill. I am scared to wear a Star of David necklace or say my name which is identifiably Jewish.<sup>8</sup>

Jewish students, regardless of their level of observance, now feel compelled to conceal their identities. They fear wearing symbols of their faith, discussing their education and travel experiences, and, most tragically, expressing who they truly are. It is inconceivable that in today’s society, individuals should feel threatened simply because of their Jewish identity...<sup>9</sup>

- 2.10 Submitters and witnesses also conveyed that the environments on university campuses are having vast and detrimental effects on students’ enjoyment of university life.

<sup>6</sup> Name Withheld, *Submission 71*, p. 1.

<sup>7</sup> Name Withheld, *Submission 260*, p. 1.

<sup>8</sup> Name Withheld, *Submission 279*, p. [1].

<sup>9</sup> Name Withheld, *Submission 337*, p. [1].

My younger brother currently ‘attends’ University. I say ‘attends’ loosely, because in reality, he is afraid to step foot on campus. He is afraid to be confronted or targeted. He is afraid to be proud of his heritage. He is afraid that, because he believes in the Jewish right to self-determination and safety in the Jewish ancestral homeland, we will be ostracized, doxed, harassed or attacked.<sup>10</sup>

- 2.11 The committee also heard that high school students consider the levels of antisemitism at universities when considering which university they will apply to attend.

Jewish high school students contemplating university ask themselves exactly the same sorts of question that other Australian high schoolers ask themselves: should I do engineering or economics? Which uni is better for which? Which uni has the best campus? But Jewish teens are now also asking other, darker questions that no other young Australians are forced to confront: which uni is best if I want to minimise the chance of being bullied and harassed? Shouted down in class? Where I won’t have to run a gauntlet of intimidating protestors or posters calling for the elimination of my cousins or friends in Israel? Where I’ll endure the fewest class invasions? Where I could maybe tell people I’m Jewish without anxiety?<sup>11</sup>

### Rise in antisemitism

- 2.12 Both submitters and witnesses put forward that these campus experiences are due to a rise in antisemitism in recent times, particularly since 7 October 2023. However, many expressed that antisemitism has been present on campuses for some time.
- 2.13 There have been multiple studies into antisemitism over the last 15 years that document the experiences of Jewish university students and young people. A 2007-08 study found that those aged 18 to 24 were the most likely to experience antisemitism with 71 per cent of that age group having experienced antisemitism, compared to 58 per cent of all respondents.<sup>12</sup>
- 2.14 The Australian Jewish University Student Experience Survey (the Survey), published in August 2023, reported that 64 per cent of Jewish students had experienced antisemitism on campus; this ranged from 48 per cent (Deakin University), to 84 per cent (the Australian National University).<sup>13</sup>

<sup>10</sup> Name Withheld, *Submission 275*, p. 1.

<sup>11</sup> Name Withheld, *Submission 372*, p. 1.

<sup>12</sup> Emeritus Professor Andrew Markus AO, *Submission 95*, p. 1.

<sup>13</sup> Zionist Federation of Australia (ZFA), *Submission 114*, p. 4.

- 2.15 The Survey further reported that 57 per cent of students hid their Jewish identity to avoid antisemitism and 19 per cent had avoided campus in order to avoid antisemitism.<sup>14</sup> The Survey also showed that many Jewish university students did not make complaints about incidents of antisemitism because they believed making a complaint would not make a difference or the university would not take the complaint seriously.<sup>15</sup>
- 2.16 The Survey found that on 29 per cent of occasions university staff were participants in antisemitic incidents and, in 70 per cent of incidents where university staff were present, participants stated that the antisemitic behaviour was ignored by the staff.<sup>16</sup>
- 2.17 Another survey conducted by Adina Bankier-Karp and David Graham from 10–17 November 2023 found that 60 per cent of university students considered antisemitism to be a problem on university campuses.<sup>17</sup>
- 2.18 Most recently, the Australian Academic Alliance Against Antisemitism (5A) conducted a survey from April to July 2024 regarding the extent of antisemitism at Australian universities. While analysis of the survey results is still being undertaken, a preliminary analysis of raw data indicated that only one third of Jewish students surveyed felt a sense of safety on campus with results being lower among women and at some universities.<sup>18</sup> 5A stated that this result should be contrasted with the result from the 2021 National Student Safety Survey which found that 84 per cent of all students agreed with the statement ‘I feel safe on campus’.<sup>19</sup>
- 2.19 Furthermore, the Executive Council of Australia Jewry (ECAJ) reported that:
- In October and November 2023 there was a 738% increase in the number of reported antisemitic incidents in Australia compared to the same two months one year earlier, and dramatically elevated levels of antisemitism show every sign of continuing.<sup>20</sup>
- 2.20 StandWithUs Australia submitted that the events that occurred on 7 October 2023, were a ‘catalyst’ which exacerbated ‘an already dangerous environment’.

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<sup>14</sup> ZFA, *Submission 114*, p. 5.

<sup>15</sup> ZFA, *Submission 114*, p. 6.

<sup>16</sup> Emeritus Professor Andrew Markus AO, *Submission 95*, pp. 2–3.

<sup>17</sup> Emeritus Professor Andrew Markus AO, *Submission 95*, p. 3.

<sup>18</sup> Emeritus Professor Andrew Markus AO, *Submission 95*, p. 4.

<sup>19</sup> Australian Academic Alliance Against Antisemitism (5A), *Submission 603*, p. 6.

<sup>20</sup> Executive Council of Australian Jewry (ECAJ), *Submission 97*, p. 2.

It also submitted that the increase in antisemitism ‘has not been limited to online platforms but has manifested physically on campuses’.<sup>21</sup>

- 2.21 The Australian Centre for Jewish Civilisation (ACJC) at Monash University commented on the nature and motivations behind incidents of antisemitism:

Antisemitism is a problem that has been festering in Australia and exists across the political spectrum. It takes different forms depending on context and often stems from a range of different motivations. It is difficult to quantify the extent of antisemitism and there is much work to be done to create systemic mechanisms to effectively collect and analyse data on its causes, effects, and solutions.<sup>22</sup>

- 2.22 The impacts of antisemitism on Jewish people are wide ranging. The Australian Human Rights Commission (AHRC) submitted that antisemitism:

...harms individuals and communities – affecting personal security, belonging, inclusion, participation in public life and social cohesion. Extremist racist behaviour including antisemitism remains a serious public safety concern. The widespread reporting of a rise in incidents of antisemitism and the recorded concern of Jewish communities around its effects are evidence of this.<sup>23</sup>

- 2.23 The Zionist Council of NSW submitted that both students’ and teachers’ ability to operate on campus has ‘been negatively and significantly affected by antisemitism on campus’:

Since October 7, 2023, the level of intimidation and harassment for Jewish students and staff on Australian university campuses has risen exponentially. We know that certain staff and students are too frightened to come to campus. We heard about teachers being harassed as they walk to lecture halls to teach, we heard about students being silenced in class because of their Jewish identity. The experiences for the Jewish community of campus have become untenable for many...<sup>24</sup>

- 2.24 Never Again is Now commented that this situation has negatively affected Jewish staff and students' mental health and academic performance, community cohesion leading to a more ‘divisive atmosphere, undermining the principles of diversity and inclusion that universities should uphold’ and ‘Australia’s reputation as an inclusive and safe educational destination’.<sup>25</sup>

- 2.25 Mr Noah Loven, President of the AUJS, shared an incident where a building on a university campus was unusable for a few days in the lead-up to final exams because of tensions on campus resulting from protests. He highlighted that, as

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<sup>21</sup> StandWithUs Australia, *Submission 61*, p. [1].

<sup>22</sup> Australian Centre for Jewish Civilisation (ACJC), Monash University, *Submission 124*, p. 1.

<sup>23</sup> Australian Human Rights Commission (AHRC), *Submission 142*, p. 3.

<sup>24</sup> Zionist Council of NSW, *Submission 23*, p. [1].

<sup>25</sup> Never Again is Now, *Submission 138*, p. [2].

a result, it has become an all-student issue, not just a Jewish student issue, to ensure students' safety on campus.<sup>26</sup>

- 2.26 While the focus of the Bill is on university campuses, submitters also raised the broader societal impacts of antisemitism. The Zionist Council of NSW further advised in relation to rising antisemitism:

It is worth noting that this unfortunate trend will only lead to less tolerance and less harmony for multicultural groups in general. Antisemitism is the canary in the coal mine, a harbinger of future societal discord.<sup>27</sup>

- 2.27 The Sydney Jewish Museum reflected that 'antisemitism flourishes in times of political or social upheaval, while at other times it has sat apparently dormant' and that currently '[e]ven some of the most seemingly liberal and inclusive societies such as Australia are now showing significant spikes in both antisemitic attitudes and incidents'.<sup>28</sup>

- 2.28 In contrast, Dr Matthew Brown, Deputy Chief Executive of Group of Eight (Go8), considered that antisemitism has not become endemic at universities.<sup>29</sup>

- 2.29 Muslim Votes Matter (MVM) commented on a comparable level of Islamophobia and submitted:

There is no conclusive evidence to suggest that antisemitic incidents within academic settings are more prevalent or severe than incidents of Islamophobia or anti-Palestinian racism....These issues merit equal attention and action from lawmakers to ensure that all forms of discrimination are being addressed with equal seriousness and commitment.<sup>30</sup>

- 2.30 The Australia Palestine Advocacy Network (APAN) also submitted that in its view, there are some 'subjective feelings of discomfort or unease being wrongly equated with objective threats to physical safety, often leading to false accusation of antisemitism'.<sup>31</sup> It further observed that '[t]he fear of being accused of antisemitism has led to self-censorship and a reluctance to engage in critical discussion of the Israeli-Palestinian conflict'.<sup>32</sup>

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<sup>26</sup> Mr Noah Loven, President, AUJS, *Committee Hansard*, 20 September 2024, p. 5.

<sup>27</sup> Zionist Council of NSW, *Submission 23*, pp. [1]–[2].

<sup>28</sup> Sydney Jewish Museum, *Submission 250*, p. [1].

<sup>29</sup> Dr Matthew Brown, Deputy Chief Executive, Group of Eight, *Committee Hansard*, 20 September 2024, p. 29.

<sup>30</sup> Muslim Votes Matter (MVM), *Submission 141*, p. 10.

<sup>31</sup> Australia Palestine Advocacy Network (APAN), *Submission 131*, p. [10].

<sup>32</sup> APAN, *Submission 131*, p. [11].

2.31 A submitter commented that:

While I don't doubt that antisemitism exists and that it has increased in the past year, including on university campuses, it is critical not to confuse antizionism and criticism of Israel with antisemitism. Universities should be a safe, supportive and racism-free environment. But they should also be spaces where students and staff may be challenged, even to the point of feeling uncomfortable, by different views, ideas and politics. It is important that students and staff at universities can express difficult ideas freely, can protest injustices freely, and can teach and learn in an environment that promotes critical thinking.<sup>33</sup>

2.32 Ms Jillian Segal AO, Australia's Special Envoy to Combat Antisemitism, submitted that:

Antisemitic behaviour is not only present on many campuses but is an embedded part of the culture. Universities have not taken appropriate action to denounce and suppress it: it has become systemic. The Jewish students are traumatised and feel isolated and unsafe. They are not participating as they should in university life. They have been told by their university administration to stay home for their own safety. This normalised antisemitism is incredibly dangerous to our society as it is an attitude and behaviour that eats away at the fabric of the mission of the tertiary sector. To date university leadership is either in denial about how serious and normalised antisemitism has become on their campuses or has not received information as to the seriousness of the situation (bad news does not travel upwards) or has failed to truly understand what constitutes antisemitism and has responded by placating activist forces.<sup>34</sup>

2.33 Ms Segal stated that embedded antisemitism has occurred over a period of time and that universities 'do not understand or appreciate the unique, embedded and normalised extent of this particular type of racism'. She agreed that 'cultural change is therefore incredibly important and needed'.<sup>35</sup>

## University responses

2.34 Submitters and witnesses discussed at length the responses of universities in Australia to incidents of antisemitism on campus. The committee heard that some responses by universities were more effective than others.

2.35 Universities Australia reflected that:

University campuses are places where ideas are openly discussed and debated, no matter how popular or unpopular they may be. A commitment

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<sup>33</sup> Name Withheld, *Submission 323*, p. [1].

<sup>34</sup> Jillian Segal AO, Special Envoy to Combat Antisemitism, *Submission 422*, p. 1.

<sup>35</sup> Ms Jillian Segal AO, Special Envoy to Combat Antisemitism, *Committee Hansard*, 17 September 2024, p. 1.

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to academic freedom and freedom of speech are criteria for being recognised as a university under the Higher Education Threshold Standards.<sup>36</sup>

- 2.36 The University of Sydney (UTS) highlighted the role that universities play in fostering robust debate:

Universities are often places where robust debate and protest activity occurs, and our mission is to be a space where ideas are explored, debated, contested and reimagined. Our Charter of Freedom of Speech and Academic Freedom explicitly protects the right of our staff and students to protest, subject to certain limits recommended by former High Court Chief Justice Robert French AC in 2019. We are required by the law and relevant registration standards to be a place that can host multiple perspectives, and hold courageous conversations, even if they may sometimes be challenging for some members of our community.<sup>37</sup>

- 2.37 On the particular point of university responses, the AUJS commented:

Across these past 11 months, we've seen a range of responses to antisemitism by universities. Some have stepped up, but others have allowed this hate to fester, excusing antisemitic chants, deferring responsibility and letting Jewish students fend for themselves. There is no justification for this inconsistency. Jewish students should not have to choose between their education and their safety. We recognise the challenges that universities face, but we refuse to accept the false dichotomy between freedom of speech and protection. We can hold two truths.<sup>38</sup>

- 2.38 The AUJS argued the problem currently is how universities have responded, rather than the experiences of students.<sup>39</sup>
- 2.39 Universities advised that they have implemented a range of measures to address students' concerns and improve safety on campus.
- 2.40 UTS advised that senior UTS staff have met regularly with UTS student leaders from the AUJS, the Palestinian Society and the Student Representative Council which provides an opportunity for students to raise any areas of concern, in addition to a safe space for Jewish students being established on campus.<sup>40</sup>
- 2.41 UTS also advised that there are mechanisms for reporting incidents of racism, discrimination and harassment at UTS which are currently being reviewed to ensure they comply with regulations.<sup>41</sup>

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<sup>36</sup> Universities Australia, *Submission 112*, p. 1.

<sup>37</sup> University of Sydney, *Submission 130*, p. 3.

<sup>38</sup> Mr Loven, President, AUJS, *Committee Hansard*, 20 September 2024, p. 1.

<sup>39</sup> Mr Zachary Morris, Vice-President, AUJS, *Committee Hansard*, 20 September 2024, p. 3.

<sup>40</sup> University of Technology Sydney, *Submission 120*, p. [2].

<sup>41</sup> University of Technology Sydney, *Submission 120*, p. [2].

- 2.42 The University of Melbourne submitted that, given the recent protest action on campus in relation to the Israel/Palestine conflict, the university 're-communicated relevant policies and expectations to staff and student communities to ensure clarity on acceptable and appropriate behaviours' through staff and students emails and a dedicated website.<sup>42</sup> It advised that antisemitism is managed through these policies, as well as other forms of racist behaviour.<sup>43</sup>
- 2.43 Like UTS, the University of Melbourne advised that it has provided a room as a private safe space for Melbourne University Jewish Students' Society members and permission was sought from the Academic Registrar for a letter from the AUJS to be taken as evidence of eligibility for Special Consideration.<sup>44</sup> The university has also maintained regular contact with representatives of Jewish students and those participating in peaceful protest.<sup>45</sup>
- 2.44 The University of Melbourne also told the committee it has implemented a 'fast-track response (via the SafeZone App) for removing offensive, stickers and graffiti on campus that have been reported to University Security' and that management of complaints still follows the University's standard operating procedures.<sup>46</sup>
- 2.45 UNSW Sydney (UNSW) submitted that, in response to the current Israel/Palestine conflict, its Anti-Racism Policy was updated to include Anti-Religious Vilification which commenced in February 2024, in compliance with changes to the *Anti-Discrimination Act 1977* (NSW).<sup>47</sup>
- 2.46 UNSW also advised that it has established a task force that considers and implements actions aimed at ensuring students and staff feel safe on campus, which meets regularly with key leaders across UNSW.<sup>48</sup> In addition, UNSW said it has instituted a range of other actions including: regular communications from the Vice-Chancellor highlighting support mechanisms, increasing physical security, expanding counselling services, revising protocols in relation to posters and notices, and improving processes and additional resources for complaints.<sup>49</sup>

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<sup>42</sup> University of Melbourne, *Submission 139*, p. 5.

<sup>43</sup> University of Melbourne, *Submission 139*, p. 5.

<sup>44</sup> University of Melbourne, *Submission 139*, p. 5.

<sup>45</sup> University of Melbourne, *Submission 139*, p. 3.

<sup>46</sup> University of Melbourne, *Submission 139*, p. 6.

<sup>47</sup> UNSW Sydney, *Submission 129*, p. 1.

<sup>48</sup> UNSW Sydney, *Submission 129*, p. 2.

<sup>49</sup> UNSW Sydney, *Submission 129*, p. 2.

- 2.47 Deakin University advised that it has received a small number of allegations of student misconduct and/or student complaints in regard to antisemitism. Where the allegation or complaint involves students, action is taken under Deakin's Student Misconduct procedure.<sup>50</sup>
- 2.48 Deakin University also submitted it has implemented a range of other initiatives and procedures including anti-racism and cultural competency being part of the staff and student training suite and, where there is a critical incident, a Critical Incident Management Team is stood up to deliver the University's strategic response.<sup>51</sup>
- 2.49 Monash University advised that it is supporting initiatives 'to build social cohesion, strengthen dialogue and help to reduce tensions on campus'. One such initiative is a research program led by Associate Professor David Slucki and Dr Susan Carland which will investigate antisemitism, Islamophobia and related prejudice, and develop programs to support campus cohesion and classroom safety for all.<sup>52</sup>
- 2.50 The University of Sydney submitted that it is:
- Providing guidance and training to students and staff on the appropriate exercise of their rights to free speech and academic freedom, the University's expectations of them with respect to their behaviour, and our policies in relation to wellbeing, bullying, harassment and discrimination.<sup>53</sup>
- 2.51 The University of Sydney also advised that it provides channels for complaints or concerns to be raised by staff, students and members of the community as well as significant resources for safety and wellbeing of both staff and students, and the security of its campuses.<sup>54</sup>
- 2.52 Throughout the encampment, the University of Sydney advised it was in constant contact with NSW Police and communicated to students and staff regularly the University's expectations in relation to respectful, civil and lawful behaviour in accordance with the code of conduct and other policies and guidelines.<sup>55</sup>
- 2.53 In response to reports of antisemitic conduct on campus related to protest activity, the University of Adelaide stated:
- There was no evidence of Jewish students or staff being directly targeted by protestors. The University found that while this activity may have caused

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<sup>50</sup> Deakin University, *Submission 25*, p. [4].

<sup>51</sup> Deakin University, *Submission 25*, pp. [4]–[5].

<sup>52</sup> Monash University, *Submission 175*, p. [1].

<sup>53</sup> University of Sydney, *Submission 130*, p. 2.

<sup>54</sup> University of Sydney, *Submission 130*, p. 2.

<sup>55</sup> University of Sydney, *Submission 130*, p. 3.

distress and discomfort, it was lawful. In all cases, the context in which words or phrases are used is instrumental in determining whether an offence can reasonably be expected to be deemed harmful. Where some speech may be considered antisemitic in certain contexts, we determined this was not the case when the phrases were used on campus as part of peaceful protest activity.<sup>56</sup>

2.54 The University of Adelaide further submitted that:

It should also be noted that the majority of those involved in protest activity conducted themselves respectfully and within the boundaries set by the University. We are confident that the processes and procedures the University has in place have been appropriate and proportionate in managing these issues as they arise.<sup>57</sup>

2.55 The University of Adelaide advised that its Student Charter and Student Misconduct Rules set out the relevant behavioural standards with which students and visitors must comply. Reports of antisemitism related to the protest activity were assessed against these policies and guidelines and the University found that it 'could not substantiate that contested phrases were beyond the bounds of lawful freedom of speech'. Instead, it was understood as antisocial speech and protesters were counselled against using these phrases.<sup>58</sup>

2.56 Universities Australia explained that universities' responses have been framed by their legal obligations to uphold freedom of speech as well as local laws regarding peaceful protests which can be different depending on the jurisdiction (particularly, for example, in Victoria as the Charter of Human Rights and responsibilities change the nature of some responses).<sup>59</sup>

2.57 While universities explained the range of actions they have been implementing to address antisemitism on campus and ensure student and staff behaviour is in line with their codes of conduct, many submitters and witnesses agreed that the responses were inadequate or did not reflect the level and nature of antisemitism experienced on campus.

2.58 Dr David Slucki, Director of the ACJC at Monash University, advised that:

Jewish students and staff feel that it is not only their peers but their institutions that have not taken their concerns seriously enough and have not been effective in listening to their experiences. University campuses are places where inquiring minds come together to grapple with the challenges of our time, where young people navigate complex ideas and learn to

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<sup>56</sup> University of Adelaide, *Submission 150*, p. 3.

<sup>57</sup> University of Adelaide, *Submission 150*, p. 6.

<sup>58</sup> University of Adelaide, *Submission 150*, p. 6.

<sup>59</sup> Mr Luke Sheehy, CEO, Universities Australia, *Committee Hansard*, 20 September 2024, p. 33.

become leaders. The role of universities is to create an environment in which all our students can thrive and grow.<sup>60</sup>

- 2.59 The ACT Jewish Community submitted that staff and students have been distressed at universities' initial responses to antisemitism on their campuses, notably the Australian National University (ANU):

Students from the Australasian Union of Jewish Students were unable to get a meeting with ANU's Vice Chancellor for months, despite repeated requests to meet with her to discuss the proliferation of antisemitism on campus. Even when they did eventually get a meeting, their request for a public statement from the ANU Executive condemning antisemitism was denied.

...

That said, I want to acknowledge that, over the last few months, the Deputy Vice Chancellor at ANU has met with Jewish students and Jewish academics. I believe this is expected to continue so that the staff and students can share their ongoing experiences with the [Deputy Vice Chancellor].<sup>61</sup>

- 2.60 The Zionist Federation of Australia (ZFA) agreed that the response by universities to antisemitism since 7 October 2023 has been inadequate as '[u]niversities typically relied on the existence of supposed strong anti-racism policies and denied that significant levels of antisemitism existed on their campuses'.<sup>62</sup>
- 2.61 As Dr Colin Rubenstein, Executive Director of the Australia/Israel & Jewish Affairs Council (AIJAC) said the responses from universities have 'been lackadaisical, ineffective, a lack in duty of care'.<sup>63</sup>
- 2.62 The ZFA advised that Jewish students and staff have a complete lack of trust in their universities that their safety is a priority.<sup>64</sup>
- 2.63 ECAJ submitted there has been weak leadership at many universities in response to this issue:

Which has been characterised by a failure of several universities to take a public and meaningful stand against specific manifestations of antisemitism or to hold those responsible to account. At times, some university administrations have appeared to be passively complicit in the rise of antisemitism on campus. Consequently, many Jewish students and

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<sup>60</sup> Dr David Slucki, Director, ACJC, Monash University, *Committee Hansard*, 20 September 2024, p. 24.

<sup>61</sup> ACT Jewish Community, *Submission 103*, p. [2].

<sup>62</sup> ZFA, *Submission 114*, p. [1].

<sup>63</sup> Dr Colin Rubenstein, Executive Director, Australia/Israel & Jewish Affairs Council (AIJAC), *Committee Hansard*, 20 September 2024, p. 12.

<sup>64</sup> Mr Alon Cassuto, CEO, ZFA, *Committee Hansard*, 20 September 2024, p. 10.

academics have reported that they feel marginalised and dehumanised, and, in some instances, verbally abused, harassed or intimidated on campus.<sup>65</sup>

2.64 AIJAC was similarly critical of the responses of university leadership:

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 and 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.<sup>66</sup>

2.65 The NSW Jewish Board of Deputies remarked that the responses by universities to antisemitism on campuses, particular since 7 October 2023, has been mixed:

Whilst some universities in NSW have responded appropriately to reported incidents of antisemitism and have worked to ensure that their campuses are free from racial and religious discrimination, others have failed to do so and have instead engaged with Jewish students, staff and representative bodies in a duplicitous, self-serving and condescending manner. These latter universities have often failed to adequately respond to documented and clear incidents of antisemitism as a result of suboptimal incident management procedures, inadequate policies and procedures and, in some cases, a fundamental lack of will or leadership to act effectively against antisemitism. In essence, certain universities have failed to provide a safe educational environment for their Jewish students and staff.<sup>67</sup>

2.66 Ms Segal commented that the universities' policies have not been adequate to deal with antisemitism on campus:

...we have policies that each university has put in place and procedures for dealing with complaints that I could describe as hotchpotch—there is no consistency. Each university believes what they've put in place is good practice, and I question that, from the accounts of students and academics that I've met with, or that my office has met with, that have found that the procedures in place are really not adequate.<sup>68</sup>

2.67 Regarding the conduct of university leadership and their responses to incidents of antisemitism on campuses, Ms Segal explained that, based on her contact with university leadership:

There are some vice-chancellors who are very concerned and who have, clearly, engaged university students and Jewish university student representatives to discuss what they need.

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<sup>65</sup> ECAJ, *Submission 97*, p. 5.

<sup>66</sup> AIJAC, *Submission 136*, p. 10.

<sup>67</sup> NSW Jewish Board of Deputies, *Submission 147*, pp. [1]–[2].

<sup>68</sup> Ms Segal, Special Envoy to Combat Antisemitism, *Committee Hansard*, 17 September 2024, p. 4.

...

But, in most cases, the vice-chancellors or the chancellors, respectively, that I've spoken to believe that what they are doing is appropriate. That is the nub of the problem. There is a degree of self-denial as to how bad the situation is on their campuses, and it's a recognition that there is a problem but they don't understand how bad the problem is and how much needs to change.<sup>69</sup>

2.68 On the effects that universities' responses have had on students, AUJS submitted:

As a direct consequence of some universities' failure to meaningfully address these concerns, Jewish students are changing their behaviour to adapt to what has become a new reality. No students should be forced to choose between their education and their own safety.<sup>70</sup>

2.69 In relation to the encampments on campuses, the Jewish Community Council of Victoria (JCCV) and Community Security Group (Victoria) (CSG) submitted that, based on consultations with Jewish staff and students, '[t]here was a broad feeling that university leadership seemingly relied on a supposed commitment to the freedom of speech of demonstrators above the rights and freedoms of others'.<sup>71</sup>

2.70 JCCV and CSG reported that students have expressed frustration at 'the inability of university leadership to uphold their own codes of conduct'.<sup>72</sup> Further, they submitted that police intervention has been necessary in some cases, and Jewish staff and students have been in 'culturally and physically unsafe situations' due to antisemitism on university campuses not being adequately addressed by university leadership.<sup>73</sup>

2.71 The ZFA submitted that universities were not aware of the levels of antisemitism on campus because they were relying on complaints data. The Jewish Student Experience Survey found that students were often not making complaints due to limited trust in the complaints systems of universities.<sup>74</sup>

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<sup>69</sup> Ms Segal, Special Envoy to Combat Antisemitism, *Committee Hansard*, 17 September 2024, p. 5.

<sup>70</sup> AUJS, *Submission 134*, p. 3.

<sup>71</sup> Jewish Community Council of Victoria and Community Security Group (Victoria), *Submission 116*, p. [2].

<sup>72</sup> Jewish Community Council of Victoria and Community Security Group (Victoria), *Submission 116*, p. [3].

<sup>73</sup> Jewish Community Council of Victoria and Community Security Group (Victoria), *Submission 116*, p. [5].

<sup>74</sup> ZFA, *Submission 114*, p. 11.

Despite this, the ZFA considered the universities have made no changes to their policies in response.<sup>75</sup>

- 2.72 The Union for Progressive Judaism (UPJ) similarly stated that students who experience antisemitism at university often do not report the incidents due to fears their complaint will not be taken seriously or because they feel the university will not take action.<sup>76</sup> It further advised that:

A significant frustration among Jewish university students is the lack of seriousness or concern with which their peers, academic, and university staff respond when they share experiences of antisemitism. This generates a feeling of helplessness and sense of personal or Jewish devaluation within the university culture and Australian society.<sup>77</sup>

- 2.73 Mr Alon Cassuto, Chief Executive Officer of the ZFA, agreed that universities have been unable to address systemic antisemitism and a different approach is needed. He recommended:

This actually needs to be dealt with at the highest levels of government and to have a real clarity not only about the expectation of university leadership when it comes to antisemitism but also about modes of best practice that can set the standard for how to deal with antisemitism across Australia, because we have seen a difference between universities.<sup>78</sup>

### **Purpose and scope of the Bill**

- 2.74 As discussed in Chapter 1, the Bill proposes to establish a commission of inquiry into antisemitism at Australian universities. Many submitters supported the establishment of the inquiry as proposed by the Bill.<sup>79</sup>
- 2.75 The Zionist Council of NSW was supportive of the Bill as it considered 'the establishment of a commission of inquiry into antisemitism on university campuses as an essential step towards curbing the spread of the virus that is antisemitism'.<sup>80</sup>
- 2.76 The ZFA submitted that 'grouping antisemitism together with all other forms of racial discrimination is in our view doomed to fail' and instead 'antisemitism requires a robust and targeted policy framework'.<sup>81</sup>

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<sup>75</sup> ZFA, *Submission 114*, p. 14.

<sup>76</sup> Union for Progressive Judaism (UPJ), *Submission 105*, p. [3].

<sup>77</sup> UPJ, *Submission 105*, p. [4].

<sup>78</sup> Mr Cassuto, CEO, ZFA, *Committee Hansard*, 20 September 2024, p. 12.

<sup>79</sup> See: Jewish Community Council of Victoria and Community Security Gorp (Victoria), *Submission 116*; Online Hate Prevention Institute, *Submission 605*.

<sup>80</sup> Zionist Council of NSW, *Submission 23*, p. [2].

<sup>81</sup> ZFA, *Submission 114*, p. 12.

2.77 The ZFA argued that:

No other minority would be expected to put up with the sheer scale of hatred that we have witnessed on our campuses...Jewish students and academics are simply asking for the same protections as every other minority.<sup>82</sup>

2.78 The UPJ submitted the:

...experiences of Jewish students in our communities reveal a troubling pattern of harassment, discrimination, and exclusion that not only undermines their safety and well-being but the integrity and credibility of Australia's academic institutions.<sup>83</sup>

2.79 The UPJ, while supportive of a commission of inquiry, did, however, caution that 'further inquiry is mindful not to alienate Palestinian voices, as such an approach would only deepen the divide between Jewish students and their peers'.<sup>84</sup>

2.80 Ms Segal considered that '[a]ntisemitism has always been stubborn and shape-shifting, and it is not sufficiently responsive to policies instituted to deal with racism more broadly'.<sup>85</sup> She submitted that the focus on antisemitism for the commission of inquiry is not a 'special measure' but rather:

...what is being sought is the same level of awareness and accountability with regard to antisemitic discourse and incidents in tertiary settings as exists with respect to manifestations of other types of racism.<sup>86</sup>

2.81 Ms Segal further agreed that antisemitism 'is a special form of racism' and thus 'a generalised approach to tackling racism doesn't really deal with antisemitism'.<sup>87</sup> She opined that universities do not appreciate the extent of the problem and 'serious change across the board' is needed.<sup>88</sup>

2.82 In contrast, other submitters and witnesses expressed the view that antisemitism is best addressed as part of a comprehensive effort to address all forms of racism and should not be separated out as the Bill proposes.<sup>89</sup>

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<sup>82</sup> Mr Cassuto, CEO, ZFA, *Committee Hansard*, 20 September 2024, p. 10.

<sup>83</sup> UPJ, *Submission 105*, p. [5].

<sup>84</sup> UPJ, *Submission 105*, p. [5].

<sup>85</sup> Jillian Segal AO, Special Envoy to Combat Antisemitism, *Submission 422*, p. 4.

<sup>86</sup> Jillian Segal AO, Special Envoy to Combat Antisemitism, *Submission 422*, p. 5.

<sup>87</sup> Ms Segal, Special Envoy to Combat Antisemitism, *Committee Hansard*, 17 September 2024, p. 2.

<sup>88</sup> Ms Segal, Special Envoy to Combat Antisemitism, *Committee Hansard*, 17 September 2024, p. 2.

<sup>89</sup> See: Loud Jew Collective, *Submission 96*; Institute for Collaborative Race Research, *Submission 121*; Name Withheld, *Submission 323*.

- 2.83 The ACJC considered that antisemitism cannot be addressed in isolation as it is ‘closely tied to other forms of hate and prejudice’.<sup>90</sup>
- 2.84 Jews Against the Occupation ‘48 submitted that ‘to exceptionalise antisemitism is divisive’. It suggested that an inclusive approach would include antisemitism under a broader definition of racism, allowing for consideration of numerous groups subjected to racism including Muslims, Jews and people with Asian, Arabic and African heritage.<sup>91</sup> As such, it argued that the commission of inquiry ‘would be detrimental to efforts to address antisemitism and indeed all racist prejudice’.<sup>92</sup>
- 2.85 The Tzedek Collective similarly suggested that antisemitism should not be addressed in isolation:
- ...the most effective way of dealing with the very real antisemitism that does exist in society is through a broader anti-racism approach, which sees antisemitism as both historically specific but as deeply interlinked with other forms of discrimination and racism.<sup>93</sup>
- 2.86 The Jewish Council of Australia (JCA) submitted that the focus of the Bill ‘achieves neither the objective of preventing antisemitism, nor the objective of addressing racism more broadly’.<sup>94</sup> It stated:
- Tackling racism in our universities requires a very clear distinction between discrimination, hatred or animosity against a person or group based on legal protected attributes, and legitimate political speech.
- Regarding antisemitism, this means distinguishing between hatred, animosity and discrimination against Jewish people for being Jewish, and critique of Israel and Zionism.<sup>95</sup>
- 2.87 Various other organisations were also opposed to the Bill and “exceptionalising” antisemitism. For example, the Loud Jew Collective considered a commission of inquiry would ‘produce and exacerbate existing racism in our communities and will cause great harm to many peoples, including Jews’.<sup>96</sup> The Academic Alliance against Settler Colonialism, Racism and Censorship in Australia argued that antisemitism should not be considered in isolation and the proposed commission of inquiry ‘risks privileging certain

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<sup>90</sup> ACJC, Monash University, *Submission 124*, p. 3.

<sup>91</sup> Jews Against the Occupation ‘48, *Submission 159*, p. 1.

<sup>92</sup> Jews Against the Occupation ‘48, *Submission 159*, p. 1.

<sup>93</sup> Tzedek Collective, *Submission 127*, p. [3].

<sup>94</sup> Jewish Council of Australia (JCA), *Submission 181*, p. 4.

<sup>95</sup> JCA, *Submission 181*, p. 5.

<sup>96</sup> Loud Jew Collective, *Submission 96*, p. [2].

students and staff that may be facing racism at Australian universities over other students and staff' and thus 'will do more harm than good'.<sup>97</sup>

2.88 Muslim Women Australia considered that:

If adopted, the [Bill], will undermine the capacity of staff and students affiliated with Australian universities to advocate for Palestinian human rights and will silence legitimate dissent and criticism of the government of Israel.<sup>98</sup>

2.89 MVM suggested that the Bill's scope should be broadened to include all forms of discrimination, thereby contributing to a more comprehensive strategy that 'safeguards all university community members from discrimination and harassment, regardless of their background or the nature of their political expressions'.<sup>99</sup>

2.90 Mr Ghaith Krayem, National Spokesperson for MVM, considered that 'introducing legislation that addresses only one form of racism, we risk further marginalising other communities which face daily discrimination':<sup>100</sup>

It's a terrible time for all parties on this issue, and I guess that's part of the reason why we're saying a broad one that looks at all of these issues is probably better than one which singles out just one particular aspect.<sup>101</sup>

2.91 The National Tertiary Education Union (NTEU) opposed the Bill in its current form, arguing that it '[c]onflicts with other government initiatives aimed at preventing antisemitism and islamophobia'.<sup>102</sup> The NTEU submitted that the narrow focus of the Bill would not allow the investigation of 'instances of religious bias or extremism, that may occur concurrently or be linked to actions on campuses' which would limit the ability for university processes to be assessed in their totality.<sup>103</sup>

2.92 The NTEU further argued that the Bill 'does not adequately recognise the existing instruments that regulate behaviour at universities, nor the centrality of institutional autonomy, freedom of speech, free intellectual inquiry and academic freedom to those institution'.<sup>104</sup>

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<sup>97</sup> Academic Alliance against Settler Colonialism, Racism and Censorship, *Submission 169*, p. 4.

<sup>98</sup> Muslim Women Australian, *Submission 162*, p. 4.

<sup>99</sup> MVM, *Submission 141*, p. 11.

<sup>100</sup> Mr Ghaith Krayem, National Spokesperson, MVM, *Committee Hansard*, 20 September 2024, p. 47.

<sup>101</sup> Mr Krayem, National Spokesperson, MVM, *Committee Hansard*, 20 September 2024, p. 50.

<sup>102</sup> National Tertiary Education Union (NTEU), *Submission 122*, p. 2.

<sup>103</sup> NTEU, *Submission 122*, p. 2.

<sup>104</sup> NTEU, *Submission 122*, p. 4.

## Commission of inquiry mechanism

- 2.93 The Bill proposes to establish a commission of inquiry that would have royal commission-like powers. Clause 11 states that the *Royal Commissions Act 1902* would apply as if the commission of inquiry were a royal commission and as if the commissioner were a member of a royal commission.<sup>105</sup>
- 2.94 Many submitters considered that the mechanism of a judicial inquiry was the only mechanism that would be able to effectively address the issue of antisemitism at universities and bring about the cultural changed needed.<sup>106</sup>
- 2.95 The AUJS stated that a commission of inquiry would be trusted, independent and allow evidence to be taken in confidence, which it considered crucial to getting to the root causes of the issue. Mr Zachary Morris, Vice-President of AUJS, argued given the current situation, ‘we are at a point where we need to be doing everything that we can’.<sup>107</sup>
- 2.96 Mr Loven opined that a commission of inquiry can ‘provide solutions so Jewish students start coming back onto campus and start feeling like they’re welcomed again and to contribute adequately to university life and then to broader society’.<sup>108</sup>
- 2.97 The Australian Association for Jewish Holocaust Survivors and Descendants Inc believed a commission of inquiry is necessary and the only effective way to address antisemitism because:
- It appears that the Australian Human Rights Commission has done little, if anything to combat antisemitism in particular since the atrocities of 7 October 2023. Despite having been notified of antisemitic acts and the massive surge of antisemitism over the past ten months, the Commission has made few, if any public statement upon this issue nor proposed any effective strategy to combat it in the public sphere.<sup>109</sup>
- 2.98 Several submitters highlighted the ability of a commission of inquiry to compel the production of documents and witnesses to give evidence as key advantages.
- 2.99 The JCCV and CSG outlined the following benefits of a specific commission of inquiry: the commissioner as a judge would be an ‘independent and unaligned figure’; it would specifically focus on antisemitism which they considered to be

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<sup>105</sup> Commission of Inquiry into Antisemitism at Australian Universities Bill 2024 (No. 2), clause 11.

<sup>106</sup> See: StandWithUS Australia, *Submission 61*; Zionist Council of NSW, *Submission 23*; Australian Friends of Tel Aviv University, *Submission 53*; ACT Jewish Community, *Submission 103*; Australian Jewish Association, *Submission 102*; NSW Jewish Board of Deputies, *Submission 147*.

<sup>107</sup> Mr Morris, Vice-President, AUJS, *Committee Hansard*, 20 September 2024, p. 2.

<sup>108</sup> Mr Loven, President, AUJS, *Committee Hansard*, 20 September 2024, p. 3.

<sup>109</sup> Australian Association of Jewish Holocaust Survivors and Descendants Inc, *Submission 158*, p. [2].

‘a growing and unique challenge’; and the commission would make practical recommendations.<sup>110</sup>

2.100 The ZFA considered the power to compel witnesses essential. The ZFA pointed to examples where universities have ‘egregiously failed to deal with antisemitism manifesting on their campus’ and the ‘increasing severity and prevalence of antisemitism at universities’<sup>111</sup> as reasons for royal commission-like powers, to reliably inquire into the full extent of antisemitism on campus and universities’ action or inaction in response.<sup>112</sup>

2.101 AIJAC held a similar view, arguing that no alternative mechanisms would satisfactorily assess antisemitism on campuses, university responses, the regulatory environment in which universities operate, and whether any changes are needed.<sup>113</sup> The advantages of a commission of inquiry, both AIJAC and 5A submitted, would be its independence, powers to compel, ability to take evidence *in camera* and provide immunity from defamation, under the leadership of an independent judge with relevant experience.<sup>114</sup> 5A also considered that a commission of inquiry could compel the Tertiary Education Quality and Standards Agency (TEQSA) to ‘take regulatory leadership’<sup>115</sup> as well as examine the extent to which foreign actors are involved in antisemitic activities on campus.<sup>116</sup>

2.102 ECAJ told the committee that a commission of inquiry:

...is the only effective way to establish the truth about the nature and extent of antisemitic incidents and discourses at universities across Australia while preserving the confidentiality of Jewish students’, academics’ and professional staff’s personal data and protecting their security.<sup>117</sup>

2.103 Mr Jack Pinczewski supported the establishment of a commission of inquiry on the basis that, without powers to compel, it is very difficult to obtain information from universities about their responses to antisemitism on campus. Mr Pinczewski reflected on his own efforts to obtain information under freedom of information laws, stating:

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<sup>110</sup> Jewish Community Council of Victoria and Community Security Group (Victoria), *Submission 116*, p. [5].

<sup>111</sup> ZFA, *Submission 114*, pp. 2–3.

<sup>112</sup> ZFA, *Submission 114*, p. 15.

<sup>113</sup> AIJAC, *Submission 136*, p. 10.

<sup>114</sup> AIJAC, *Submission 136*, pp. 11–12 and 5A, *Submission 603*, pp. 13–14.

<sup>115</sup> 5A, *Submission 603*, p. 17.

<sup>116</sup> 5A, *Submission 603*, pp. 19–20.

<sup>117</sup> ECAJ, *Submission 97*, p. 21.

The literally hundreds of hours I have spent in this task says to me that accountability and transparency simply cannot be left to those without compellable powers to seek this information.<sup>118</sup>

2.104 Mr Pinczewski further submitted that a commission of inquiry is required to ensure adequate levels of accountability from the university sector:

I have raised reasonable concerns about specific conduct which has *prima facie* violated university policies and discipline rules only to be met with obfuscation, delay and denial.

Given the limitations of my personal inquiries – that they are not a comprehensive, systemic examination of the issues with the ability to compel evidence, cross-examine witnesses or obtain unredacted copies of documents – there is an innate difficulty in receiving any meaningful information and hence any accountability from Australian universities regarding their actions to identify, discourage and eliminate antisemitism from their institutions.<sup>119</sup>

2.105 Australia's Special Envoy to Combat Antisemitism, Ms Segal, similarly highlighted difficulties obtaining information from universities regarding antisemitism at their institutions. She commented that '[s]uch requests to universities tend to face very significant delays and are returned with swathes of sought-after information caveated, redacted or withheld'. Consequently, Ms Segal considered that seeking meaningful information from universities 'is unlikely to be fruitful' without the establishment of a commission of inquiry which has the power to compel the release of relevant information.<sup>120</sup>

2.106 Ms Segal submitted that Jewish students and staff have indicated to her that they will only discuss their experiences with trusted advocates like herself or with a forum such as a commission of inquiry. Jewish staff and students do not currently have confidence in the AHRC 'to approach their evidence with impartiality and appropriate respect'.<sup>121</sup> Ms Segal suggested that a commission of inquiry would be a 'trusted source' where those impacted could give evidence and have the 'confidence to be able to give their testimony'. Further, Ms Segal argued that it would give the community the confidence that 'one could get to the bottom of what is driving some of this anti-Semitism'.<sup>122</sup>

2.107 Overall, Ms Segal considered a commission of inquiry would allow for a 'much deeper interrogation of the nature and scale of antisemitism at Australian

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<sup>118</sup> Mr Jack Pinczewski, *Submission 168*, p. [11].

<sup>119</sup> Mr Jack Pinczewski, *Submission 168*, pp. [2]–[3].

<sup>120</sup> Jillian Segal AO, Special Envoy to Combat Antisemitism, *Submission 422*, p. 7.

<sup>121</sup> Jillian Segal AO, Special Envoy to Combat Antisemitism, *Submission 422*, p. 2.

<sup>122</sup> Ms Segal, Special Envoy to Combat Antisemitism, *Committee Hansard*, 17 September 2024, p. 3.

universities'<sup>123</sup> and 'bring about exposure of the situation and a revelation to those who lead our universities as to the extent of the problem'.<sup>124</sup>

- 2.108 While supportive of a commission of inquiry, some submitters and witnesses argued that it would be part of the solution, not the only solution. For example, Ms Segal remarked that a commission of inquiry would be part of the solution for cultural change but 'not the only solution by itself'. She stated that '[u]niversities also have to work to change attitudes and change procedures'.<sup>125</sup>
- 2.109 ECAJ considered that a commission of inquiry would 'create the right cultural environment' for the issue of antisemitism to be addressed and solutions considered.<sup>126</sup> Mr Peter Wertheim AO, Co-CEO, ECAJ also suggested it would 'act as a spur to putting forward some of the interim measures that we've been talking about, in terms of expanded powers of the ombudsman and improved complaints procedures, and a better understanding of what antisemitism is'.<sup>127</sup>
- 2.110 Other submitters and witnesses raised concerns about a commission of inquiry, arguing it is not the most appropriate approach to address antisemitism on campuses.
- 2.111 The JCA submitted that a commission of inquiry would be a 'blunt and ill-equipped instrument' for addressing antisemitism on campus. It suggested that such a mechanism 'is more likely to alienate, divide, polarise and chill debate rather than effectively address forms of racism on our campuses'.<sup>128</sup>
- 2.112 The ACJC considered that a challenge in this space and for a commission of inquiry, would be avoiding duplication of work and ensuring that stakeholders are working together.<sup>129</sup> Dr Slucki cautioned against focusing on only one solution, arguing that could be counterproductive to finding rapid solutions. Instead, Dr Slucki recommended a 'multifaceted approach'.<sup>130</sup>
- 2.113 Dr Scott Prasser highlighted several risks to establishing a commission, for example, it 'may probe into unexpected areas, take too long and produce a poor report'.<sup>131</sup>

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<sup>123</sup> Jillian Segal AO, Special Envoy to Combat Antisemitism, *Submission 422*, p. 6.

<sup>124</sup> Ms Segal, Special Envoy to Combat Antisemitism, *Committee Hansard*, 17 September 2024, p. 2.

<sup>125</sup> Ms Segal, Special Envoy to Combat Antisemitism, *Committee Hansard*, 17 September 2024, p. 6.

<sup>126</sup> Mr Peter Wertheim, Co-CEO, ECAJ, *Committee Hansard*, 20 September 2024, p. 14.

<sup>127</sup> Mr Wertheim, Co-CEO, ECAJ, *Committee Hansard*, 20 September 2024, p. 15.

<sup>128</sup> JCA, *Submission 181*, p. 14.

<sup>129</sup> Dr Slucki, Director, ACJC, Monash University, *Committee Hansard*, 20 September 2024, pp. 26–27.

<sup>130</sup> Dr Slucki, Director, ACJC, Monash University, *Committee Hansard*, 20 September 2024, p. 27.

<sup>131</sup> Dr Scott Prasser, *Submission 373*, p. 8.

2.114 With regard to the amount of time for a commission of inquiry to be conducted, Ms Anne Sheehan, First Assistant Secretary, Attorney-General's Department (AGD) explained that 'each commission of inquiry or royal commission is unique in terms of the issue that it's examining and how long it would take to conduct the inquiry'.<sup>132</sup> She advised that it would be up to the government, when establishing a royal commission, to determine how much time the inquiry would be given.<sup>133</sup> Ms Sheehan outlined the amount of time recent royal commissions have taken:

- Aged Care royal commission – 29 months;
- Disability royal commission – 54 months;
- Bushfires royal commission – 8 months;
- Defence and veteran suicide royal commission – 38 months;
- Robodebt royal commission – 10 months.<sup>134</sup>

### **Matters for inquiry**

2.115 Clause 6 of the Bill proposes a wide range of matters that the commissioner would inquire into when assessing the responses of universities to antisemitism.

2.116 Some submitters commented on these matters. For example, one submitter stated that the matters for inquiry set out in clause 6 are 'expressed at an appropriate level of generality, making clear what ought to be investigated, whilst allowing for an appropriate level of inquiry by the Commissioner'.<sup>135</sup>

2.117 Mr Allan Potts argued that the matters for inquiry articulated in the Bill would variously:

- provide necessary data to enable a clear and factual understanding of what is occurring on university campuses currently;
- allow for a full understanding of the events on campus which would be vital for informing public policy moving forward; and
- assess whether universities' responses are 'just, legal and adequate' given 'universities should be places of quality learning and rigorous intellectual debate not the propagation of bigoted racial views and hatred such as antisemitism'.<sup>136</sup>

2.118 Dr Prasser raised concerns regarding paragraph 6(3)(f), which relates to considering whether universities have taken steps to ensure antisemitic material

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<sup>132</sup> Ms Anne Sheehan, First Assistant Secretary, International Law and Human Rights Division, Attorney-General's Department (AGD), *Committee Hansard*, 20 September 2024, p. 75.

<sup>133</sup> Ms Sheehan, First Assistant Secretary, AGD, *Committee Hansard*, 20 September 2024, p. 75.

<sup>134</sup> Ms Sheehan, First Assistant Secretary, AGD, *Committee Hansard*, 20 September 2024, p. 75.

<sup>135</sup> Name Withheld, *Submission 84*, p. [4].

<sup>136</sup> Mr Allan Potts, *Submission 327*, p. [2].

is not included in course and teaching materials. He was concerned where that examination might end, stating '[m]any courses at universities offend someone because of their breadth of topics and that universities are sometimes ahead of public opinion and values'. Dr Prasser further stated, '[t]his does not make them right, but it does highlight the need for care'.<sup>137</sup>

2.119 Muslim Women Australia considered that the Bill's matters for inquiry would duplicate the work being undertaken by the AHRC and thus waste federal resources and unnecessarily burden universities who would need to engage with several processes.<sup>138</sup>

### **Definition of antisemitism**

2.120 Throughout the course of the inquiry, there was much debate about definitions of antisemitism and the definitions of antisemitism on which universities rely in their policies and practices. As set out in paragraph 6(3)(b), the Bill would ask the commissioner to inquire into whether universities have 'adopted and implemented an appropriate definition of antisemitism for all purposes such as the International Holocaust Remembrance Alliance definition'.<sup>139</sup>

2.121 Many submitters supported the inclusion of a definition of antisemitism in the matters for inquiry, with particular reference to the International Holocaust Remembrance Alliance (IHRA) working definition of antisemitism (IHRA definition).

2.122 Youth HEAR supported the inclusion of the IHRA definition in the Bill, stating:

The IHRA definition and its associated examples reflect the ongoing evolution of antisemitism. While the nation state of Israel has existed as a political entity since 1948, the Jewish people as a nation has existed for centuries.

The examples pointed to in the IHRA definition which refer to Israel reflect the ways in which hatred toward Jews as a nation have been expressed in reference to the Jewish nation state.<sup>140</sup>

2.123 The AUJS considered the IHRA to be 'particularly well-suited for use in the university context' and considered that:

Whilst some may contend that the IHRA definition conflates legitimate criticism of Israel with antisemitism, it only does so when otherwise legitimate criticism is levied through the use of antisemitic tropes, assumptions, and stereotypes. Insofar as otherwise legitimate criticism can be reformulated to avoid vilifying its target in the same manner as Jewish

<sup>137</sup> Dr Scott Prasser, *Submission 373*, p. 10.

<sup>138</sup> Muslim Women Australia, *Submission 162*, p. 8.

<sup>139</sup> Commission of Inquiry into Antisemitism at Australian Universities Bill 2024 (No. 2), para. 6(3)(b).

<sup>140</sup> Youth HEAR, *Submission 111*, p. [1].

people, practices, and communities have been historically vilified, it cannot be caught within the IHRA definition.<sup>141</sup>

2.124 The ZFA supported use of the IHRA definition, emphasising that it is ‘the best representation of modern antisemitism’ and:

The definition is accompanied by 11 examples that provide context to help a user understand what might constitute antisemitism. These examples are claimed by some...as conflating criticism of or activism against Israel with antisemitism. We do not believe this is the case, as a simple reading of the examples proves.<sup>142</sup>

2.125 The ZFA considered that a key outcome of the proposed commission of inquiry ‘would be exploring the line between legitimate political debate and unacceptable racial discrimination and, in so doing, providing guidance for universities’.<sup>143</sup>

2.126 Other organisations, such as AIJAC and 5A, also supported adoption of the IHRA definition.<sup>144</sup> The Australian Jewish Association (AJA) submitted that the IHRA definition, whilst non-binding, ‘is a useful tool for identifying and combatting antisemitism’. It recognised that the definition has only been accepted by a minority of Australian universities and rejected by some others.<sup>145</sup>

2.127 Youth HEAR argued that the IHRA definition:

...does not limit what academics can or cannot say within an academic environment. Instead, it assists those who develop and enforce policies to prevent hate speech on campus, to draft effective policy and to determine whether discrimination complaints have a genuine foundation.<sup>146</sup>

2.128 In contrast, other submitters objected to the IHRA definition.

2.129 One of the main arguments proffered in opposition to the IHRA definition was the potential negative impact on academic freedom and freedom of speech.

2.130 For example, Dr Leia Greenslade argued that the IHRA definition of antisemitism could erode academic freedom and suppress political speech. She suggested that universities should instead ‘focus on strengthening existing antiracism and anti-discrimination policies’ and commit to protect free speech.<sup>147</sup>

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<sup>141</sup> AUJS, *Submission 134*, p. 6.

<sup>142</sup> ZFA, *Submission 114*, p. 8.

<sup>143</sup> ZFA, *Submission 114*, p. 8.

<sup>144</sup> AIJAC, *Submission 136*, p. 10 and 5A, *Submission 603*, p. 17.

<sup>145</sup> Australian Jewish Association, *Submission 102*, p. [1].

<sup>146</sup> Youth HEAR, *Submission 111*, p. [2].

<sup>147</sup> Dr Leia Greenslade, *Submission 21*, p. 1.

2.131 The NTEU opposed the IHRA definition of antisemitism because, in the NTEU's view:

...it has a chilling effect on free speech and advocacy and it blurs the boundary between criticism of the State of Israel and the actions of the state and criticism of people on the basis of their religion, which we don't support.<sup>148</sup>

2.132 The Academic Alliance against Settler Colonialism, Racism and Censorship in Australia raised particular concerns with the illustrative examples that accompany the IHRA definition, which in its view, 'aim to shield Israel from criticism by narrowing the space of what constitutes permissible speech'.<sup>149</sup> Instead, it submitted that racism and antisemitism should be addressed pursuant to the legal framework of the *Racial Discrimination Act 1975*, particularly section 18C, which provides an objective test for whether an act is 'reasonably likely' to offend, insult humiliate or intimidate another person or group of people.<sup>150</sup>

2.133 MVM was concerned about the IHRA definition's broad scope and the impact on pro-Palestinian students and academics, where the definition could potentially label engagement in activities including 'criticism of Israeli policies towards Palestinians, discussions on human rights abuses, and advocacy for Palestinian statehood' as antisemitic.<sup>151</sup> MVM argued that adoption of the IHRA definition could have concerning effects on academic censorship, student activism and classroom discussion.<sup>152</sup>

2.134 Further, MVM suggested that the IHRA definition was 'never intended for the purposes of legislation' and that the definition's creator has not been supportive of the definition's use for legislative purposes.<sup>153</sup>

2.135 Muslim Women Australia supported the inclusion of two qualifications to any definition of antisemitism, these being:

- It is not antisemitic to criticise the government of Israel, without additional evidence to suggest antisemitic intent.
- It is not antisemitic to hold the government of Israel to the same standards as other liberal democracies, or to take a particular interest in

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<sup>148</sup> Ms Gabrielle Gooding, National Assistant Secretary, NTEU, *Committee Hansard*, 20 September 2024, p. 57.

<sup>149</sup> Academic Alliance against Settler Colonialism, Racism and Censorship in Australia, *Submission 169*, p. 6.

<sup>150</sup> Academic Alliance against Settler Colonialism, Racism and Censorship in Australia, *Submission 169*, p. 5.

<sup>151</sup> MVM, *Submission 141*, p. 8.

<sup>152</sup> MVM, *Submission 141*, p. 8.

<sup>153</sup> Mr Krayem, National Spokesperson, MVM, *Committee Hansard*, 20 September 2024, p. 49.

the Israeli government's policies or action, without additional evidence to suggest antisemitic intent.<sup>154</sup>

- 2.136 MVM proposed an alternative definition of antisemitism, the Jerusalem Declaration on Antisemitism (JDA), which it submitted provides a detailed definition with guidelines that explicitly distinguish legitimate political speech from antisemitic actions.<sup>155</sup>
- 2.137 Mr Krayem argued that the JDA definition 'better protects the principles of free expression, academic inquiry and human rights advocacy'.<sup>156</sup> However, Mr Krayem acknowledged that the adoption of any definition would be contentious.<sup>157</sup>
- 2.138 The JCA also discussed the Jerusalem Declaration of Antisemitism;<sup>158</sup> as did another submitter who recommended that the committee compare the JDA guidelines against the IHRA definition.<sup>159</sup>
- 2.139 Mr George Vardas stated that the JDA is, in his view, 'more appropriate and practical'.<sup>160</sup> The JDA 'provides examples that help distinguish anti-Israel statements and actions from antisemitic ones'.<sup>161</sup>
- 2.140 The Special Envoy to Combat Antisemitism supported the IHRA definition, observing that the Global Guidelines for Countering Antisemitism, to which Australia is a signatory, support adoption of this definition.<sup>162</sup>
- 2.141 Ms Segal stated that 'one cannot counter antisemitism without an understanding of what it means' and submitted that, regardless of the definition adopted, adoption of a definition alone will not remedy the cultural issues universities currently have with regard to antisemitism. She suggested that an Australianised version of the IHRA definition could be developed in collaboration with universities. She remarked:

It is important that a definition of antisemitism is agreed and adopted to provide a bright line for policies, disciplinary procedures, reporting of the

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<sup>154</sup> Muslim Women Australia, *Submission 162*, p. 4.

<sup>155</sup> MVM, *Submission 141*, pp. 9–10.

<sup>156</sup> Mr Krayem, National Spokesperson, MVM, *Committee Hansard*, 20 September 2024, p. 47.

<sup>157</sup> Mr Krayem, National Spokesperson, MVM, *Committee Hansard*, 20 September 2024, p. 49.

<sup>158</sup> JCA, *Submission 181*, p. 8.

<sup>159</sup> Name Withheld, *Submission 323*, p. [3].

<sup>160</sup> Mr George Vardas, *Submission 313*, p. 4.

<sup>161</sup> Mr George Vardas, *Submission 313*, p. 4.

<sup>162</sup> Jillian Segal AO, Special Envoy to Combat Antisemitism, *Submission 422*, p. 13.

database and action of the database. One cannot expect to reduce or combat antisemitism if it is not defined.<sup>163</sup>

### *Universities' adoption of a definition*

2.142 While the Australian government has adopted the IHRA definition of antisemitism, it is the purview of universities—as independent, autonomous institutions—whether they similarly adopt the definition.<sup>164</sup>

2.143 The University of Melbourne publicly adopted the IHRA working definition of antisemitism in January 2023, after stakeholder consultation.<sup>165</sup> Professor Nicola Phillips, Acting Vice-Chancellor of the University of Melbourne, advised that the adoption of the definition was included in the university's antiracism commitment. As part of that commitment, the university introduced an antiracism action plan in August 2024 'designed to prevent and respond effectively to racism, particularly and including antisemitism'.<sup>166</sup>

2.144 Monash University advised that its anti-racism statement incorporates the IHRA definition of antisemitism, which was adopted by its academic board in February 2023.<sup>167</sup>

2.145 Deakin University has resolved, through the Chancellor and the University Chancellors Council, to have 'close regard to the working definition of antisemitism by the IHRA'. It submitted that:

This decision was informed by the original intent of the definition, as stated by its lead drafter Kenneth Stern, that it was not intended to silence anti-Israel discourse and speakers. It was not intended as the basis for law or policy, but to be used as a framework for assessing allegations of antisemitism, in the way Deakin is now considering it.<sup>168</sup>

2.146 The University of Adelaide advised that the University of Adelaide Council considered, but ultimately decided against, the adoption of the IHRA definition in April 2023.<sup>169</sup> The university submitted that where concerns about antisemitic conduct are raised, it is guided by 'the legal bounds to freedom of speech',

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<sup>163</sup> Jillian Segal AO, Special Envoy to Combat Antisemitism, *Submission 422*, p. 14.

<sup>164</sup> Department of Education and AGD, *Submission 286*, pp. 7–8.

<sup>165</sup> University of Melbourne, *Submission 139*, p. 4.

<sup>166</sup> Professor Nicola Phillips, Acting Vice-Chancellor, University of Melbourne, *Committee Hansard*, 20 September 2024, p. 38.

<sup>167</sup> Monash University, *Submission 175*, p. [1].

<sup>168</sup> Deakin University, *Submission 25*, p. [3].

<sup>169</sup> University of Adelaide, *Submission 150*, p. 5.

including the *Racial Discrimination Act 1975* and the *Racial Vilification Act 1996* (SA).<sup>170</sup>

2.147 Ms Segal urged universities to adopt definitions of antisemitism:

It's incredibly important that they come together, in good faith, and agree to adopt a definition of anti-Semitism, which I'm happy to work with them on. Only then can their processes actually deal with the issues of helping students who have suffered anti-Semitic incidents.<sup>171</sup>

2.148 The ZFA similarly considered that adoption of a definition of antisemitism, in particular the IHRA definition, is action that universities can take immediately.<sup>172</sup>

### **Boycott provision**

2.149 Subparagraph 6(3)(e)(i) would require the commissioner to consider whether universities have adopted policies and procedures to prevent staff and students from engaging in 'de facto boycotts against collaborations with Jewish or Israeli academics, institutions or staff'.<sup>173</sup>

2.150 5A described the Boycott, Divestment and Sanctions (BDS) movement and its impact on Jewish students and staff. 5A considered that the 'ferocity of the BDS campaign, and its accusations of racism, colonialism, apartheid, ongoing crimes, ethnic cleansing, massacres, and expulsions are extreme and one-sided'.<sup>174</sup>

2.151 Muslim Votes Matter recommended that the boycott provision in paragraph 6(3)(e) be removed because:

Boycotts, divestments, and sanctions (BDS) are recognised globally as legitimate forms of non-violent protest used to advocate for human rights and social justice. Including such actions under the umbrella of antisemitism unfairly targets and criminalises legitimate political expression and activism.<sup>175</sup>

2.152 The JCA opposed the inclusion of the boycott provision at paragraph 6(3)(e) of the Bill, arguing that:

...boycotting of an institution on the basis of its conduct in assisting, aiding, or supporting human rights violations, war crimes, genocide or the crime of

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<sup>170</sup> University of Adelaide, *Submission 150*, p. 5.

<sup>171</sup> Ms Segal, Special Envoy to Combat Antisemitism, *Committee Hansard*, 17 September 2024, p. 5.

<sup>172</sup> Ms Cassuto, CEO, ZFA, *Committee Hansard*, 20 September 2024, p. 14.

<sup>173</sup> Commission of Inquiry into Antisemitism at Australia Universities Bill 2024 (No. 2), subpara. 6(3)(e)(i).

<sup>174</sup> 5A, *Submission 603*, p. 11.

<sup>175</sup> MVM, *Submission 141*, p. 12.

apartheid, however, is a legitimate and time-honoured form of political action.<sup>176</sup>

2.153 The JCA further submitted:

The conflation of ‘Jewish or Israeli’ is highly problematic. To our knowledge, there is no evidence of any Australian university ever having considered a boycott – de facto or de jure – against individuals or institutions on the basis of their being ‘Jewish’. Clearly, a boycott which targets individuals because of their ethnic or religious identify would be abhorrent. It would also be illegal in Australian law, and a breach of every university’s Code of Conduct. One can only assume that this conflation in the drafting of the provision results from an assumption that Israeli institutions are somehow essentially ‘Jewish’ in their character by virtue of their state of incorporation...<sup>177</sup>

2.154 Another submitter argued that putting pressure on universities to prevent boycotts of Israeli institutions would be ‘an outrageous curtailment of the academic freedom and the right to protest’. They argued that the goal of boycotting institutions is to bring about Israel’s compliance with international law and is thus justifiable.<sup>178</sup>

**Academic freedom and freedom of speech**

2.155 Some submitters and witnesses voiced concerns about the Bill’s implications for academic freedom and freedom of speech.

2.156 The NTEU suggested that the Bill ‘cuts across the protections of freedom of speech and academic freedom that are required at universities via the Higher Education Support Act’.<sup>179</sup>

2.157 The Palestinian Cultural Society of UWA submitted that the matters for inquiry in the Bill do not recognise universities’ principles and legal obligations with regard to freedom of speech and academic freedom. The cultural society suggested that addressing such requirements would strengthen the Bill.<sup>180</sup>

2.158 The APAN submitted:

Academic freedom is a cornerstone of intellectual progress and societal development. It guarantees the right of academics to conduct research, express their findings, and engage in open dialogue without fear of censorship or reprisal.<sup>181</sup>

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<sup>176</sup> JCA, *Submission 181*, p. 6.

<sup>177</sup> JCA, *Submission 181*, p. 6.

<sup>178</sup> Name Withheld, *Submission 323*, pp. [1]–[2].

<sup>179</sup> Ms Gooding, National Assistant Secretary, NTEU, *Committee Hansard*, 20 September 2024, p. 54.

<sup>180</sup> Palestinian Cultural Society of UWA, *Submission 149*, p. [3].

<sup>181</sup> APAN, *Submission 131*, p. [5].

2.159 The Institute of Public Affairs recommended that the remit of the commission of inquiry 'be expanded to consider freedom of speech on university campuses more broadly'.<sup>182</sup> It submitted that there has been an increase in universities' hostility towards free speech in recent years and the Free Speech on Campus Audit in 2023 'found only one-third of Australia's 42 universities adopted the six essential pro-free speech criteria' developed by the Honourable Robert French AC in his review of freedom of speech on university campuses (the French Model Code for freedom of speech and academic freedom).<sup>183</sup>

2.160 Ms Adrienne Nieuwenhuis, Acting Chief Commissioner of TEQSA, explained that the French Model Code is itself voluntary, but:

...the universities, under the standards and the Higher Education Support Act, have an obligation to have policies and procedures that meet the requirements of the Higher Education Support Act definition and the Higher Education Standards Framework with regard to academic freedom and freedom of speech. Most universities have adopted the model code in various shapes and forms, but they have fundamentally adopted the model code.<sup>184</sup>

2.161 Professor Mark Scott AO, Vice-Chancellor and President of the University of Sydney, commented on the boundaries of the French Model Code, noting that '[o]ne of the things that the French code says is that freedom of speech cannot 'protect any person from feeling offended, shocked or insulted by the lawful freedom of speech of others''.<sup>185</sup>

2.162 However, the Go8 noted that the freedom is not absolute: universities do have to protect freedom of speech as per the French Model Code, except where it crosses the line into illegal or hate speech.<sup>186</sup>

2.163 Universities Australia noted that, in response to the current situation on campuses, universities sought to balance providing a safe environment and supporting the right to freedom of speech, while meeting their obligations under the *Higher Education Support Act 2003*.<sup>187</sup>

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<sup>182</sup> Institute of Public Affairs, *Submission 98*, p. 2.

<sup>183</sup> Institute of Public Affairs, *Submission 98*, p. 2.

<sup>184</sup> Ms Adrienne Nieuwenhuis, Acting Chief Commissioner, Tertiary Education Quality and Standards Agency (TEQSA), *Committee Hansard*, 20 September 2024, p. 74.

<sup>185</sup> Professor Mark Scott, Vice-Chancellor and President, University of Sydney, *Committee Hansard*, 20 September 2024, p. 45.

<sup>186</sup> Dr Brown, Deputy Chief Executive, Group of Eight, *Committee Hansard*, 20 September 2024, p. 34.

<sup>187</sup> Mr Sheehy, CEO, Universities Australia, *Committee Hansard*, 20 September 2024, p. 28.

2.164 The ACJC also commented on the balance between protest and freedom of speech on the one hand and student safety on the other, with particular reference to encampments on campuses:

...student protests are a unique feature of campus life and protected under the principles of academic freedom. But we must take seriously the concerns of any students who report feeling unsafe as a result of such protests and address the causes of that lack of safety. Academic freedom is a right but we, as institutions, also have a responsibility to provide a space for robust, respectful dialogue.<sup>188</sup>

2.165 Professor Genevieve Bell AO, Vice-Chancellor and President of the ANU, acknowledged the tension between having psychologically safe environments and allowing robust free speech:

...we have also found that the limits of legislation, our own rules, how freedom of speech arose as a set of rights and as a set of policy settings—and you're right from the French review—manifests itself is often attributed to an individual's act. But the notion of how someone experiences that can be a collective thing, and the tension at law between a rule and a legislation that adheres to an individual, and notions about harm—which are often collective—don't harmonise well.<sup>189</sup>

2.166 Ms Segal stated that:

Freedom of speech exists to allow on university campuses vibrant debate, helping young people and academics engage in the best of what democracy has to offer. But the outside influences are determined to skew that debate only in one direction, and that is a focus very much on anti-Jewish or Jewish hatred. That is what we are talking about, trying to stop that embedded anti-Semitism.<sup>190</sup>

2.167 Mrs Lorraine Finlay, Human Rights Commissioner at the AHRC, stated that a balance does need to be struck between free speech and protecting people from forms of racism, but that 'we also need to recognise antisemitism is not free speech, and that students and staff have a right to be safe on campus'.<sup>191</sup>

### ***Related legal obligations***

2.168 In addition to universities' obligations under the French Model Code, they also have legal obligations under Commonwealth, state and territory legislation.

2.169 The *Racial Discrimination Act 1975* makes it unlawful to do a public act that is reasonably likely to offend, insult, humiliate or intimidate a person because of

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<sup>188</sup> ACJC, Monash University, *Submission 124*, p. 2.

<sup>189</sup> Dr Genevieve Bell, Vice-Chancellor and President, Australian National University, *Committee Hansard*, 20 September 2024, p. 45.

<sup>190</sup> Ms Segal, Special Envoy to Combat Antisemitism, *Committee Hansard*, 17 September 2024, p. 4.

<sup>191</sup> Mrs Lorraine Finlay, Human Rights Commissioner, AHRC, *Committee Hansard*, 20 September 2024, p. 64.

their race, colour or national or ethnic origins.<sup>192</sup> A person can make a complaint to the AHRC regarding an alleged breach of the *Racial Discrimination Act 1975*.<sup>193</sup>

2.170 Criminal offences in the *Criminal Code Act 1995* entered into force in January 2024 that criminalise:

...the public display and trade of prohibited Nazi and terrorist organisation symbols, the making of a gesture that is the Nazi salute, using a carriage service for violent extremist material, and possessing or controlling violent extremist material obtained or accessed using a carriage service.<sup>194</sup>

2.171 5A submitted that ‘several Australian universities have failed to utilise the powers available to them in order to comply with the required standards set out by federal, state and territory legislation’. Of particular concern to 5A was the failure of some universities to provide a safe environment to teach and learn, protect academic freedom and restrain racial vilification.<sup>195</sup>

2.172 AIJAC commented:

Australian universities are usually constituted under state laws, other than those universities located within Australian federal territories...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.<sup>196</sup>

### **Additional matters for determination by the commissioner**

2.173 Some submitters suggested additional topics for inclusion in the matters for inquiry listed in the Bill.

2.174 Macquarie University argued that the matters for inquiry in the Bill are ‘vague, too broad and incorporate assumptions that may not be universally held’.

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<sup>192</sup> *Racial Discrimination Act 1975*, s. 18C.

<sup>193</sup> Department of Education and AGD, *Submission 286*, p. 10.

<sup>194</sup> Department of Education and AGD, *Submission 286*, p. 11.

<sup>195</sup> 5A, *Submission 603*, p. 3

<sup>196</sup> AIJAC, *Submission 136*, p. 9.

Macquarie University suggested that these matters should themselves be determined by any commission of inquiry.<sup>197</sup>

- 2.175 Macquarie University also submitted that the Bill fails to recognise that discrimination and harassment are dealt with by Commonwealth and state anti-discrimination legislation, nor does it refer to principles and legal obligations of freedom of speech and academic freedom.<sup>198</sup>
- 2.176 The Palestinian Cultural Society of UWA also highlighted that the Bill does not address the role of Commonwealth and state anti-discrimination legislation, arguing that as antisemitism is a society-wide issue, consideration of that legislation should be undertaken.<sup>199</sup>
- 2.177 Youth HEAR argued that a commission of inquiry should consider how to address historical revisionist and holocaust denial narratives that have been seen on campus. Specifically, it recommended that the incidence of Holocaust minimisation and denial, and university policies directed at this, be included as a matter for inquiry in clause 6 of the Bill.<sup>200</sup>
- 2.178 The Australian Association of Jewish Holocaust Survivors and Descendants Inc similarly recommended the inclusion of Holocaust denial and minimisation in the matters for inquiry in the Bill.<sup>201</sup>

### **Actions of regulators**

- 2.179 Higher Education (HE) providers are regulated by TEQSA which regulates compliance with the *Higher Education Standards Framework (Threshold Standards) 2021* (Threshold Standards) made under the *Tertiary Education Quality and Standards Agency Act 2011* (TEQSA Act).<sup>202</sup>
- 2.180 HE providers, such as universities, are responsible for the management of their own risk under the TEQSA regulatory arrangements. This also means that HE providers must demonstrate self-assurance that is consistent with the Threshold Standards.<sup>203</sup>
- 2.181 The Threshold Standards require HE providers to ‘demonstrate and assure themselves of compliance with all relevant legislation under which they are established, recognised or incorporated’ and any other legislation that applies

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<sup>197</sup> Macquarie University, *Submission 128*, p. [1].

<sup>198</sup> Macquarie University, *Submission 128*, pp. [1]–[2].

<sup>199</sup> Palestinian Cultural Society of UWA, *Submission 149*, p. [2].

<sup>200</sup> Youth HEAR, *Submission 111*, pp. [3]–[4].

<sup>201</sup> Australian Association of Jewish Holocaust Survivors and Descendants Inc, *Submission 158*, p. [2].

<sup>202</sup> TEQSA, *Submission 153*, p. 1.

<sup>203</sup> TEQSA, *Submission 153*, p. 2.

to them; this includes Commonwealth state and territory laws regarding vilification, discrimination and safety.<sup>204</sup>

2.182 TEQSA acknowledged that it:

...does not have the authority to make a legal determination about whether HE providers are operating in accordance with anti-vilification laws. Similarly, TEQSA does not have the authority to make findings about individuals' compliance with discrimination or public safety laws. TEQSA's responsibility is to seek evidence-based assurances from HE providers that they have appropriate governance structures, policies and procedures in place to meet the Threshold Standards...<sup>205</sup>

2.183 TEQSA can impose administrative sanctions on HE providers where the provider has failed to take corrective action or to adequately respond to concerns they are not meeting the Threshold Standards. Sanctions can include imposing registration conditions, shortening the registration period or cancelling the registration. Only where a HE provider has failed to comply with the TEQSA Act can financial penalties be imposed.<sup>206</sup>

2.184 Since 7 October 2023, TEQSA established a Regulatory Response Group to coordinate its response to protest activities and other risks on university campuses. Through the response group, TEQSA has communicated to providers about their obligations regarding student wellbeing and freedom of speech; met with affected groups (such as the AUJS, the National Union of Students and the Council of Australian Postgraduate Associations); and sought information from universities in response to concerns raised.<sup>207</sup>

2.185 TEQSA submitted it was 'largely satisfied that most institutions had in place appropriate response mechanisms, however, institutions need to ensure that their policies and procedures are reviewed and learnings applied'.<sup>208</sup>

2.186 TEQSA advised that its approach with universities has been to engage:

...directly and quickly with universities and ensure that, on issues and departures from the standards, the responses that are needed are affected immediately, we've chosen to do that, because we think that's in the best interest of students.<sup>209</sup>

2.187 TEQSA has also requested complaints data from universities which resulted in the following observations:

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<sup>204</sup> TEQSA, *Submission 153*, p. 2.

<sup>205</sup> TEQSA, *Submission 153*, p. 2.

<sup>206</sup> TEQSA, *Submission 153*, p. 4.

<sup>207</sup> TEQSA, *Submission 153*, p. 4.

<sup>208</sup> TEQSA, *Submission 153*, p. 4.

<sup>209</sup> Dr Mary Russel, CEO, TEQSA, *Committee Hansard*, 20 September 2024, p. 69.

- Complaints received were concentrated in the major urban centres, particularly Sydney and Melbourne, which reflects demographic data and feedback from relevant student bodies.
- Encampments were not always correlated with number of complaints at a university.
- The volume of complaints received by universities slowed from June 2024. This is consistent with protest camps closing and many universities commencing the mid-year break.<sup>210</sup>

2.188 Ms Segal raised the limitations of TEQSA's powers, that is TEQSA can only impose administrative sanctions for non-compliance, and is unable to make legal determinations about whether HE providers are operating in compliance with the law. She acknowledged the establishment of the regulatory response group but submitted 'it has not been able to inquire beyond whether universities had appropriate response mechanisms in place'.<sup>211</sup>

2.189 Ms Segal recommended that the Australian government 'consider whether TEQSA needs greater powers to ensure that tertiary institutions comply with Threshold Standards and the law'.<sup>212</sup>

### **Alternative mechanisms for addressing antisemitism**

2.190 Submitters and witnesses discussed several alternative mechanisms that could address antisemitism at Australian universities, particularly those that could be implemented immediately, instead of establishing a commission of inquiry. Many advised against actions that would duplicate existing work in this space.

2.191 The ACJC considered that a commission of inquiry could politicise antisemitism 'with a focus on recrimination rather than on solutions' and may replicate existing work. As such, the ACJC recommended that existing mechanisms and initiatives directed towards addressing antisemitism be supported by the government.<sup>213</sup>

2.192 APAN recommended that government resources be directed to enhancing anti-racism mechanisms at universities and submitted that:

Anti-discrimination frameworks and policies that understand the systemic, intersectional nature of racism offer better approaches to addressing and mitigating antisemitism, and indeed, all other forms of racism, effectively.<sup>214</sup>

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<sup>210</sup> TEQSA, *Submission 153*, p. 5.

<sup>211</sup> Jillian Segal AO, Special Envoy to Combat Antisemitism, *Submission 422*, p. 10.

<sup>212</sup> Jillian Segal AO, Special Envoy to Combat Antisemitism, *Submission 422*, p. 56.

<sup>213</sup> ACJC, Monash University, *Submission 124*, p. 3.

<sup>214</sup> APAN, *Submission 131*, pp. [3]–[4].

2.193 Ms Sarah Schwartz, Executive Officer of the JCA, advocated for work to be undertaken by independent bodies who are focused on addressing racism ‘holistically and systemically’ such as an ombudsman or the AHRC.<sup>215</sup>

### **Australian Human Rights Commission Study**

2.194 The main alternative mechanism discussed throughout the course of the inquiry was the study into racism being conducted by the AHRC.

2.195 The Commonwealth funded the AHRC to undertake a study into the prevalence and impact of racism in Australian universities which will examine all forms of racism including antisemitism, Islamophobia, anti-Palestine, anti-Arab and First Nations racism experienced at universities.<sup>216</sup> The *Respect at Uni: Study into Antisemitism, Islamophobia, Racism and the experience of First Nations people* (the Study) is being led by the Race Discrimination Commissioner, Mr Giridharan Sivaraman.<sup>217</sup>

2.196 The Study will look at:

- the prevalence, nature and experiences of racism including antisemitism and Islamophobia
- the cohorts of staff and students who experience racism
- the contexts and circumstances of racism for different group including Jewish staff and students
- frameworks for prevention
- the effectiveness of universities’ rules, policies and other arrangements at preventing and addressing racism
- ways to increase university transparency and accountability regarding actions taken to prevent and respond to racism and discrimination
- benchmarks to measure sectoral performance
- whether the legislation and regulatory mechanism that support universities are adequate.<sup>218</sup>

2.197 The Study will include a national online survey, engagement through focus groups, consultations and meetings, literature review and the establishment of a 10–15 person Advisory Group of ‘respected leaders and academics from racialized backgrounds’.<sup>219</sup> An interim report will be provided to Government in December 2024 and a final report in June 2025.<sup>220</sup>

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<sup>215</sup> Ms Sarah Schwartz, Executive Officer, JCA, *Committee Hansard*, 20 September 2024, p. 19.

<sup>216</sup> AHRC, *Submission 142*, p. 4.

<sup>217</sup> Department of Education and AGD, *Submission 286*, p. 11.

<sup>218</sup> Department of Education and AGD, *Submission 286*, p. 12.

<sup>219</sup> AHRC, *Submission 142*, p. 5.

<sup>220</sup> Department of Education and AGD, *Submission 286*, p. 13.

2.198 Muslim Women Australia expressed its support the Study<sup>221</sup> as did the JCA:

The AHRC promises to conduct a robust, independent, intersectional trauma-informed inquiry, drawing on its extensive expertise and experience. This sort of study is a prerequisite to any effective tackling of antisemitism on our campuses.<sup>222</sup>

2.199 The Academic Alliance against Settler Colonialism, Racism and Censorship in Australia argued that establishing the proposed commission of inquiry would undermine the Study, as well as work counter to the recommendations from the Universities Accord, which recommended a comprehensive approach to developing anti-racism strategies at universities.<sup>223</sup>

2.200 Muslim Women Australia considered that the Bill would duplicate the work of the AHRC.<sup>224</sup>

2.201 Other submitters opined that the study being conducted by the AHRC is not a viable alternative to the proposed commission of inquiry. This was mainly due to concerns around the ability to compel witnesses and the lack of specific focus on antisemitism.

2.202 ECAJ 'strongly disagreed that the AHRC is the appropriate body at the present time to conduct a study into antisemitism at universities'. It raised concerns that the Study will not strongly focus on antisemitism as it has a broader anti-racism focus.<sup>225</sup>

2.203 The ZFA suggested that the Study's 'terms of reference are too broad, the AHRC doesn't have the power to compel witnesses, and the study does not reflect the urgency of the situation'.<sup>226</sup> It also submitted that the AHRC lacks the necessary focus on issues facing Jewish students given the 'unique and pervasive nature of antisemitism in academic environments'.<sup>227</sup>

2.204 AIJAC submitted that the Study is no substitute for a commission of inquiry and will not appropriately address the 'unique aspects of antisemitism' given its broad focus on all forms of racism, nor will the AHRC have the power to compel witnesses to provide evidence.<sup>228</sup>

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<sup>221</sup> Muslim Women Australia, *Submission 162*, p. 6.

<sup>222</sup> JCA, *Submission 181*, p. 5.

<sup>223</sup> Academic Alliance against Settler Colonialism, Racism and Censorship in Australia, *Submission 169*, p. 1.

<sup>224</sup> Muslim Women Australia, *Submission 162*, p. 8.

<sup>225</sup> ECAJ, *Submission 97*, p. 12.

<sup>226</sup> ZFA, *Submission 114*, p. 2.

<sup>227</sup> ZFA, *Submission 114*, p. 15.

<sup>228</sup> AIJAC, *Submission 136*, p. 11.

- 2.205 The Jewish community's lack of confidence in the AHRC was also raised as a reason for supporting a commission of inquiry over the Study.
- 2.206 The AUJS observed that Jewish students may not be comfortable giving evidence to the AHRC 'given the poor response of the AHRC to the rise of antisemitism on Australian campuses' and thus the commission of inquiry is needed so that students can provide confidential evidence.<sup>229</sup>
- 2.207 Ms Segal raised concerns about the efficacy of the AHRC's study 'given the lack of trust in its processes by impacted Jewish students, academics and staff' as well as 'concerns about a general report on multiple forms of racism'.<sup>230</sup>
- 2.208 The AHRC advised that its enabling legislation includes strong protections for confidential information shared with the AHRC, including a criminal offence for breaching that confidentiality.<sup>231</sup>
- 2.209 AGD explained that there are comparable powers in the *Australian Human Rights Commission Act 1986* and the *Royal Commissions Act 1902*. These include:
- the power to make findings and recommendations
  - compel the production of document
  - compel witnesses to make a statement (although there is a difference regarding when it would be a reasonable excuse not to make a statement)
  - the ability to hold private hearing to protect vulnerable witnesses
  - protecting information in terms of preventing its publication
  - offences dealing with false and misleading evidence, bribery and deception of witnesses and the prevention of witnesses from attending.<sup>232</sup>
- 2.210 AGD further explained that, with regard to the Study, it is up to the AHRC how it undertakes its study and it does have broad discretion to use any of the powers listed above.<sup>233</sup>
- 2.211 Mr Hugh de Kretser, President of the AHRC, expressed his intention to regain the confidence of the Jewish community and his hope that 'Jewish students and Jewish organisations engage with our important study into racism on university campuses and work with us to address antisemitism and racism more broadly'.<sup>234</sup>
- 2.212 Mrs Finlay, Human Rights Commissioner, remarked that everyone including the AHRC needs to be playing an important role in addressing antisemitism,

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<sup>229</sup> AUJS, *Submission 134*, p. 13.

<sup>230</sup> Jillian Segal AO, Special Envoy to Combat Antisemitism, *Submission 422*, p. 10.

<sup>231</sup> Mr Hugh de Kretser, President, AHRC, *Committee Hansard*, 20 September 2024, p. 61.

<sup>232</sup> Ms Sheehan, First Assistant Secretary, AGD, *Committee Hansard*, 20 September 2024, p. 75.

<sup>233</sup> Ms Sheehan, First Assistant Secretary, AGD, *Committee Hansard*, 20 September 2024, p. 75.

<sup>234</sup> Mr de Kretser, President, AHRC, *Committee Hansard*, 20 September 2024, p. 65.

‘not just in relation to one project or one study but across the board in everything that we do, to make sure the issues are addressed’,<sup>235</sup>

### **National Student Ombudsman**

2.213 The Department of Education and AGD highlighted that the Australian Government is establishing a National Student Ombudsman (NSO), to commence from 1 February 2025. The NSO will be established under the Commonwealth Ombudsman and will provide an avenue for students to escalate complaints regarding their HE provider’s actions.<sup>236</sup> It will have the power to:

- handle and investigate student complaints about the administrative actions of their providers, including in relation to student safety, welfare, course and student loan administration, and reasonable adjustments for students;
- make recommendations to providers about administrative actions that should be taken to resolve a complaint; and
- work cooperatively with regulators to identify and respond to systemic issues and promote best practice complaints handling in the sector.<sup>237</sup>

2.214 TEQSA welcomed the establishment of the NSO, submitting ‘it will help to simplify and clarify the complex environment students face in seeking support to resolve disputes with their provider’.<sup>238</sup>

2.215 In relation to the NSO, Professor Steven Prawer, Co-Director of 5A, stated:

...it’s crucially important that students be able to report their experiences without fear of being identified and fear of being victimised. They should be able to report those cases even if they’re not making a formal complaint that needs to be actioned, so to speak, where they’re forced to identify themselves and give evidence.<sup>239</sup>

2.216 Ms Madonna Morton, First Assistant Secretary, Department of Education explained the process of taking a complaint to the new NSO:

If the NSO received a complaint and investigated a provider about that complaint, the ombudsman would form a view as to whether or not the provider had followed the appropriate legislative requirements and the appropriate policies that were in place, and then would make

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<sup>235</sup> Mrs Finlay, Human Rights Commissioner, AHRC, *Committee Hansard*, 20 September 2024, p. 64.

<sup>236</sup> Department of Education and AGD, *Submission 286*, p. 8.

<sup>237</sup> Department of Education and AGD, *Submission 286*, p. 8.

<sup>238</sup> TEQSA, *Submission 153*, p. 6.

<sup>239</sup> Professor Steven Prawer, Co-Director, 5A, *Committee Hansard*, 20 September 2024, p. 7.

recommendations to the provider in terms of how they could improve that service.<sup>240</sup>

2.217 Ms Segal recommended that the NSO 'be given an expanded remit and qualified resources to manage complaints about antisemitism specifically or an independent Ombudsman for racism with expertise in addressing antisemitism be established'.<sup>241</sup>

2.218 Ms Segal also recommended the establishment of a national database of, and hotline for reporting, racist incidents as a national 'repository for standardised consistent report of hate incidents and hate crimes occurring in Australia'. Ms Segal suggested the system could be operated by the government or police like in the UK, US and Canada and, as a national system, could deliver uniformity of data collection.<sup>242</sup>

2.219 Ms Segal acknowledged that establishing such a national database would take time, and in the interim suggested that a national hotline for university staff and students be set up to begin capturing the instances of racist incidents at universities and allow those impacted to report those incidents.<sup>243</sup>

### **Other action to address antisemitism**

2.220 Other action to address antisemitism, such as research being undertaken at Monash University and other initiatives at the AHRC, were discussed as alternative or additional mechanisms for addressing antisemitism at universities.

2.221 Monash University is currently conducting a research program to investigate antisemitism and Islamophobia on campus, bringing together multidisciplinary teams to conduct studies into Jewish and Muslim student experiences and work with students to design solutions.<sup>244</sup> The ACJC recommended increased investment in projects such as this would be the most effective way to combat antisemitism without politicising it.<sup>245</sup>

2.222 The Australian Jewish Democratic Society was supportive of the research currently being conducted at Monash University, led by Dr David Slucki and Dr Susan Carland.<sup>246</sup>

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<sup>240</sup> Ms Madonna Morton, First Assistant Secretary, Higher Education Division, Department of Education, *Committee Hansard*, 20 September 2024, p. 74.

<sup>241</sup> Jillian Segal AO, Special Envoy to Combat Antisemitism, *Submission 422*, p. 9.

<sup>242</sup> Jillian Segal AO, Special Envoy to Combat Antisemitism, *Submission 422*, p. 12.

<sup>243</sup> Jillian Segal AO, Special Envoy to Combat Antisemitism, *Submission 422*, p. 13.

<sup>244</sup> ACJC, Monash University, *Submission 124*, p. 3.

<sup>245</sup> ACJC, Monash University, *Submission 124*, p. 4.

<sup>246</sup> Australian Jewish Democratic Society, *Submission 607*, p. 6.

2.223 This research, the campus cohesion project, has \$1 million of funding to investigate antisemitism, Islamophobia and related prejudices. Dr Slucki, who is leading the project, explained that the:

...remit is to understand what has been happening in our campuses that has led to the rise of such a tense atmosphere and to identify student-centred solutions that we can design and test over the next two years.<sup>247</sup>

2.224 Dr Slucki also advised that the ACJC is launching a rapid research initiative into antisemitism to examine antisemitism across Australian society.<sup>248</sup>

2.225 Professor Sharon Pickering, Vice-Chancellor and President of Monash University, expanded, advising that this body of work 'is designed to include recommendations for university settings and the development of education programs and training programs for staff and students as well as other actions'.<sup>249</sup>

2.226 Mr Giridharan Sivaraman, Race Discrimination Commissioner at the AHRC, explained that the AHRC is also undertaking work on a National Anti-Racism Framework, to be launched in November 2024. The framework, amongst other things, seeks to build 'racial literacy within institutions and understanding how certain communities are structurally disadvantaged...and how we collect data on racism'.<sup>250</sup>

### Other responses

2.227 In addition to mechanisms specifically directed at investigating and responding to incidents of antisemitism on university campuses, submitters and witnesses advocated for other responses such as improved complaints procedures and education. Many recognised that improving complaints procedures and education programs could commence immediately.

### Complaints policies and procedures

2.228 The need for improved complaints policies and procedures was discussed at length by many witnesses. It was argued that there needs to be greater awareness of, and simpler complaints mechanisms, as well as improved consistency across the sector in the handling and resolution of complaints.

2.229 UPJ advocated for more awareness of reporting mechanisms for those on campus, greater transparency in these processes as well as reviewing the

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<sup>247</sup> Dr Slucki, Director, ACJC, Monash University, *Committee Hansard*, 20 September 2024, p. 24.

<sup>248</sup> Dr Slucki, Director, ACJC, Monash University, *Committee Hansard*, 20 September 2024, p. 25.

<sup>249</sup> Professor Sharon Pickering, Vice-Chancellor and President, Monash University, *Committee Hansard*, 20 September 2024, p. 38.

<sup>250</sup> Mr Giridharan Sivaraman, Race Discrimination Commissioner, AHRC, *Committee Hansard*, 20 September 2024, p. 63.

reporting of complaints to ensure that complaint mechanisms deliver more efficient and effective outcomes.<sup>251</sup>

2.230 The JCCV and CSG submitted that, in their view, there has been significant underreporting of antisemitism due to limited understanding of how and where to report incidents, as well as limited confidence in the processes.<sup>252</sup> The JCCV and CSG also highlighted that each university has different reporting processes, some of which are arduous or require students to report the same incident multiple times due to the absence of information sharing or central data collection.<sup>253</sup>

2.231 According to AIJAC, when students have submitted complaints to universities, they have found the process ‘difficult and time consuming’ often resulting in unsatisfactory outcomes that would not deter future antisemitic conduct.<sup>254</sup>

2.232 The AUJS also considered there to be underreporting of antisemitic incidents particularly as many students ‘feel disempowered or fear retribution’ due in part to universities’ lack of action or inadequate responses.<sup>255</sup>

2.233 5A remarked:

The reported instances of antisemitic discourse and incidents are a drastic under-representation of the true pervasiveness of the problem on Australian campuses. We believe that antisemitism is a light sleeper and has been awakened and emboldened by the events in the Middle East, and that many students, academics and professional staff at universities across Australia are not reporting antisemitic discourse and incidents when these occur.<sup>256</sup>

2.234 Furthermore, Associate Professor Efrat Eilam, Co-Director of 5A, argued that some of the university processes are ‘designed to ensure justice and ethical conduct are used to discrimination against’ Jewish people, failing to protect them.<sup>257</sup> 5A elaborated:

...one common form of harassment is conducted through the weaponizing of the Disciplinary Complaint system to silence Jews. One particularly insidious expression of this comes about through a ping-pong exchange where the aggressors perform an aggressive act against Jews, and when the victims respond, the aggressors turn the tables around, accusing the initial victim and instead claiming to be the victim. Consequently, Jewish students

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<sup>251</sup> UPJ, *Submission 105*, p. [4].

<sup>252</sup> Jewish Community Council of Victoria and Community Security Group, *Submission 116*, pp. [3]–[4].

<sup>253</sup> Jewish Community Council of Victoria and Community Security Group, *Submission 116*, pp. [4].

<sup>254</sup> AIJAC, *Submission 136*, p. 10.

<sup>255</sup> AUJS, *Submission 134*, pp. 12–13.

<sup>256</sup> 5A, *Submission 603*, p. 18.

<sup>257</sup> Associate Professor Efrat Eilam, Co-Director, 5A, *Committee Hansard*, 20 September 2024, p. 2.

or staff are attacked twice, first through microaggression, and secondly by the aggressors presenting themselves as the victims of the Jewish students or staff, accusing them of aggression. The next stage in this scenario is when Jewish persons try to defend themselves, either by answering back or asking to remove some posts. This is usually followed by a herd reaction of accusing the Jewish student(s). Often, these exchanges end with the aggressors submitting a complaint against Jewish student(s) for being “aggressive.” University disciplinary processes tend to side with the provocateurs, so that the pro-Palestinians are free to condemn Israel without fear of challenge.<sup>258</sup>

2.235 Ms Segal submitted that staff and student policies at many universities ‘are a patchwork quilt of at times conflicting ideas which depart from domestic and international legal obligations or misstate the boundaries between academic freedom and hate speech’. Ms Segal recommended that best practice policies are introduced at universities to ‘give them the ability to discipline people whose conduct is antisemitic’.<sup>259</sup>

2.236 Ms Segal emphasised the need for training and fit for purpose complaints procedures, stating:

You need to train staff. You need to have an ombudsman for complaints that is integrated into thinking about how complaints are dealt with; to have procedures for broader learnings about antisemitism; to look at how complaints are dealt with and who is dealing with those complaints, ensuring they are properly considered and they reach the senior levels of the university hierarchy; and to create opportunities for students to actually assess academics.<sup>260</sup>

2.237 ECAJ observed that:

Universities have tended to insist on complaints proving a legal standard of discrimination or vilification, even when their codes of conduct plainly do not require this. While telling Jewish students and staff they have not been vilified, they have suggested that they drop specific subjects and do their studies or work remotely because it’s unsafe for them to be on campus.<sup>261</sup>

2.238 The AUJS similarly observed that:

...if an incident is significant enough to be reported to police, then in that case universities will be reluctant to investigate because they don’t want to compromise a police investigation. But, if the police don’t follow up because they don’t perceive it as serious enough, then you almost have this issue

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<sup>258</sup> 5A, *Submission 603*, pp. 8–9.

<sup>259</sup> Jillian Segal AO, Special Envoy to Combat Antisemitism, *Submission 422*, p. 8.

<sup>260</sup> Ms Segal, Special Envoy to Combat Antisemitism, *Committee Hansard*, 17 September 2024, p. 5.

<sup>261</sup> Ms Simone Abel, Head of Legal, ECAJ, *Committee Hansard*, 20 September 2024, p. 9.

where the higher the gravity of the incident, the less likely it is to get reported on or followed up.<sup>262</sup>

2.239 In relation to complaints mechanisms, TEQSA stated:

We are particularly concerned about complaint mechanisms, because we saw through some of the data that we were receiving from providers that once again we weren't able to interrogate that data deeply. We're also concerned that the learnings of providers with regard to sexual harassment, sexual assault and trauma-informed policies and procedures and grievance procedures have not moved across to exactly the same situation here and should be equally as trauma-informed.<sup>263</sup>

2.240 The ZFA stressed the need to review university complaints procedures and to restore confidence in them:

There should be a national model to standardise how complaints about discrimination against Jewish students are handled. In some universities, antisemitism is not even one of the options that can [be] ticked when you're putting forward a complaint around discrimination.<sup>264</sup>

2.241 The AHRC recommended that universities should be taking action now and adopting best practice policies.<sup>265</sup>

### **Education and training**

2.242 Several submitters indicated there is a need for further education about Judaism and antisemitism.

2.243 The UPJ advocated for greater education about Judaism including: 'understandings of Judaism as a People and culture', 'the significance of Israel in Jewish history, culture and religious practice', and 'diverse conceptions of Zionism within the Jewish community'.<sup>266</sup>

2.244 UPJ also advocated for further education about antisemitism including antisemitic tropes, examples of antisemitism, how to distinguish between legitimate criticism of Israel and antisemitic rhetoric, and greater awareness of the impact of antisemitic rhetoric on Jewish students.<sup>267</sup>

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<sup>262</sup> Mr Loven, President, AUJS, *Committee Hansard*, 20 September 2024, p. 6.

<sup>263</sup> Ms Nieuwenhuis, Acting Chief Commissioner, TEQSA, *Committee Hansard*, 20 September 2024, p. 72.

<sup>264</sup> Mr Cassuto, CEO, ZFA, *Committee Hansard*, 20 September 2024, p. 14.

<sup>265</sup> Mr de Kretser, President, AHRC, *Committee Hansard*, 20 September 2024, p. 66.

<sup>266</sup> UPJ, *Submission 105*, p. [4].

<sup>267</sup> UPJ, *Submission 105*, p. [4].

- 2.245 Never Again is Now also recommended mandatory training on antisemitism for all staff and students as well as awareness campaigns ‘to educate the broader student body about Jewish culture, history, and the realities of antisemitism’.<sup>268</sup>
- 2.246 ECAJ highlighted the need for university administrators to receive training. Mr Wertheim recommended that universities develop educational programs for administrators ‘so that they understand not just the need to adopt a definition but what it means and what it doesn’t mean’.<sup>269</sup>
- 2.247 Due to its expertise delivering holocaust education programs, the Sydney Jewish Museum considered that university leaders should reach out to educational institutions, such as the Sydney Jewish Museum, to develop educational programs around understanding and tolerance.<sup>270</sup>
- 2.248 Professor Praver drew parallels with universities’ responses to sexual harassment and violence. He pointed out that universities have implemented compulsory education programs for staff and students on this issue, commenting that universities can act when they want to. Professor Praver questioned why antisemitism is being tolerated by universities when sexual harassment is not.<sup>271</sup>
- 2.249 Professor Praver remarked that universities have an opportunity to educate staff and students, and to ‘take this problem seriously and combat it in the same way we have combated other serious cultural issues such as sexual harassment or child abuse in our community’.<sup>272</sup>
- 2.250 Ms Segal also highlighted the work universities have undertaken to train staff and students in relation to sexual violence and suggested that similar training initiatives about how to report and respond to racism, including antisemitism, should be implemented.<sup>273</sup>

### **Committee view**

- 2.251 The Commission of Inquiry into Antisemitism at Australian Universities Bill 2024 (No. 2) would establish a commission of inquiry, with royal commission-like powers, to inquire into antisemitism on Australian university campuses. The Bill is a response to a rise in antisemitism in Australia, including on Australian university campuses.

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<sup>268</sup> Never Again is Now, *Submission 138*, p. [3].

<sup>269</sup> Mr Wertheim, Co-CEO, ECAJ, *Committee Hansard*, 20 September 2024, p. 15.

<sup>270</sup> Sydney Jewish Museum, *Submission 250*, p. [2].

<sup>271</sup> Professor Praver, Co-Director, 5A, *Committee Hansard*, 20 September 2024, p. 6.

<sup>272</sup> Professor Praver, Co-Director, 5A, *Committee Hansard*, 20 September 2024, p. 7.

<sup>273</sup> Jillian Segal AO, Special Envoy to Combat Antisemitism, *Submission 422*, p. 14.

- 2.252 Antisemitism is abhorrent and has no place in Australian society. The committee is deeply troubled by the experiences of Jewish students and staff at Australian universities. Those who described the experiences of Jewish students and staff as merely occasions of 'discomfort' or 'offense' when challenged with differing opinions, or as an unfortunate consequence of the "stupid" or "idiotic" actions of other students, fail to recognise the fear many Jewish students and staff have experienced at university, and the very real harm done to those who have been victims of antisemitism. No one should feel unsafe to attend their place of education or work.
- 2.253 It is clear to the committee that university responses to incidents of antisemitism, and the fears of Jewish students and staff, have been woefully inadequate. The committee considers that the universities' responses to this issue are remarkably similar to their historically poor responses to sexual assault and harassment. Staff and student safety is paramount; the committee is disappointed that universities have not implemented more of their learnings in relation to sexual assault and harassment on campuses and applied them in this context. It is a sad indictment on Australian universities that it is only once in crisis that they feel compelled to address serious safety issues on campus, and even then, reluctantly.
- 2.254 Clearly, further action is required to address the current tensions on university campuses and protect the safety of students and staff. However, the committee does not consider this Bill the most appropriate mechanism for doing so. The committee is concerned that a commission of inquiry would be too slow. As the committee heard from the Attorney-General's Department, the shortest Commonwealth royal commission in recent years was eight months in duration.
- 2.255 The committee considers that actions that produce results more quickly and are more agile and responsive to the situation on the ground are required. To that end, the committee asks all Australian universities to respond with urgency to the issues raised by Jewish students and staff, and do everything within their power to provide a safe environment for all students and staff. It is entirely within the power of Australian universities to take action to address antisemitism now.
- 2.256 For example, evidence to the committee indicates that university complaints procedures do not have the confidence of staff and students. These complaints processes are variously not well known, difficult to navigate, opaque and/or deliver unsatisfactory outcomes that fail to eliminate unacceptable behaviour.
- 2.257 Known, consistent, navigable and effective complaints processes are an essential component in universities' responses to antisemitism on campus. For this reason, the committee calls on all Australian universities to review their complaints processes and urgently give effect to any and all changes necessary

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to ensure that these processes are well-known to and understood by students and staff, and deliver real and meaningful outcomes for complainants.

### **Recommendation 1**

**2.258 The committee recommends that, in collaboration with the Tertiary Education Quality and Standards Agency (TEQSA) and the Special Envoy to Combat Antisemitism, all Australian universities urgently review their complaints processes and give effect to any and all changes necessary to ensure these processes are known to and understood by students and staff, and deliver real and meaningful outcomes for complainants.**

2.259 The committee believes that parliamentary inquiries can be powerful tools in bringing about lasting cultural change in far shorter time than the proposed commission of inquiry. Indeed, witnesses to this inquiry observed that the inquiry, in and of itself, has led to action from universities. It is in this context that the committee considers that a broad parliamentary inquiry into antisemitism at universities should be established.

### **Recommendation 2**

**2.260 The committee recommends that the Attorney-General immediately refers an inquiry into antisemitism at Australian universities to the Parliamentary Joint Committee on Human Rights.**

2.261 The committee also considers that the establishment of a National Student Ombudsman, to commence operations by 1 February 2025, is another mechanism by which universities and their responses to antisemitism on campuses can be held to account. The committee welcomes the establishment of the NSO, and expects that its implementation will have a positive impact in reducing antisemitism at Australian universities.

### **Recommendation 3**

**2.262 The committee recommends that the Senate does not pass the Bill.**

**Senator Nita Green**  
**Chair**



# Dissenting Report from Coalition Senators

## Introduction

- 1.1 The inquiry by the Legal and Constitutional Affairs Legislation Committee (committee) into the Commission of Inquiry into Antisemitism at Australian Universities Bill 2024 (No 2) (the Bill) provides further and overwhelming evidence – that the Bill must be passed by the Senate.
- 1.2 In the words of the government-appointed Special Envoy to Combat Antisemitism, Ms Jillian Segal AO, antisemitism at Australian universities is so ‘embedded’ that only a Commission of Inquiry into antisemitism at Australian universities (Commission of Inquiry) can adequately address ‘endemic and systemic antisemitism’ which has caused such harm to Jewish students and staff.
- 1.3 As Ms Segal stated in her submission:

Antisemitic behaviour is not only present on many campuses but is an embedded part of the culture. Universities have not taken appropriate action to denounce and suppress it: it has become systemic. The Jewish students are traumatised and feel isolated and unsafe. They are not participating as they should in university life. They have been told by their university administration to stay home for their own safety. This normalised antisemitism is incredibly dangerous to our society as it is an attitude and behaviour that eats away at the fabric of the mission of the tertiary sector.<sup>1</sup>
- 1.4 Antisemitism is abhorrent and has no place in Australian society including on university campuses.<sup>2</sup>
- 1.5 However, we are deeply disappointed a majority of the committee has not endorsed the calls for a Commission of Inquiry from many distinguished Jewish organisations, representing a large number of Jewish Australians, as well as hundreds of Jewish students and academics who made submissions to this inquiry and bravely shared their stories.
- 1.6 Following Hamas’s atrocities on 7 October 2023, the Albanese government has regrettably not shown the strength of leadership to hold universities to account when they have failed to ensure they discharge their obligation to keep all students and safe on campus, including Jewish students and staff.
- 1.7 This is perhaps best illustrated by the government’s tone-deaf decision to engage the Australian Human Rights Commission (AHRC) to conduct a

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<sup>1</sup> Jillian Segal AO, Special Envoy to Combat Antisemitism, *Submission 422*, p. 1.

<sup>2</sup> As also reiterated in the majority report, p. 53, para. 2.252.

university racism study<sup>3</sup> in which Jewish organisations have made clear they have no confidence or faith, particularly in light of recent controversies over the AHRC's failure to address antisemitism.<sup>4</sup> This is made all the worse because the AHRC's final report is not due until 13 June 2025, following the federal election, reflecting the government's manifest unwillingness to deliver immediate solutions to the antisemitism crisis at Australian universities.

- 1.8 Based on evidence received by this inquiry, only the powers, confidentiality and expertise offered by a Commission of Inquiry, led by a respected and eminent jurist, is capable of undertaking the detailed inquiry necessary to deliver the systemic reforms required to protect the safety and wellbeing of Jewish university students and staff into the future.
- 1.9 An independent Commission of Inquiry will have the confidence of the Australian Jewish community to undertake this important task. The Australian Jewish community is calling for this inquiry. The Senate should listen to their calls.

## Background

- 1.10 On 16 May 2024, Opposition Leader the Hon Peter Dutton MP, on behalf of the Coalition and together with a number of crossbench senators and members, wrote to the Prime Minister, calling for his government to support a Commission of Inquiry. The letter stated, in part:

University authorities have repeatedly failed to create an environment where Jewish staff and students can work free of harassment and intimidation. Many university authorities have failed to recognise terms that are interpreted as calling for the violent destruction of Israel and the Jewish people. University authorities have frequently failed to exercise their powers to discipline staff, students and visitors to campus for engaging in antisemitic activity.

We are seeking a judicial inquiry as the most authoritative form of inquiry. An inquiry led by an independent respected jurist with the powers to grant privileges and immunities, to take evidence in confidence, assisted by senior barristers skilled in cross examination, would ensure that this problem - which is a serious matter for the social cohesion of this country and the

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<sup>3</sup> Australian Human Rights Commission, *A Study into the Prevalence and Impact of Racism in Australian Universities*, 29 July 2024, <https://humanrights.gov.au/our-work/race-discrimination/projects/study-racism-australian-universities> (accessed 1 October 2024).

<sup>4</sup> See for instance: Josh Taylor, 'Julian Leaser accuses Australian Human Rights Commission of failing to address antisemitism', *The Guardian*, 13 March 2024, <https://www.theguardian.com/australia-news/2024/mar/13/julian-leaser-accuses-australian-human-rights-commission-of-failing-to-address-antisemitism> (accessed 1 October 2024) and Patrick Durkin, 'Toxic: Human rights watchdog at war with itself over Gaza', *Australian Financial Review*, 31 May 2024, <https://www.afr.com/politics/federal/toxic-human-rights-watchdog-at-war-with-itself-over-gaza-20240531-p5ji73> (accessed 1 October 2024).

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international reputation of the Australian University Sector - is dealt with properly and seriously.

1.11 That evening, Mr Dutton said in his Budget Reply address:

It will also take a Coalition Government to turn the tide of anti-Semitism afflicting our country. Anti-Semitism is not just a threat to one segment of our community. It's a threat to our social cohesion and democratic values. Some of the most strident antisemitic standard-bearers have come from our university campuses. We will also provide the moral and political leadership which makes it abundantly clear that we expect the law to be enforced readily – not reluctantly – against those inciting hatred and violence.

1.12 A private member's bill to establish a Commission of Inquiry was first introduced into the House of Representatives by the member for Berowra, Mr Julian Leeser MP, on 3 June 2024. In his second reading speech, Mr Leeser stated:

Today Australia faces its greatest threat to multiculturalism with the emergence of antisemitism. In particular, the studied indifference to Jew hatred on our campuses. Jewish staff and students are abandoned by those charged with creating a safe place for students to study and for staff to research, teach and work. This is a tragedy for Australia which unlike almost anywhere else has been welcoming to the Jewish people.

From the days of the First Fleet when a dozen Jewish convicts stumbled ashore at Sydney Cove, Jewish people have had the opportunity to thrive free from discrimination and hatred. With that freedom and opportunity, Jewish Australians have contributed to our country. Our job in this place is to ensure that all Australians enjoy the right to education free of harassment and intimidation. Our job is to ensure that the next generation of Jewish students are not discouraged from entering any field of Australian life.<sup>5</sup>

1.13 With the government declining to progress Mr Leeser's private member's bill to a vote in the House of Representatives, on 25 June 2024 the Shadow Minister for Education, Senator the Hon Sarah Henderson, introduced the Bill, being a private senator's bill, which substantially reflects Mr Leeser's private member's bill.

1.14 In her second reading speech, Senator Henderson documented the many incidents of antisemitism which have occurred on university campuses since 7 October 2023 – the protest encampments; the invasion of classrooms by protestors who sought to identify and, in some cases, photograph Jewish students; the chanting and display of antisemitic slogans and symbols, the "kid's excursion" where children were encouraged to chant "intifada" (which is readily understood to be a call for a terrorist uprising against Jews); the failure to enforce university rules against discrimination, hate speech and racial

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<sup>5</sup> Mr Julian Leeser MP, *House of Representatives Hansard*, 3 June 2024.

vilification; and the capitulation to demands by protestors that universities disclose their defence and security research contracts and other related work.

- 1.15 Senator Henderson also condemned the University of Sydney's failure to raise the alarm over the presence of members of the extremist group, Hizb ut-Tahrir, on campus, stating:

Mr Scott's decision to turn a blind eye to the activities of radical extremists on campus is a serious dereliction of duty. Appallingly, the rationale for not acting, according to a university spokesman, was because Hizb ut-Tahrir is "not deemed a terrorist organisation by authorities" here in Australia. ...

I have called on the Albanese Government to urgently investigate all circumstances surrounding the presence on campus of Hizb ut-Tahrir and any other extremist group at the University of Sydney and to overturn this reckless agreement with activists, along with a similar agreement reached by the University of Melbourne.

The government must urgently act to restore the reputation of Australia's oldest university which is supported by more than \$1 billion of taxpayers' money a year. So far, we have heard nothing but silence from Labor's Education Minister, Mr Clare.<sup>6</sup>

### **A failure of leadership by universities**

- 1.16 As the committee has outlined in its report, throughout this inquiry we heard and read many heartbreaking stories where Jewish students felt compelled to choose between their education and their safety. This is a choice no Australian student should ever have to make and is a damning indictment on some university leaders.
- 1.17 Many Jewish students and academics felt they could not attend university, wear symbols of their faith or move about their campus freely, for fear of reprisals such as repeated verbal attacks, harassment or intimidation. Parents of Jewish students have been distraught about the treatment of their children. Complaints by Jewish students and academics frequently fell on deaf ears, compounded by the lack of a universal definition of antisemitism, including in relation to protest activity, the display of antisemitic slogans or, as was the case at the University of Sydney, the menacing presence of members of the extremist group, Hizb ut-Tahrir.
- 1.18 While all universities have a duty to uphold the principles of academic freedom and freedom of speech and to respect the right to legitimate and peaceful protest, frequently universities did not recognise the need to limit or prevent protest conduct when it extended to violence, threat or intimidation. Consequently, behaviour or activities which were in blatant breach of university rules were tolerated, and Jewish students and staff paid a very heavy price.

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<sup>6</sup> Senator the Hon Sarah Henderson, *Senate Hansard*, 27 June 2024.

- 1.19 The failure of some universities to promptly shut down and remove protest encampments, which fueled so much antisemitic hate and incitement, was not just a case of not understanding when a line had been crossed. It also constituted a serious dereliction of duty to Jewish students, staff and visitors, as well as the broader university community.
- 1.20 It is therefore astonishing universities took so long to ensure protest encampments were dismantled, with the University of Sydney's Vice-Chancellor initially defending the encampment as a "legitimate protest".<sup>7</sup> Similarly, Melbourne University took more than a week to end the unlawful occupation of its Arts West building by protestors which led to the closure of the entire Parkville campus for one day, impacting the education of every student.
- 1.21 At the public hearing in Canberra on 20 September 2024, the Australasian Union of Jewish Students said:

...I can say with confidence that the University of Sydney is probably one of the worst places to be a Jewish student right now, and that Mark Scott has failed his students. We have tried repeatedly to engage, after the first meeting with him, his chief of staff had to apologise for his behaviour as soon as he left the office.<sup>8</sup>

- 1.22 Explaining its decision to call for the resignation of the University of Sydney Vice-Chancellor, the Zionist Federation of Australia stated:

...the university capitulated to intimidation tactics of these protestors - individuals were ignoring university rules, they were threatening, intimidating Jewish students, they were encouraging children to chant about ethnic cleansing of Jews, and they've been rewarded for their actions.<sup>9</sup>

- 1.23 Under questioning, Professor Scott conceded he and the university had failed Jewish students and staff:

I have failed them, and the university has failed them. That is why we have made significant changes to our policy settings, that is why we have a further review underway, that is why we are committed to working with the Antisemitism Envoy, the Human Rights Commission review and a judicial inquiry, if a judicial inquiry emerges.<sup>10</sup>

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<sup>7</sup> Professor Mark Scott, 'Uni protests must strike balance of free speech and safety', *The Australian*, 20 May 2024.

<sup>8</sup> Mr Zachary Morris, Vice-President, Australasian Union of Jewish Students, *Committee Hansard*, 20 September 2024, p. 4.

<sup>9</sup> Mr Alon Cassuto, CEO, Zionist Federation of Australia, *Committee Hansard*, 20 September 2024, p. 14.

<sup>10</sup> Professor Mark Scott, Vice-Chancellor and President, University of Sydney, *Committee Hansard*, 20 September 2024.

- 1.24 In the limited time Coalition senators had to question university vice-chancellors at this public hearing, we were left with more questions than answers. For instance, we are still seeking an explanation from the Australian National University (ANU) as to why the expulsion of a student for publicly declaring that Hamas deserved ‘unconditional support’ was overturned. It is of deep concern this student is now running for election as president of the ANU students’ association which, as we heard, poses further major safety fears for Jewish students.
- 1.25 The committee also heard and received disturbing evidence from Jewish academics and other staff who were badly failed by their union, the National Tertiary Education Union (NTEU), such that some 57 people resigned in protest.<sup>11</sup> It is appalling that Jewish staff felt compelled to resign, leaving them without union representation.
- 1.26 In its submission to the inquiry, the Australian Academic Alliance Against Antisemitism stated:
- We do not know the extent to which antisemitism has become embedded in the [NTEU], and whether it is possible for Jewish academics to have a union that can represent their workplace interests without compromising their core beliefs.<sup>12</sup>
- 1.27 This should give rise to deep reflection on the part of the leadership of the NTEU.

### **A failure of leadership by the Albanese government**

- 1.28 With the exception of the appointment of the Special Envoy to Combat Antisemitism which we strongly endorse, Coalition senators are deeply troubled about the Albanese government’s inadequate response to the antisemitism crisis on university campuses.
- 1.29 Not only has the Minister for Education, the Hon Jason Clare MP, largely declined to hold universities to account for their failings, the government has surprisingly not imposed any additional requirements on universities to improve the safety and wellbeing of Jewish students, staff and visitors. This concern is reflected in the submissions of many Jewish organisations. Notably, given it would take some time to establish a Commission of Inquiry, Ms Segal in her submission argued that a number of measures should be implemented immediately, an approach we have endorsed as set out in our Recommendation 2.

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<sup>11</sup> Ms Gabrielle Gooding, National Assistant Secretary, National Tertiary Education Union, *Committee Hansard*, 20 September 2024.

<sup>12</sup> Australian Academic Alliance Against Antisemitism, *Submission 603*, part 2, p. 4.

- 1.30 As mentioned above, the government's decision to engage the AHRC to conduct what we regard as a woefully inadequate racism study constitutes a major failure to take campus antisemitism seriously. It is also of deep concern that the Minister for Education, at no stage, called for the removal of protest encampments or a reconsideration of disclosure agreements entered into between some universities and protest groups. Despite the Coalition calling on the government to investigate the presence of members of the extremist group, Hizb ut-Tahrir, at the University of Sydney which was known to the office of the vice-chancellor,<sup>13</sup> the minister took no such action.
- 1.31 We are also concerned the government failed to demand a more comprehensive response from TEQSA, the higher education regulator, which inconceivably took eight months to write to universities about their obligations to keep students and staff safe following the Hamas terrorist attack.<sup>14</sup> It was open to the minister to request the regulator impose registration conditions concerning campus safety on some universities and take other compliance action, but this did not occur. As we heard, the minister has convened just two 30-minute meetings with TEQSA since last October, with TEQSA informing the committee that:
- The minister wanted us to continue this engagement with universities and to continue to draw the universities' attention to the types of issues that we were flagging from the various sources of information that we had.<sup>15</sup>
- 1.32 It is noteworthy the Prime Minister was required to publicly rebuke the Minister for Education following his ill-informed statement that slogans such as "river to the sea" and "intifada" meant different things to different people, a position heavily criticised by Jewish leaders.<sup>16</sup>
- 1.33 Following the Coalition's advocacy for an independent student ombudsman, we note the proposed ombudsman can and must play a crucial role in overseeing complaints of campus antisemitism, aided by an antisemitism expert as we have recommended. However, it cannot be said that this was a response to rising

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<sup>13</sup> <https://sarahhenderson.com.au/labor-must-urgently-investigate-university-of-sydneys-serious-failures-to-safeguard-students-from-extremists>.

<sup>14</sup> <https://sarahhenderson.com.au/labors-education-minister-again-fails-the-leadership-test-on-antisemitism/>.

<sup>15</sup> Dr Mary Russell, CEO, Tertiary Education Quality and Standards Agency, *Committee Hansard*, 20 September 2024, p. 71.

<sup>16</sup> <https://www.theaustralian.com.au/nation/antiisrael-slogans-mean-different-things-to-different-people-minister/news-story/ed7dd1ea15f394a98dd3cfbba6437a1c>.

campus antisemitism, given the government first raised this prospect on 6 October 2023.<sup>17</sup>

### **Reasons for a Commission of Inquiry**

- 1.34 Numerous submissions referred to the benefits of a Commission of Inquiry with Royal Commission like powers.
- 1.35 One of the most powerful reasons for a Commission of Inquiry is to provide confidence to members of the Jewish community, who have suffered antisemitic attacks, that they can safely make a submission without fear of reprisals, retaliation, vilification, bullying or even threats to physical safety.
- 1.36 The sense of fear in the Jewish community is palpable. This is evident in hundreds of submissions. It is a disgraceful state of affairs that Jewish students and academics fear they will suffer adverse consequences if they use the complaint systems established by universities to report antisemitic conduct on campuses. However, that is the reality of the current situation.
- 1.37 The fact that approximately 170 submitters requested that their name be withheld and over 250 submissions could only be received, in all the circumstances, on a strictly confidential basis is demonstrable evidence that any inquiry would need to take evidence 'in camera' or confidentially, and in a manner which inspires the confidence of submitters. On the basis of the submissions made by members of the Jewish community themselves, this can only be achieved through the vehicle of a Commission of Inquiry led by a respected jurist.
- 1.38 In addition, to properly inquire into the responses of the universities will require the power to subpoena witnesses and require the production of relevant documents. Many of the incidents detailed in submissions demand a forensic examination of the response of the universities. How did the university respond to a particular complaint? Under what circumstances were complaints ignored or disregarded? How many complaints went unreported due to a lack of confidence in our universities? What were the consequences? What were the considerations in the minds of administrators as they decided upon a course of action? Many of these questions can only be answered through a Commission of Inquiry with the powers to gather the necessary evidence.
- 1.39 With all due respect to senators calling for an inquiry by the Parliamentary Joint Committee on Human Rights, the time for a further parliamentary inquiry has passed. This inquiry has shone a bright light on the scope of the crisis on our campuses. A further parliamentary inquiry, even with the best of intentions, has neither the resources, capacity nor powers to undertake this important

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<sup>17</sup> <https://www.abc.net.au/news/2023-10-06/student-ombudsman-considered-university-sexual-assault/102941044>.

work. A full time Commission of Inquiry with the powers of a Royal Commission is required to undertake the forensic examination required to address the crisis.

- 1.40 Given their systemic failings, it is also not sufficient for universities to review their own policies, even in collaboration with the Special Envoy to Combat Antisemitism and TEQSA, as recommended in the majority report.<sup>18</sup> A far more compelling proposal is that universities must be required to adopt best-practice policies and procedures as recommended by the Special Envoy to Combat Antisemitism, with reference to the progress which has been made at universities such as Columbia University and New York University in the United States.<sup>19</sup>
- 1.41 There was discussion in the majority report as to the time a Commission of Inquiry may require to report. However, it is our strong view (shared by many submitters) that the establishment of a Commission of Inquiry with the power to subpoena witnesses, require the production of documents and with the benefit of relevant privileges and immunities will, of itself, act to recalibrate the responses of our universities. From the time the Bill is passed, universities would be on notice that their response to the antisemitism crisis on university campuses will be subject to forensic examination and consideration, driving greater accountability, transparency and responsiveness.

### **Adoption of IHRA working definition on antisemitism**

- 1.42 As noted in the majority report, the Australian Government has adopted the International Holocaust Remembrance Alliance (IHRA) working definition of antisemitism. This is supported by both the Government and the Opposition. Hence, it is appropriate that the Bill refer to adoption and implementation of an appropriate definition of antisemitism such as the IHRA working definition.
- 1.43 In relation to claims that reference to the IHRA definition may have a potential negative impact on academic freedom and freedom of speech, we disagree. With respect to claims the IHRA working definition conflates political criticism with antisemitism, we also disagree.
- 1.44 We note the commentary accompanying the IHRA definition specifically states ‘However, criticism of Israel similar to that levelled against any other country cannot be regarded as antisemitic’.<sup>20</sup>
- 1.45 This was reflected in the ECAJ submission where it was submitted:

This is not to suggest that it is antisemitic to criticise Israeli government policies or practices or the statements and conduct of Israeli political figures,

<sup>18</sup> Majority report, p. ix, para. 2.258.

<sup>19</sup> Jillian Segal AO, Special Envoy to Combat Antisemitism, Submission 422, Appendix 4.

<sup>20</sup> See <https://holocaustremembrance.com/resources/working-definition-antisemitism>.

in the same way that criticisms are levelled against other governments and political figures. Nor is it antisemitic to hold particular views about the borders of Israel, settlements, refugees, the legal status of Jerusalem or the viability of a two-State outcome to the Israel-Palestinian conflict. Among Israelis, the Jewish people and others who support Israel there is a wide range of views about these issues. However, the discourse about Israel on many university campuses in recent years, and especially since the Hamas atrocities on 7 October 2023, has gone well beyond discourse of this nature.<sup>21</sup>

- 1.46 The conduct referred to in the hundreds of submissions received by this committee goes well beyond the realm of criticism of Israeli government policies and actions. On the basis of the overwhelming number of submissions received by this inquiry, it is conduct which threatens the safety and wellbeing of Jewish students and academics on our university campuses. It is not conduct on the margins. There has been a lack of evidence to support the assertion that adoption of the IHRA working definition of antisemitism would act as an impediment to freedom of speech or academic freedom. The more relevant question is why haven't all universities adopted the IHRA working definition of antisemitism?

## Conclusion

- 1.47 Rising antisemitism at Australian universities is a serious matter for the social cohesion of our country and the global reputation of our tertiary education sector. As Senator Henderson referenced during the public hearing on 20 September 2024, one of the most powerful representations she has received was from the leader of an Islamic school in western Sydney who made clear that Muslim parents do not want to send their children to a university campus racked with hate and division.
- 1.48 It is untenable that Jewish students have been forced to choose between their education and their safety. Even if a Commission of Inquiry does not eventuate, this Senate inquiry into the Bill, along with the exceptional advocacy of Mr Leeser and the most substantial contribution of Jewish Australians, has shone a much-needed spotlight on the case for urgent action.
- 1.49 We are inspired by the leadership of Mr Ben Sasse, the president of the University of Florida, who stated:

We will always defend your rights to free speech and free assembly—but if you cross the line on clearly prohibited activities, you will be thrown off campus and suspended. ... that means a three-year prohibition from campus. That's serious. We said it. We meant it. We enforced it. We wish we didn't have to, but the students weighed the costs, made their decisions, and

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<sup>21</sup> Executive Council of Australian Jewry, *Submission 97*, p. 4.

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will own the consequences as adults. We're a university, not a daycare. We don't coddle emotions; we wrestle with ideas.<sup>22</sup>

## **List of recommendations by Coalition senators**

### **Recommendation 1**

- 1.50 That the Senate and the Parliament pass the Bill at the earliest opportunity so that a Commission of Inquiry into antisemitism at Australian universities can be established as soon as practicable.**

### **Recommendation 2**

- 1.51 That the Australian Government directs the Special Envoy to Combat Antisemitism, Ms Jillian Segal, to urgently recommend, in consultation with TEQSA:**

- best-practice university policies and procedures to combat antisemitism, including in relation to complaints handling and fines for non-compliance;**
- antisemitism training for university leaders; and**
- any other practical initiative to combat antisemitism at Australian universities.**

- 1.52 That the Australian Government considers how best to implement the recommendations of the Antisemitism Envoy including any necessary amendments to the law.**

### **Recommendation 3**

- 1.53 That the Australian Government amends the law so that all public universities are required to either adopt the International Holocaust Remembrance Alliance (IHRA) working definition of antisemitism or give detailed reasons as to why such a definition has not been so adopted, to be published and updated prominently on each university's website on 1 February and 1 August of each year.**

### **Recommendation 4**

- 1.54 That the Australian Government amends the law so that public universities are required to disclose a breakdown of all revenues and all agreements, arrangements or understandings in relation to the provision of such revenues including with foreign persons or entities.**

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<sup>22</sup> Ben Sasse, 'The Adults Are Still in Charge at the University of Florida', *Wall Street Journal*, 3 May 2024.

**Recommendation 5**

- 1.55 That the proposed National Student Ombudsman be supported by a person expert in antisemitism and that such requirement be included in the National Student Ombudsman Rules.**

**Senator the Hon Sarah Henderson  
Participating member  
Liberal Senator for Victoria**

**Senator Paul Scarr  
Deputy Chair  
Liberal Senator for Queensland**

## Additional Comments from the Australian Greens

- 1.1 The Greens welcome the opportunity to contribute additional comments to the committee report.
- 1.2 The Greens support Recommendation 3 of the committee and are of the view that this Bill should not be passed.
- 1.3 The Greens do not support Recommendation 2 of the committee. The Greens opposed the Inquiry into a Commission of Inquiry into Antisemitism at Australian Universities Bill 2024 (No. 2) and are opposed to a further inquiry. We are of the view that the Australian Human Rights Commission (AHRC) is already leading a comprehensive anti-racism study into universities and that this is the most appropriate mechanism to investigate all forms of racism.
- 1.4 The Greens oppose Recommendation 1. The Greens view is that the AHRC, not the Special Envoy on Antisemitism, is the appropriate office to collaborate with TEQSA to consider university policies and procedures on experiences of racism.
- 1.5 Racism is pervasive, systemic and institutional in Australia, with its roots in this nation's bloody colonial history tainted with dispossession and violence against First Nations people. This is why the Greens have prioritised combatting racism in all its forms and are the only party to have established a standalone antiracism portfolio and spokesperson.
- 1.6 On behalf of the Greens, I reiterate our opposition to the Commission of Inquiry into Antisemitism at Australian Universities Bill 2024 (No. 2), that this is a deceitful attempt by the Coalition to weaponise antisemitism to target students and others speaking up and taking action against the genocide of the Palestinian people.
- 1.7 As noted by the Sydney University branch of the National Tertiary Education Union, 'Weaponising the legitimate and necessary struggle against antisemitism for the narrow purpose of suppressing opposition to the genocidal practices of the state of Israel seriously undermines the combat against all racism, antisemitism included'.
- 1.8 Claims of widespread antisemitism at student encampments and protests against the genocide in Palestine are a gross misrepresentation of the peaceful and welcoming nature of the protests, as made evident by Jews for Palestine WA, who wrote: 'Our experiences in participating at events at Curtin University throughout this year have been very positive in terms of our interactions with students and Palestinian activists who very clearly welcomed Jewish people and demonstrated zero tolerance of antisemitism or hate speech'.
- 1.9 Jews Against Fascism also wrote that, 'Pro-Palestine protests on campus have consistently denounced antisemitism and included Jewish students. These

protesters are our allies against racism and antisemitism. As such, this suggested Commission of Inquiry is a distraction from the actual problem and will not help us to understand where antisemitism exists nor how it functions’.

- 1.10 Moves to exclude me from this inquiry, the Australian Greens Anti-Racism and Higher Education Spokesperson, in the media by members of the Liberal Party confirmed this was never about dealing with the serious issue of antisemitism in Australian society, but rather a partisan attempt to drive the right-wing media cycle.
- 1.11 During the hearing, Liberal Party senators questioned the right of the Jewish Council of Australia to represent their community, criticised their submission for not containing sufficient personal experience, and consistently interrupted the witnesses in giving their evidence. When Dr Elizabeth Strakosch attempted to address this, saying, ‘I’m feeling like some of these questions are not giving us the space to legitimately address our submission to the inquiry and are instead seeking to trap-’, she was once again interrupted.<sup>1</sup> The poor treatment of Dr Strakosch and Ms Sarah Schwartz during the hearing only reinforces that this inquiry was set up to silence critics of Israel – including Jewish voices.
- 1.12 The Jewish Council of Australia in their testimony specifically highlighted concerns surrounding the IHRA definition of antisemitism proposed by this Bill. As they note, this definition ‘has long been criticised and rejected by scholars of antisemitism, including its own author, because it is used to chill criticism of Israel and Zionism, particularly silencing Palestinian voices’.
- 1.13 The Jewish Council of Australia warns that the ‘conflation of Jews and Israel’ risks ‘increasing antisemitism’ as it is linked to a rise in the far right, which is encouraged by such a conflation.
- 1.14 Numerous submissions warned against singling out antisemitism and, as the Jewish Council of Australia noted, creating a ‘hierarchy of racism’ which ‘will only generate division.’ The Tzedek Collective also expressed concern ‘about the attempt to essentialise antisemitism and treat it as a distinct and removed form of prejudice’.
- 1.15 The Greens believe the Race Discrimination Commissioner’s office is best placed to lead anti-racism work. The Commission should be fully funded, resourced and empowered to do this work with affected communities. This position is confirmed by the Jewish Council of Australia’s testimony, which heard that the ‘only way to effectively fight antisemitism is by committing to work in partnership with other groups facing bigotry and discrimination and to fight all forms of racism’.

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<sup>1</sup> Dr Elizabeth Strakosch, Executive Officer, Jewish Council of Australia, *Committee Hansard*, 20 September 2024, p. 22.

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- 1.16 The intention of this Bill is not to tackle rising racism, but to weaponise the discourse surrounding racism, and antisemitism in particular, to target legitimate criticism of the state of Israel and its genocide of the Palestinian people.
- 1.17 The AHRC is already leading a comprehensive anti-racism study into universities that will address all forms of racism. As noted in the submission by UNSW academics, the AHRC is the appropriate body to do this work.
- 1.18 The student encampments for Palestine came about as a response to Israel's genocidal war against the Palestinians, and the Australian Government's refusal to take any meaningful action to stop the slaughter. In many cases, Jewish Australians were key organisers of these encampments.
- 1.19 The Greens are in solidarity with students across the country peacefully protesting, taking action and speaking out for Palestine with such courage in the face of lies, abuse, harassment, and intimidation.
- 1.20 Racism, in all its forms, including antisemitism, is a serious issue in society and should be dealt with as such. While the Coalition plays political games, the Greens will continue to work to get to the root of all forms of racism. The Australian Greens have fully supported and engaged with the ongoing Senate Inquiry into Right-Wing Extremist Movements, recognising that the Far Right and Neo-Nazi movements – ignored by the Coalition – are the biggest threat to Jewish Australians.

### **Recommendation 1**

- 1.21 That the office of the Race Discrimination Commissioner urgently completes and implements the national anti-racism strategy and be fully funded and resourced to do so.**

**Senator Mehreen Faruqi**  
**Greens Deputy Leader and Senator for New South Wales**



# Appendix 1

## Submissions and Additional Information

### Submissions

- 1 Mrs Rachel Sussman
- 2 Stephen Heydt
- 3 Name Withheld
- 4 Mr Richard Skimin
- 5 Mr Brian Crowther
- 6 Peter Temby
- 7 Name Withheld
- 8 Dr George Quittner
- 9 Ms Irene Deutsch
- 10 Name Withheld
- 11 Name Withheld
- 12 Name Withheld
- 13 Name Withheld
- 14 Confidential
- 15 Confidential
- 16 Name Withheld
- 17 Name Withheld
- 18 Mr Rodney Hyman AM
- 19 Mr Derek Manoy
- 20 Confidential
- 21 Dr Leia Greenslade
- 22 Mr Peter Dobos
- 23 Zionist Council of NSW
- 24 Mr Max Levy
- 25 Deakin University
- 26 Ms Vivienne Martin
- 27 Mr John Kempner
- 28 Ms Shifrah Blustein
- 29 Mr Yury Glikin
- 30 Hayley Coombes
- 31 Dr Alex Selby
- 32 Amanda McEniry
- 33 Name Withheld
- 34 Name Withheld
- 35 Name Withheld
- 36 Name Withheld
- 37 Name Withheld
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- 39 Name Withheld
  - Attachment 1
- 40 Dr Jonathan Williamson
- 41 Name Withheld
- 42 Mrs Keren Zelwer
- 43 Name Withheld
- 44 Name Withheld
- 45 Name Withheld
- 46 Name Withheld
- 47 Name Withheld
- 48 Name Withheld
- 49 Name Withheld
- 50 Name Withheld
- 51 Name Withheld
- 52 Name Withheld
- 53 Australian Friends of Tel Aviv University
- 54 Mr Lionel Rodrigues
- 55 Name Withheld
- 56 Name Withheld
- 57 Name Withheld
- 58 Name Withheld
- 59 Mrs Beverly Solsky
- 60 Name Withheld
- 61 StandWithUs Australia
- 62 Confidential
- 63 Confidential
- 64 Confidential
- 65 Confidential
- 66 Name Withheld
- 67 Jews for Palestine WA
- 68 Dr Marjorie O'Neill MP, Member for Coogee
- 69 Name Withheld
- 70 Name Withheld
- 71 Name Withheld
- 72 Name Withheld
- 73 Name Withheld
- 74 Name Withheld
- 75 Mr Gregory Williams
- 76 Mrs Kerry Gottlieb
- 77 Name Withheld
- 78 Name Withheld
- 79 Name Withheld
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- 81 Ms Sue Fischer  
82 Name Withheld  
83 Name Withheld  
84 Name Withheld  
85 Name Withheld  
86 Mr Warren Levitan  
87 Rabbi Gary Robuck  
88 Name Withheld  
89 Name Withheld  
90 Name Withheld  
91 Name Withheld  
92 Name Withheld  
93 Name Withheld  
94 Name Withheld  
95 Emeritus Professor Andrew Markus AO  
96 Loud Jew Collective  
97 Executive Council of Australian Jewry (ECAJ)  
98 Institute of Public Affairs  
99 Ms Emily Egerton-Warburton  
100 George Greenberg AM  
101 Dr John Gallo  
102 Australian Jewish Association (AJA)  
103 ACT Jewish Community  
104 Jews Against Fascism  
105 Union For Progressive Judaism  
106 Name Withheld  
107 Name Withheld  
108 Name Withheld  
109 Name Withheld  
110 Name Withheld  
111 Youth HEAR  
112 Universities Australia  
113 Emeritus Professor David Sonnabend AM  
114 Zionist Federation of Australia  
115 Name Withheld  
116 Jewish Community Council of Victoria and Community Security Group  
(Victoria)  
• Attachment 1  
117 David Kugel  
118 Professor Mark Hertzberg AM  
119 Mr Jeremy Fox  
120 University of Technology Sydney  
121 Institute for Collaborative Race Research

- 122 National Tertiary Education Union
- 123 University of Southern Queensland
- 124 Australian Centre for Jewish Civilisation, Monash University
- 125 Professor Lawrence Doctors
- 126 National Council of Jewish Women Australia
- 127 Tzedek Collective
- 128 Macquarie University
- 129 UNSW Sydney
- 130 University of Sydney
- 131 Australia Palestine Advocacy Network
- 132 Name Withheld
- 133 Dr Howard Goldenberg
- 134 Australasian Union of Jewish Students
- 135 Group of Eight (Go8)
- 136 Australia/Israel & Jewish Affairs Council (AIJAC)
- 137 Moriah College
- 138 Never Again Is Now Ltd
- 139 University of Melbourne
- 140 Name Withheld
- 141 Muslim Votes Matter
- 142 Australian Human Rights Commission
- 143 Dr Aylie Davidson
- 144 Australian Muslim Advocacy Network (AMAN)
- 145 Name Withheld
- 146 Palestinian Christians in Australia
- 147 NSW Jewish Board of Deputies
- 148 Northern Rivers Jewish Community Association
- 149 Palestinian Cultural Society UWA
- 150 University of Adelaide
- 151 Dr Adam Rapaport
- 152 Mrs Gail Petherick
- 153 Tertiary Education Quality and Standards Agency (TEQSA)
- 154 Melbourne University Liberal Club
- 155 Dr Michael Skalsky
- 156 Name Withheld
- 157 Name Withheld
- 158 Australian Association of Jewish Holocaust Survivors & Descendants
- 159 Jews Against the Occupation '48
  - Attachment 1
- 160 Miss Tabitha Woo
- 161 Mrs Tziona Shor
- 162 Muslim Women Australia
- 163 National Council of Jewish Women Australia (Vic)

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- 164 Mr Peter Gergely  
165 Mr John Smith  
166 Dr Hazel Goldberg OAM  
167 The Hon Philip Dalidakis  
168 Mr Jack Pinczewski  
169 Academic Alliance against Settler Colonialism, Racism and Censorship in Australia  
170 Mx Sarah Lucy  
171 Mr Victor Berger  
172 Miss Eden Gringart  
173 Ms Tian Zhang  
174 Professor Linda Briskman  
175 Monash University  
176 Professor Luke McNamara, Faculty of Law and Justice; Associate Professor Jonathan Bonnitcha, Faculty of Law and Justice; Professor Kathy Bowrey, Faculty of Law and Justice; Dr Andrew Brooks, Faculty of Arts, Design & Architecture; Professor Ross Buckley, Faculty of Law and Justice; Dr Na'ama Carlin, Faculty of Arts, Design & Architecture; Professor Louise Chappell, Faculty of Law and Justice; Associate Professor Marc De Leeuw, Faculty of Law and Justice, UNSW et al  
177 Mr Tom Curtis  
178 Ms Moran Dvir  
179 Miss Dror Liraz  
180 Mr Ron Isaacs  
181 Jewish Council of Australia  
182 Name Withheld  
183 Name Withheld  
    • 183.1 Supplementary to submission 183  
184 Name Withheld  
185 Mr Allan Hunt  
186 Name Withheld  
187 Miss Mia Rom  
188 Name Withheld  
189 National Tertiary Education Union, University of Sydney Branch  
190 Mr Dean Perlman  
191 Name Withheld  
192 Ms Teya Dusseldorp  
193 Mr Alan Goldstone OAM  
194 Dr Marina Kunin  
195 Mr Mark Friedgut  
196 Name Withheld  
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206 Name Withheld  
207 Name Withheld  
208 Ms Sara Landa-Wrublewski  
209 Mrs Netty Rosenthal  
210 Mr Leon Levy  
211 Mr Alan Joffe  
212 Mr David Blumenstein  
213 Name Withheld  
214 Name Withheld  
215 Name Withheld  
216 Name Withheld  
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219 Name Withheld  
220 Name Withheld  
221 Mr John Whiteing  
222 Dr Siân McIntyre  
223 Dr Desmond Bellamy  
224 Name Withheld  
225 Name Withheld  
226 Name Withheld  
227 Name Withheld  
228 Name Withheld  
229 Name Withheld  
230 Name Withheld  
231 Professor Norie Neumark  
232 Name Withheld  
233 Name Withheld  
234 Name Withheld  
235 Name Withheld  
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237 Name Withheld  
238 Name Withheld  
239 Name Withheld  
240 Name Withheld  
241 Mr Guy Miller

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- 242 Mx Pavle Cajic  
243 Name Withheld  
244 Name Withheld  
245 Name Withheld  
246 Ms Joanna Fishman Auerbach  
247 Name Withheld  
248 Name Withheld  
249 Name Withheld  
250 Sydney Jewish Museum  
251 Name Withheld  
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253 Name Withheld  
254 Name Withheld  
255 Name Withheld  
256 Name Withheld  
257 Anne Bennett  
258 Shelley Sher  
259 Simone Joffe  
260 Naomi Robinson  
261 Dr Keturah Hoffman  
262 Professor Ronald Grunstein  
263 Rabbi David Freilich OAM  
264 Luba Klein  
265 Aviva Freilich  
266 Les Kausman OAM  
267 Carolyn Grinter  
268 Name Withheld  
269 Ms Aviva Sheb'a  
270 Name Withheld  
271 Ruth Miriam Cohen  
272 Name Withheld  
273 Name Withheld  
274 Mr Barry Levy  
275 Name Withheld  
276 Marilyn Jankelowitz  
277 Name Withheld  
278 Anna Berger MA  
279 Name Withheld  
280 Ms Svetlana German  
281 Name Withheld  
282 Name Withheld  
283 Name Withheld  
284 Dr Sally Wilson and Dr David Wilson

- 285 Name Withheld  
286 Department of Education and the Attorney-General's Department  
287 Name Withheld
- 287.1 Supplementary to submission 287
- 288 Name Withheld  
289 Name Withheld  
290 Name Withheld  
291 Name Withheld  
292 Name Withheld  
293 Dr Ilana Sharp  
294 Name Withheld  
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302 Mr Mike Tsykin  
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306 Mr David Stock  
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310 Name Withheld  
311 Ms Zoe Kenny  
312 Mrs Amber Rubenstein  
313 Mr George Vardas  
314 Name Withheld  
315 Mr David Schulberg  
316 Name Withheld  
317 Mr Jackson Meddows  
318 Miriam Bass OAM  
319 Mr Marc Light  
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325 Name Withheld  
326 Mr Peter Reay

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- 327 Mr Allan Potts  
328 Mr Benjamin Ezzes  
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331 Name Withheld  
332 Name Withheld  
333 Name Withheld  
334 Name Withheld  
335 Mr Gil Orski  
336 Mr Robert Kay  
337 Name Withheld  
338 Name Withheld  
339 Dr William Gara  
340 Ms Evelyn Konstantinidis  
341 Name Withheld  
342 Name Withheld  
343 Dr. Peter Slezak  
344 Name Withheld  
345 Grant Levitas  
346 Dr Agnes Kainer  
347 Name Withheld  
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351 Ms Melinda Jones  
352 Name Withheld  
353 Natalie Knoll  
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363 Mrs Penny Lee  
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365 Dr Harvey Stern  
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373 Dr Scott Prasser  
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387 Name Withheld  
388 Mr Alex Epstein  
389 Dr Louise Helfgott  
390 Judy Snow  
391 Dr Ian Katz  
392 Mr David Golovsky AM  
393 Dr George P Banky  
394 Mr Peter Philippsohn OAM  
395 Name Withheld  
396 Mr Roie Greenberg  
397 Name Withheld  
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399 Mr Peter Haneman  
400 Ms Melissa McCurdie  
401 Name Withheld  
402 Mr Gabriel Segal  
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- 411 Name Withheld  
412 Mr Robert Cussel  
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414 Name Withheld  
415 Name Withheld  
416 Name Withheld  
417 Name Withheld  
418 Arlene Schwartz  
419 Millie Phillips Charity  
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421 Name Withheld  
422 Jillian Segal AO, Special Envoy to Combat Antisemitism  
423 B'nai B'rith Australia/New Zealand  
424 Mr Chris Dolman  
425 Ms Shirley Leader  
426 Mrs Margaret Belkin  
427 Name Withheld  
428 Name Withheld  
429 Name Withheld  
430 Dr Damien Freeman  
431 Name Withheld  
432 Mr Aytan Ben-Pelech  
433 Mr Ellis Varejes  
434 Ms Tammie Slade  
435 Mrs Keren Miller  
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438 Name Withheld  
439 Mr Ronny Zulaikha  
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445 Mr Harold Milner  
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451 Name Withheld  
452 Mr Harry Wrublewski

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460 Sam Recht  
461 Name Withheld  
462 Mr Harry Oppermann  
463 Nina Bassat AM  
464 Tamara Marks  
465 John Ziraj  
466 Nina Philosoph  
467 Ryan Edelman  
468 Jewish Community Council of South Australia  
469 Mr Michael Grenier  
470 Ms Allegra Spender MP, Federal Member for Wentworth  
471 Name Withheld  
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603 Australian Academic Alliance Against Antisemitism  
604 Australian Political Action Group  
605 Online Hate Prevention Institute  
606 Adelaide University Jewish Students Society  
607 Australian Jewish Democratic Society  
608 Name Withheld  
609 Carolyn Calmonson  
610 Name Withheld  
611 Name Withheld  
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621 Confidential  
622 Confidential  
623 Mr Arash Behgoo  
624 Name Withheld

- 625 Alina Kopman
- 626 Roger Hogan
- 627 Confidential
- 628 Matthew Goode
- 629 Sam Salcman OAM
- 630 Emeritus Professor Douglas Joshua AO
- 631 Jewish Community Council of WA Inc
  - 631.1 Supplementary to submission 631
  - Attachment 1
  - Attachment 2
- 632 Alliance Against Antisemitism in Healthcare
- 633 Antifascist Action Australia - AD
- 634 Miss Freya Leach
- 635 Dr Adam Lippmann
- 636 Dr Na'ama Carlin
- 637 Dr Yoni Nazarathy
- 638 Mr Ariel Zenobi
- 639 Name Withheld
- 640 Name Withheld
- 641 Name Withheld
- 642 Name Withheld
- 643 Mr Rodney Green
- 644 Tamar Mansberg
- 645 Confidential
- 646 Dr Jeremy Stone
- 647 Carol Alexander
- 648 Mr Neil Bowman
- 649 Mrs Janette Kay
- 650 Dr Giselle Solinski
- 651 Ms Debbie Freeman
- 652 Ms Anna Maylis
- 653 Mr Jeff Schneider
- 654 Ernst Willheim
- 655 Elanit Mitry
- 656 Lisa Saunders
- 657 Mr Jeremy Parker
- 658 Mr Peter Huggard
- 659 Ms Shulamit Kirovsky
- 660 Mr Geoffrey Kaye OAM
- 661 Confidential
- 662 Name Withheld
- 663 Confidential
- 664 Mr Oliver Segerman

- 665 Confidential
- 666 Confidential
- 667 Confidential
- 668 Confidential
- 669 Confidential

#### **Answer to Question on Notice**

- 1 Australia/Israel & Jewish Affairs Council (AIJAC) - Answers to spoken questions on notice, 20 September 2024 (received 23 September 2024)
- 2 Australian National University (ANU) - Answers to spoken questions on notice, 20 September 2024 (received 26 September 2024)
- 3 University of Adelaide - Answers to spoken questions on notice, 20 September 2024 (received 26 September 2024)
- 4 University of Sydney - Answers to spoken questions on notice, 20 September 2024 (received 26 September 2024)
- 5 Australia's Special Envoy to Combat Antisemitism - answer to spoken question on notice, 17 September 2024 (received 24 September 2024)
- 6 Australian Human Rights Commission (AHRC) - Answers to spoken questions on notice, 20 September 2024 (received 30 September 2024).

#### **Form Letters**

- 1 Form letter 1 (46 received in total; 8 selected for publication)
- 2 Form letter 2 (2822 received in total; 1 selected for publication)

#### **Tabled Documents**

- 1 Mark Scott in the Australian, "Uni protests must strike balance of free speech and safety" (May 20 2024), tabled by Senator Henderson at a public hearing on 20 September 2024
- 2 Tertiary Education Quality and Standards Agency, "Interim sector update: Regulatory expectations of providers to assure safety and wellbeing on campus in relation to student protests" (August 2024), tabled by Tertiary Education Quality and Standards Agency at a public hearing on 20 September 2024



## Appendix 2

# Public Hearings

*Tuesday 17 September 2024*

Committee Room 2S1, Parliament House  
Canberra

*Office of Australia's Special Envoy to Combat Antisemitism (via videoconference)*

- Ms Jillian Segal AO, Australia's Special Envoy to Combat Antisemitism

*Friday 20 September 2024*

Committee Room 2S3, Parliament House  
Canberra

*Australasian Union of Jewish Students*

- Mr Noah Loven, President
- Mr Zachary Morris, Vice-President

*Australian Academic Alliance Against Antisemitism*

- Professor Steven Praver, Co-Director
- Associate Professor Efrat Eilam, Co-Director (via videoconference)

*Executive Council of Australian Jewry (ECAJ) (via videoconference)*

- Mr Peter Wertheim AM, Co-CEO
- Ms Simone Abel, Head of Legal

*Zionist Federation of Australia (via videoconference)*

- Mr Jeremy Leibler, President
- Mr Alon Cassuto, Chief Executive Officer

*Australia/Israel & Jewish Affairs Council (AIJAC) (via videoconference)*

- Dr Colin Rubenstein AM, Executive Director

*Jewish Council of Australia (via videoconference)*

- Ms Sarah Schwartz, Executive Officer
- Dr Elizabeth Strakosch, Executive Officer

*Australian Centre for Jewish Civilisation, Monash University*

- Dr David Slucki, Director

*Universities Australia*

- Mr Luke Sheehy, Chief Executive Officer

*Group of Eight (Go8)*

- Dr Matthew Brown, Deputy Chief Executive

*Deakin University*

- Professor Iain Martin, Vice-Chancellor

*UNSW Sydney (via videoconference)*

- Professor Attila Brungs, Vice-Chancellor and President
- Mr David Cross, Chief of Staff, Office of the Vice-Chancellor and President

*University of Sydney*

- Professor Mark Scott AO, Vice-Chancellor and President

*University of Melbourne*

- Professor Nicola Phillips, A/g Vice-Chancellor

*University of Adelaide (via videoconference)*

- Professor John Williams AM, Provost
- Mr Peter Prest, Chief Operating Officer

*Monash University*

- Professor Sharon Pickering, Vice-Chancellor and President

*Australian National University (ANU)*

- Professor Genevieve Bell AO, Vice-Chancellor and President

*Muslim Votes Matter (via videoconference)*

- Mr Ghaith Krayem, Spokesperson

*National Tertiary Education Union (via videoconference)*

- Ms Gabrielle Gooding, National Assistant Secretary

*National Union of Students*

- Mr Sa'Jacinto Hedus, Ethnocultural Officer

*Australian Human Rights Commission (via videoconference)*

- Mr Hugh de Kretser, President
- Mr Giridharan Sivaraman, Race Discrimination Commissioner
- Mrs Lorraine Finlay, Human Rights Commissioner

*Tertiary Education Quality and Standards Agency (TEQSA)*

- Ms Adrienne Nieuwenhuis, A/g Chief Commissioner
- Dr Mary Russell, CEO

*Department of Education*

- Ms Madonna Morton, First Assistant Secretary, Higher Education Division

- Ms Kate Chipperfield, Assistant Secretary, Equity and Social Inclusion Branch

*Attorney-General's Department*

- Ms Anne Sheehan, First Assistant Secretary, International Law and Human Rights Division
- Ms Ayesha Nawaz, Assistant Secretary, Human Rights Branch