

## Submissions in support of

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

### INTRODUCTION

1. These submissions are filed in support of *the Commission of Inquiry into Antisemitism at Australian Universities Bill 2024 (No. 2) (the Bill)*.
2. As a result of the barbaric Hamas atrocities of 7 October 2023, there has been a pernicious surge in antisemitism that has infected all areas of Australian society including, in particular, Australian Universities.
3. However, not only have many of Australia's leading universities tolerated this antisemitism - some have in effect *incited* and *fanned the flames* of such Jew-hatred by permitting – under the guise of freedom of speech - prominent academics in their employ to publish antisemitic vilification and hate-speech. Such vilification is perceived to constitute intimidation, bullying, and harassment. More seriously, it is liable to create a new generation of antisemites.
4. Universities have thus become the new breeding grounds for antisemitism – and this situation, already dire, is liable to become considerably worse.
5. History has demonstrated that antisemitism is not simply a Jewish problem. When the virus of antisemitism infects a society, it is the society as a whole that suffers.
6. It is, therefore, manifestly in the public interest that a *Judicial Commission of Inquiry* into Antisemitism at Australian Universities be established as a matter of extreme urgency.
7. These submissions will address

- a. my qualifications to make these submissions;
- b. the cause of the surge in antisemitism at universities – and why it must not be ignored;
- c. the definition of antisemitism, focusing on
  - i. the IHRA definition of antisemitism and
  - ii. the three Ds - Double standards, demonisation and delegitimization; and
  - iii. the false assertion that one can be anti-Zionist while not being antisemitic: Zionism is an inherent aspect of Judaism;
- d. examples of antisemitic vilification published by academic staff of UNSW and Macquarie University;
- e. double-standards adopted by universities in relation to protection of Jewish students and Jewish members of Staff;
- f. the need for a *judicial* commission of enquiry is essential; an AHRC enquiry will be entirely inappropriate and counter-productive in the circumstances;
- g. 'straw men' often raised to obfuscate the serious issue of antisemitism –
  - i. claims of antisemitism are deployed to prevent mere criticism of Israeli policies, and
  - ii. the false assertion that Jews and/or Israelis and/or descendants of Holocaust survivors cannot be antisemitic.

## **BASIS OF QUALIFICATION TO MAKE SUBMISSION**

8. I am in a position to make submissions in relation to the Bill because
  - a. I am a practising barrister, and am a member of the NSW Bar and am also a religiously observant, practising, Jew. I have witnessed antisemitism at university in both my personal and professional capacities;
  - b. I have had substantial professional experience in dealing with antisemitism at Australian Universities since late 2022;

- c. I have over the period of my adult life held various positions of leadership in the Jewish Community, and have had substantial experience in dealing with Jewish youth, including youth of University age. I arrived in Australia in June 1989 to serve as the Activities and Youth Director at the Central Synagogue in Sydney, which is the largest synagogue in the Southern hemisphere, and which has the largest Jewish congregation in Australasia.<sup>1</sup> Over the past few decades, I have conducted (and still do conduct) a Young Adult Service (which includes University students) over the Jewish High Holidays. I have been a Director of Moriah College, and am, inter alia, a Director of Kehillat Kadimah, a prominent Synagogue in Sydney, and am on the Board of the Australian Jewish Association. (These submissions, however, are made in my personal capacity.)

### **Cause of surge in antisemitism at universities must not be ignored: a judicial commission of enquiry is essential**

9. Antisemitism has been described as the “world’s oldest hatred.”<sup>2</sup> It did not begin on 7 October 2023.
10. I acted professionally in late 2022 early 2023 for an extremely talented student at the UTS – in the penultimate year of his MA degree - whose very life was almost entirely destroyed as a result of what he, justifiably, perceived (and perceives) to be insidious antisemitism at a very senior level in a major department of the University.<sup>3</sup>

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<sup>1</sup> Wikipedia, [https://en.wikipedia.org/wiki/Central\\_Synagogue\\_\(Sydney\)](https://en.wikipedia.org/wiki/Central_Synagogue_(Sydney)), accessed 22 August 2024.

<sup>2</sup> ‘The Hate that Starts with Jews Never Ends There’ Rabbi Lord Jonathan Sacks, 16 August 2014, <https://rabbisacks.org/archive/hate-starts-jews-never-ends-there/>; Sacks, <https://rabbisacks.org/videos/antisemitism-the-worlds-oldest-hatred/> accessed 22 August 2024; <https://uwm.edu/sce/courses/anti-semitism-the-worlds-oldest-hatred/>;

<sup>3</sup> It is not proposed to deal with that case in any detail in this submission. In brief, the student, a religiously observant Jew who had an outstanding academic record, applied for special consideration as he had to miss three lectures in the second half of 2021 because those lectures fell on three major Jewish Festival when, in accordance with Jewish law, a Jew is not permitted to do any ‘work’ such as writing, or driving, etc. As a MA student who had been in this position in all previous years at university – as has every observant Orthodox Jew - he had no reason even to suspect his application would be rejected. However, after those three lectures were held, he received an email advising that his application for special consideration had been turned down on the grounds that he had failed to file “*a letter from a Rabbi*” with his application – notwithstanding the fact that he insisted he had indeed filed such a letter, and notwithstanding the fact that the relevant lecturer had actually lectured to him in the period between the submission of the special consideration application and the lectures in question, and could easily have asked him for the letter (despite the fact that it was obvious that he was religiously observant – as he wore a Jewish head covering (a Kippah), and despite the fact that any good diary would have demonstrated that the days in question were Jewish holidays). The lecturer then said to him that because he missed the three lectures which were compulsory he would have to fail the entire year (despite him being a distinction student in his penultimate year of a MA degree) because the course in issue was a compulsory course for a MA student but that, as a courtesy, the UTS would pass him if he would provide a 1,000 word summary to his lecturer of each lecture he missed. He sought a meeting to ascertain exactly what was required. He was told by his lecturer and another member of the

11. However, there was a frightening surge in antisemitism (which is getting worse) *caused by* the savage and sadistic massacre perpetrated by Hamas in Israel on 7 October 2023.
12. In other words, the surge in antisemitism was *precipitated* by the ghastly and intentional spilling of blood in Israel by Hamas in circumstances of unprecedented cruelty and barbarism: the torturing to death of children in front of their parents; the torturing to death of parents in front of their children; the burning alive of babies and the elderly; the raping to death of women in front of their families. In addition to torturing, raping, mutilating, and murdering 1,200 Israelis, Hamas terrorists kidnapped 251 Israelis, aged from 8 months to 82 years.<sup>4</sup>
13. Any suggestion that the upsurge in antisemitism was caused by Israel's response to the massacre is demonstrably false: **on the very night** that the news of the massacres emerged, *prior to* any Israeli response, there were

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department that the summary was not for marks or for assessment in any way – they simply wanted something on file in case they were audited, so they could demonstrate that he had caught up the work he missed. The student said that he had already caught up the work by summarizing the lecture slides and notes, and he was told simply to provide his summaries – which he did. He then received a formal email from the Department that it appeared that he had committed serious academic misconduct by plagiarizing the lecturer's slides and one of his own essays! He was called to a formal meeting with the lecturer and the other staff member to explain himself. At the meeting he reminded the lecturer and the member of the Department that he was specifically told that the summary was not in any way for marks or assessment, but was simply to show that he had caught up the work, in case the University was audited, and that he said he had already done so - and had summarized the slides and notes – and it was agreed that he would submit those summaries, which he did. He said he would be happy to do further work if they wished him to do so. Notwithstanding that, in a formal finding they held him **guilty of plagiarism** – and said that the plagiarism was particularly egregious as he attempted to justify it and showed no remorse. Therefore they held that it was appropriate to fail him in the course – which meant he would fail the entire year – and they told him the fail would be a permanent memorial on his academic record. He would have to repeat the entire year. I acted for him in the appeal in which every single one of his grounds of appeal was upheld. Significantly, on discovery it was found that the application for special consideration **did include a letter from a Rabbi** – the very foundation for refusing special consideration was entirely false. It was also clear from discovery that the lecturer and other member of the department disliked the student – they considered him annoyingly polite. It was also discovered that the department had been advised that his summaries **clearly did not constitute plagiarism** – as the student was manifestly not seeking to obtain an unfair benefit by holding out as his own work the work of another person: the summary was provided the lecturer herself; she obviously knew what the slides contained. It was also discovered that the excuse of an audit was entirely bogus. As a result of the appeal, the results that the student obtained in that course were disclosed: he **obtained a distinction**. Ultimately, he also obtained a **distinction in his MA as a whole**. This case was outrageous: if the student did not happen to know a barrister that was willing to handle his case pro bono, his professional life – if not his life itself, would have been ruined. In my opinion, the student's belief that this outrageous conduct was actuated by antisemitism is justified.

<sup>4</sup> See 'Will the Mainstream Media Keep Mum on Israeli Report Documenting Condition of Released Hamas Captives?' by Hugh Fitzgerald, FrontPage Magazine, <https://unitedwithisrael.org/will-the-mainstream-media-keep-mum-on-israeli-report-documenting-condition-of-released-hamas-captives/>.

- celebrations with fireworks in areas of Sydney; and on the Monday, 9 October, and *before* Israel had responded in any significant way, there was a pro Hamas protest at the Opera House which included the infamous chants of “***Fuck the Jews***” and either “***Gas the Jews***” or “***where the Jews***” (whatever the chants, they were antisemitic).
14. I understand<sup>5</sup> that certain prominent anti-Zionist University lecturers were present at the 9 October Opera House hate-fest. This will be a matter to be investigated by a judicial commission.
15. There is clear evidence of what, in my opinion, are vile antisemitic posts published by certain prominent University academics at or around (and from) the date of the 7 October massacre. Such posts will be referred to below.
16. It will be for a judicial commission to determine whether (as I submit to be the case) those posts are in fact antisemitic, and whether those lecturers are engaging in a pernicious campaign of antisemitic vilification, and whether they are inciting, or seeking to incite, hatred of Israel – the one and only nation State of the Jewish people – and whether they are inculcating, or seeking to inculcate, a vicious form of antisemitism and bigotry into their students.
17. It is imperative, in the public interest, that such a judicial commission be established as a matter of urgency. The urgency is illustrated by the terrifyingly irrational and perverse fact that since the Hamas barbarism of 7 October – and notwithstanding the fact that a very substantial number of civilian hostages, including children, are still being held in the most appallingly inhuman conditions in Gaza, and despite the fact that Hamas is still firing rockets into civilian areas in Israel – and despite the evidence of the most barbaric atrocities including rapes and beheadings perpetrated by Hamas against civilians – the **popularity of Hamas has dramatically increased as has antisemitism** – particularly on university campuses, which have now become the hotbeds for extreme Jew hatred.<sup>6</sup>
18. This is not simply a Jewish problem. When there is a surge of antisemitism in a society, it is that society as a whole that suffers. As was succinctly said by former Chief Rabbi of the United Kingdom, Rabbi Lord Jonathan Sacks:<sup>7</sup>

““The hate that **begins with Jews never ends with Jews**. Antisemitism is the world’s **most reliable early warning sign of a**

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<sup>5</sup> I have no proof of this at this stage.

<sup>6</sup> See for e.g. Barbara K. Olson Memorial lecture by Bari Weiss at Federalist Society’s National Lawyers Convention, November 13, 2023, ‘You Are the Last Line of Defense’  
[https://open.substack.com/pub/bariweiss/p/you-are-the-last-line-of-defense?utm\\_source=direct&utm\\_campaign=post&utm\\_medium=web](https://open.substack.com/pub/bariweiss/p/you-are-the-last-line-of-defense?utm_source=direct&utm_campaign=post&utm_medium=web).

<sup>7</sup> <https://x.com/rabbisacks/status/1716420041833381958> accessed 22 August 2024

**major threat to freedom, humanity and the dignity of difference.**  
It matters to all of us. Which is why we must fight it together.”  
[Emphasis added.]

19. The danger – the risks - for society as a whole posed by the spread of antisemitism cannot be overstated. It must not be ignored.
20. When considering what, in my opinion, is vicious antisemitic vilification by certain prominent University academics, the Judicial Commission may consider it appropriate to reflect on the fact that the Holocaust itself began with words. As noted in Holocaust Encyclopedia<sup>8</sup>

“... the Holocaust began with words and ideas: stereotypes, sinister cartoons, and the gradual spread of hate.”

## DEFINITION OF ANTISEMITISM

### **The IHRA definition of antisemitism and the three Ds - Double standards, demonisation and delegitimation**

21. In order to demonstrate that the vilification to which I refer below is antisemitic hate-speech, it is necessary to have regard to the following considerations.
22. The International Holocaust Remembrance Alliance working definition of Antisemitism (**the IHRA**) which has been duly adopted by Australia provides *examples* of antisemitism which, *inter alia*, include the following:
- a. Denying the Jewish people their right to self-determination, e.g., by claiming that the existence of a State of Israel is a racist endeavour;
  - b. Applying double standards by requiring of it [Israel] a behaviour not expected or demanded of any other democratic nation;
  - c. Using the symbols and images associated with classic antisemitism (e.g., claims of Jews killing Jesus or blood libel) to characterize Israel or Israelis;
  - d. Drawing comparisons of contemporary Israeli policy to that of the Nazis;
  - e. Holding Jews collectively responsible for actions of the state of Israel.

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<sup>8</sup> <https://encyclopedia.ushmm.org/content/en/article/antisemitism-in-history-from-the-early-church-to-1400> accessed 22 August 2024

23. Thus, it is antisemitic to subject Israel to a double standard; to demonise and delegitimise Israel; to ***falsely accuse*** Israel — the only fully functioning democracy in the Middle East with a free press and independent judiciary — of the five cardinal sins against human rights: racism, apartheid, crimes against humanity, ethnic cleansing and attempted genocide.<sup>9</sup>
24. Targeting the State of Israel is a form of anti-Semitism when such targeting deploys one of what former Canadian Justice Minister, Prof Irwin Cotler, characterised as “the three Ds: **demonization** of Israel, a **double standard** around Israel, and a **delegitimization** of the State of Israel.”<sup>10</sup>
25. It is antisemitic when ***Israel is singled out for condemnation in a way that no other country is***; when, for e.g., it is subjected to enmity and criticism of the worst kind despite the reality that its human rights record is far better than that of any other country in the region, and at least as good as – if not substantially better than – any other country that has faced comparable dangers. As noted by Dershowitz:

“... no other nation, including those with the most abysmal of human rights records, face as much enmity. Most significantly, the intensity of the enmity directed against the Mideast’s only democracy is unexplainable on any rational basis.”<sup>11</sup>

26. It is antisemitic to

- a. deny the right of Jews to exist collectively as Jews in their country with the same rights as everyone else; to
- b. adopt a double standard when dealing with Jews, or the Nation State of the Jewish people; to
- c. subject Jews or Israel to obloquy and abuse of a kind that would not be applied to any other people or country; to
- d. single out Jewish national aspirations (Zionism) as an illegitimate and racist endeavour, and to
- e. "propose actions that would result in the death of millions of Jews."<sup>12</sup>

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<sup>9</sup> Speech by Chief Rabbi of the British Empire, Lord Jonathan Sacks, to the European Parliament.

[https://youtu.be/uwN1WuDwIf0?si=2BVTe2V\\_jTZxGhn3](https://youtu.be/uwN1WuDwIf0?si=2BVTe2V_jTZxGhn3)

<sup>10</sup> <https://www.timesofisrael.com/trudeau-blasts-bds-movement-as-anti-semitic/>

<sup>11</sup> Dershowitz, *The Case Against Israel’s Enemies*, John Wiley & Sons, at 5.

<sup>12</sup> <https://en.wikipedia.org/wiki/Antisemitism>, citing "Antiglobalism's Jewish Problem" in Rosenbaum, Ron (ed.) *Those who forget the past: The Question of Anti-Semitism*, Random House 2004, p. 272. Accessed 4 January 2024. See also Prager and Telushkin, *Why the Jews*, Simon & Schuster, Inc. 1983 at 171.

## **False assertion that one can be anti-Zionist while not being antisemitic: Zionism is an inherent aspect of Judaism**

27. These submissions incorporate by reference the entire perspicacious speech made by the former Chief Rabbi of the UK, Lord Jonathan Sacks, to the European Parliament, on 27 September 2016, entitled *'The Mutating Virus: Understanding Antisemitism.'*<sup>13</sup>
28. In that speech, the Chief Rabbi analysed the resurgence of antisemitism after the Holocaust, and asked how it came about that

“... when your children go to university, they are insulted and intimidated because of what is happening in some other part of the world? Where, when they present their own view of the situation they are howled down and silenced?”

How did this happen? It happened the way viruses always defeat the human immune system, namely, by mutating. The new antisemitism is different from the old antisemitism, in three ways. ... Once Jews were hated because of their religion. Then they were hated because of their race. **Now they are hated because of their nation state.** The second difference is that the epicentre of the old antisemitism was Europe. Today it's the Middle East and it is communicated globally by the new electronic media.

The third is particularly disturbing. ... **It is easy to hate, but difficult publicly to justify hate. Throughout history, when people have sought to justify antisemitism, they have done so by recourse to the highest source of authority available within the culture.** In the Middle Ages, it was religion. So we had religious anti-Judaism. In post-Enlightenment Europe it was science. So we had the twin foundations of Nazi ideology, Social Darwinism and the so-called Scientific Study of Race. Today the highest source of authority worldwide is human rights. **That is why Israel—the only fully functioning democracy in the Middle East with a free press and independent judiciary—is regularly accused of the five cardinal sins against human rights: racism, apartheid, crimes against humanity, ethnic cleansing and attempted genocide.**

The new antisemitism has mutated so that any practitioner of it can deny that he or she is an antisemite. After all, they'll say, I'm not a racist. I have no problem with Jews or Judaism. I only have a problem with the State of Israel. But in a world of 56 Muslim nations and 103 Christian ones, there is only one Jewish state, Israel, which constitutes one-quarter of one per cent of the land mass of the Middle East. **Israel is the only one of the 193 member nations of the**

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<sup>13</sup> <https://www.youtube.com/watch?v=uwN1WuDwIf0>; the transcript is at <http://bit.ly/2dCyUyq>.



**United Nations that has its right to exist regularly challenged, with one state, Iran, and many, many other groups, committed to its destruction.**

Antisemitism means denying the right of Jews to exist as Jews with the same rights as everyone else. ...” [Emphasis added.]

29. Zionism is an inherent aspect of Judaism. To instance but a few non-exhaustive examples:

- a. pursuant to Jewish law, for thousands of years, the observant Jew faces *towards Israel*, and in Israel he/she faces *towards Jerusalem – the City of Zion* - when saying his/her daily prayers;
- b. he/she prays for the return to Zion in each and every one of the daily prayer services, and *every time* he/she says grace after meals, and has done so for thousands of years;
- c. Psalm 137 appears in every Orthodox Jewish prayer book (**Siddur**) before the Grace after Meals to be said on weekdays and references the Babylonian exile of the Jews in around **586 BCE** and expresses the Jew’s yearning to return to Jerusalem: “*By the rivers of Babylon, there we sat, sat and wept, as we remembered Zion ... How can we sing a song of the LORD on alien soil? If I forget you, O Jerusalem, let my right-hand wither; let my tongue stick to my palate if I cease to think of you, if I do not keep Jerusalem in memory even at my happiest hour.*”
- d. in every Siddur Psalm 126 - which joyously deals with the Jew’s **return to Zion** - appears before the Grace after Meals to be recited before Grace on Sabbath and Festivals: ‘*When the LORD restores the fortunes of Zion —we see it as in a dream our mouths shall be filled with laughter, our tongues, with songs of joy.*’
- e. at *every Jewish wedding* performed in accordance with Jewish law a glass is broken under the wedding canopy to remember Zion.
- f. Certain Jewish commandments (Mitzvot) can only be performed in Israel.
- g. The major Jewish Festivals all relate to Israel; they are known as the Pilgrim Festivals – as Jews in Israel were obligated to go up to Jerusalem for the Festivals.
- h. After the annual Passover Seder the Jew invokes the prayer “*leshana Haba birushalayim*” – “**Next year in Jerusalem.**”<sup>14</sup>

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<sup>14</sup> See also paragraph [106 I] below.

- i. Those words - “*Next year in Jerusalem*” - are traditionally recited at the end of the services on the Day of Atonement, Yom Kippur.<sup>15</sup>

30. The above are but a few examples. They demonstrate beyond any doubt that Judaism and Zionism are – and always have been – inextricably linked – they are inseparable.<sup>16</sup>

31. With the above in mind, it is appropriate to consider the antisemitic vilification referred to below.

### **EXAMPLES OF WHAT ARE SUBMITTED TO BE ANTISEMITIC VILIFICATION BY ACADEMICS**

32. Because the current submission only deals with the question whether there should be a judicial commission of enquiry into antisemitism at Australian universities, it is not intended to provide any exhaustive list or analysis of which is submitted to be antisemitic vilification and incitement emanating from academics employed in various Australian universities. That analysis will, of course, be done once a judicial commission has been formed.

33. In the meantime, these submissions will simply provide some examples of such vilification primarily from academics associated with the UNSW (as that has been my focus).

34. I will also draw attention to statements from a prominent lecturer associated with Macquarie University.

### **UNSW**

35. The type of statements that have recently been made by UNSW academics that give rise to false and defamatory antisemitic imputations that vilify the State of Israel and, by implication, Jews who support Israel, include, *inter alia*, statements conveying imputations that

- a. Israel indiscriminately and *intentionally murders babies and children*;<sup>17</sup>

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<sup>15</sup> Prager and Telushkin, *Why the Jews*, Simon & Schuster, Inc. 1983 at 171

<sup>16</sup> Should it be necessary, I will be happy to provide detailed elaboration.

<sup>17</sup> At the UNSW Centre for Crime, Law and Justice Seminar held on 13 November 2023 (**the Seminar**), Noam Peleg (NP) said “a *staggering number of children [are] losing lives in the West Bank and Gaza*” (thereby imputing that Israel is wantonly murdering children in the West Bank) and that “*the rights of Palestinian children ... have been violated [by Israel] for decades*”; during the 70 minutes of the CCLJ seminar “*7 more children have been killed. The Carpet bombings continue, babies die lying dead under the rubble, dead from bombing.*” See also the comments made by Francesca Albanese (FA) at the Seminar, none of which were controverted in any way whatsoever by NP, clearly imputing, in my opinion, that he agreed and adopted those assertions.

- b. Israel *intentionally engages in monumental violations of human rights including against children*;<sup>18</sup>
- c. Israel *disgracefully permits Jewish Israeli Settlers to steal land belonging to Palestinians*;<sup>19</sup>
- d. Israel *permits Jewish Israeli Settlers to kill, maim and injure Palestinians with impunity*;<sup>20</sup>
- e. Israel *intentionally commits war crimes and crimes against humanity with impunity*;<sup>21</sup>
- f. Israel *is committing genocide of the Palestinians*;<sup>22</sup>
- g. Israel *is a colonial occupying country*;<sup>23</sup>
- h. Israel *is an apartheid State*.<sup>24</sup>
- i. Jews who support Israel thereby support
  - i. The indiscriminate and wanton murders of babies and children;
  - ii. The monumental violations of human rights including against children;
  - iii. Jewish Israeli Settlers who steal land belonging to Palestinians;
  - iv. The killing, maiming and injuring of Palestinians with impunity;

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<sup>18</sup> FA said, inter alia, the following at the Seminar: **Israel** “is committing “*Monumental violations of human rights ... humiliation of Palestinians and human rights violations against children ... and it’s getting incrementally worse*” and that “*the Palestinians are the ones whose rights are violated* [by Israel] ***between the River and the Sea***” (meaning that Israel has no right to exist) and that “*Israeli settlers [are entitled to] take the land of parents [of Palestinian children] and ... are entitled to kill, maim and injure with impunity.*” “*Israel can’t invoke the right of self-defence*” against Hamas in Gaza (presumably it is required to commit national suicide); Israel is committing “**war crimes and crimes against humanity**” and “**genocide**”; and that Israel is a **colonial occupation** as well as an **apartheid state**

<sup>19</sup> Ibid (“*Israeli settlers [are entitled to] take the land of parents [of Palestinian children] and ... are entitled to kill, maim and injure with impunity*”)

<sup>20</sup> Ibid.

<sup>21</sup> Ibid (“Israel is committing “**war crimes and crimes against humanity**”).

<sup>22</sup> Ibid (“Israel is committing “**war crimes and crimes against humanity**” and “**genocide**”) ”)

<sup>23</sup> Ibid (Israel is a **colonial occupation**”).

<sup>24</sup> Ibid (“Israel is a **colonial occupation** as well as an **apartheid state**”).

- v. The commission by Israel with impunity of war crimes and crimes against humanity;
- vi. The commission of genocide by Israel against the Palestinians;
- vii. Apartheid.

36. The above imputations were, in my opinion, conveyed at a UNSW seminar on 13 November 2023.

37. An online Webinar on 10 April 2024 presented by Dr Noam Peleg with Professor Michael Fakhri, the UN Special Rapporteur on the Right to Food, on the topic "*The food crisis and starvation in Gaza*" (**the Webinar**), gave rise to demonstrably false, and seriously defamatory, imputations to the effect,<sup>25</sup> *inter alia*, that Israel is

- a. a **criminal, apartheid, settler colony** and an illegal **occupying entity**;
- b. **deliberately and illegally using starvation as a weapon** of war and has expressly been doing so since 8 October 2023, in a deliberate attempt to kill everyone in Gaza by starvation, and Israel has thus created the **biggest man-made famine in the history of the world**, and that Israel, **since 1967, has been intentionally destroying the food system in Gaza by destroying agricultural land, greenhouses, fishing ports and fishing vessels, and is purposely starving the Gazans, and is purposely denying civilians access to food, fuel, water, and medicine**;
- c. **deliberately and callously causing children, pregnant women and breastfeeding mothers to suffer from severe malnutrition, and death**;
- d. **intentionally committing genocide** and other heinous **crimes against humanity**, and **has no concern or respect for international law**;
- e. so evil that it is not only **perpetrating genocide – it is also 'taking pride in [its] actions'** in so doing by filming itself committing genocide;
- f. so fraudulent and deceptive that, in order **to divert attention away from its crimes which are being dealt with at the ICJ** in the Haig, it has **made false and entirely unfounded allegations against UNRWA**, knowing that such allegations will prevent UNRWA from giving essential, life-saving, services to Palestinians all over the Middle East;

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<sup>25</sup> It is not intended in this letter to be exhaustive, or to frame the imputations with precision at this stage

- g. so immoral that **Israel tortured an UNRWA employee in order to induce him to make false and groundless allegations against UNRWA;**
- h. so evil that
  - i. its evil conduct affects everybody in the world and **no one wants to live in a world in which Israel commits such horrific crimes of genocide, starvation, and occupation;**
  - ii. it **ought to be boycotted militarily and in every other way as well.**

### **Macquarie**

38. It is sufficient to instance the example of is a prominent lecturer at Macquarie University who is now also an ARC Future Fellow.<sup>26</sup>

39. This particular lecturer has published online posts that include the following:

- a. On **the actual day of the massacre**, October 7: "*The coloniser cries victim*";
- b. On **the actual day of the massacre**, October 7 she apparently captioned a video of Nova festival goers running for their lives, mocking terrorised youths with the grossly insensitive "*What passport should I use today?*"
- c. On 12 October 2024 she posted the Soviet-era antisemitic slogan, "*Zionism=racism*"
- d. On 4 November 2023 she published that the frankly genocidal "Israel is finished"
- e. On 6 November 2023 she ridiculed Australian Jews facing antisemitism "*Cry me a river to the sea*"
- f. On 13 November 2023 she imputed that that the ABC is controlled *by Zionists*.
- g. On 14 January 2024, RAF published a dishonest article in the Institute for Palestinian Studies in which she wrote in the second paragraph that

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<sup>26</sup>

<https://www.arc.gov.au>

“Israeli government claims of systematic sexual violence perpetrated against Israeli women by Hamas and The New York Times article **have been thoroughly and compellingly discredited and debunked by both independent investigative journalists and MENA human rights and feminist organizations and initiatives.** At this point, anybody who still insists on believing the mass rape claims and/or amplifies The New York Times report is doing so against a growing body of evidence that has called into question the credibility of the claims.” [Emphasis added.]

40. This particular lecturer has posted:

“If you are Zionist you **have no claim or right to cultural safety.**

And it is my duty as somebody who  **fights all forms of oppression and violence to deny you a safe space to espouse your Zionist racist ideology.**

**It is the duty** of those who oppose racism, misogyny, homophobia and all forms of oppressive harm to **ensure that every space Zionists enter is culturally unsafe for them.**

And institutions and festivals that continue to defer to the ***fragile feelings and tears of Zionists*** are **as abhorrent as those who would defer to the feelings of misogynists, white supremacists, neo-Nazis.**”

41. In my opinion, in my opinion, each of the above posts constitutes vile, vicious and vituperative vilification of the Jewish people.

42. In my opinion it is likely that, if appointed, a judicial commission will share my opinion that the above posts constitute vituperative vilifications, and that they are highly antisemitic and intimidatory, and that it is wholly inappropriate for an Australian university to employ a lecturer who publishes, what in my opinion are grossly antisemitic calumnies.

43. In my opinion it is not possible to apprehend how any practising Jew could possibly feel safe in any class given by this lecturer.

#### **DOUBLE STANDARDS IN RELATION TO PROTECTION OF JEWISH STUDENTS AND STAFF**

44. I have not had any discussions or communications with Macquarie University.

45. I have, however, sent detailed correspondence to the UNSW in which I have demonstrated that the factual statements made by UNSW lecturers – referred to above – constituted demonstrably false vilification.

46. To my deep dismay, however, and to the dismay of the alumni and staff who has seen the decision, on 24 June 2024 the UNSW advised that it had decided that the matters about which I had complained (referred to above) were

- not unlawful;
- not in breach of the Academic Freedom and Freedom of Speech Code of Conduct;
- not in breach of the Enterprise Agreement for Academic Staff;
- not actions that constitute intimidation, bullying, or harassment of students and staff who hold different views

47. The consequence of that decision (**the decision**), while it stands, is that UNSW academic staff have been given the green light to engage in the vilest antisemitic vilification against Jews – without any adverse consequence. By letter dated 22 August 2024 the UNSW was put on notice that the decision is considered to be wrong in both fact and law<sup>27</sup> and it was noted that

- a. the decision asserts that UNSW community members are “*entitled to share **their lawful opinions** on controversial topics in the political arena.*” However, the UNSW academics about whom complaint was made did not purport to share their **opinions**. Rather, their assertions purported to be **statements of fact**;
- b. the “**facts**” asserted by the UNSW lecturer were, in my opinion, demonstrably **false**,<sup>28</sup> and were particularly **deceptive** because they were categorically conveyed as “facts” by a senior UNSW academic who is held out as an expert in the Middle East conflict. The seminars sought to indoctrinate – rather than to educate. This was all the more pernicious as many of the assertions appeared to emanate from a listed terrorist organisation;
- c. the vituperative hate speech manifestly constituted “*intimidation, bullying, or harassment of Jewish students and staff members.*”
- d. However, despite the fact that Jewish students and staff were, as a matter of practical reality, intimidated, bullied and harassed by the hate speech, the Conduct & Integrity Unit decided that the hate

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<sup>27</sup> A copy of that letter can be provided to the committee, as can a copy of the voluminous correspondence that I sent to the UNSW.

<sup>28</sup> The falsity was demonstrated in our letters of 21 November 2023, 17 January and 30 May 2024.

speech did not “constitute intimidation, bullying, or harassment of students and staff who hold different views” thereby fortifying the contention that had been made in an earlier letter sent to the UNSW that that Universities consider that Jews are not entitled to the same protections and support as other communities when they are under attack; in a recent article entitled ‘*A Different Standard for Jews*<sup>29</sup> Dan Schnur notes that ‘Antisemitic double standards are pervasive, much more than we would have wanted to believe back on 6 October.’ Since then Jews have learned, inter alia, that

“We avoid language that might cause offense, even if that was not our intention. ... But when we hear threats like “*from the river to the sea*” or “*globalize the intifada*,” or when we hear Israel’s defenders accused of *genocide*, we now understand that Jews are not entitled to that same sort of consideration.

Imagine if a young woman were told that wolf whistles, catcalls and scatological references were not intended to be offensive, or if it were explained to a member of an underrepresented minority community that a racial slur carried a different meaning to the person who uttered it and therefore there was no reason to be upset by their use of a pejorative term. Such feeble rationalizations would be quickly rejected and those who offered them would face severe legal, social or cultural penalties. But those who call for the elimination of the state of Israel and the extermination of the Jewish people, and who pretend that their efforts at intimidation are merely appeals for Palestinian independence and empowerment, are excused.”

- e. Since 7 October 2023, the irony has often been noted - that Universities

“... go out of their way to **find safe spaces for microaggressions against minority groups but can’t seem to find those safe spaces when Jews are faced with macroaggressions.**”<sup>30</sup> [Emphasis added.]

- f. the publications were humiliating and dehumanising for Jewish students and staff. (It is obviously humiliating and dehumanising for Jewish students and staff to be aggressively berated as “Baby Killers” or supporters of genocide just because they are known to be practising Jews. Apart from the fact that Israel is the one and only

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<sup>29</sup> Dan Schnur, JEWISH JOURNAL, December 13, 2023:

<https://jewishjournal.com/commentary/columnist/366285/a-different-standard-for-jews/>

<sup>30</sup> David Suissa, 2 January 2024, Jewish Journal, ‘Harvard President’s Resignation is the Tip of the DEI Iceberg.’



Nation State of the Jewish people, Judaism and Zionism are inextricably linked.) Like in defamation law, the knowledge of the falsity of the imputation aggravates the harm and damage.

- g. publication as fact of the entirely one-sided and false assertions **compromises the academic integrity of the University, and the safety of Jewish students and staff, and is likely to bring the University into disrepute, and prejudice the respect and value of its degrees.**
- h. the reliance in the decision on the Academic Freedom and Freedom of Speech Code of Conduct was misconceived. Academic freedom and freedom of speech does not permit a University lecturer to publish patent falsehoods. To the contrary, the Full Federal Court recently emphasised in *University of Sydney v National Tertiary Education Industry Union*<sup>31</sup> that one cannot talk of *academic freedom*, or freedom of speech, without also having regard to *academic responsibility*, and the requirement of an academic to engage in *responsible, academic, honest, speech*; intellectual freedom is cut from the same cloth as the notions of academic responsibility.
- i. The vilification about which complaint was made did not constitute a “responsible” exercise of any academic freedom or freedom of speech; it involved
  - i. no debate,
  - ii. no learning,
  - iii. no scholarship,
  - iv. no evidence-based analysis applying the scientific method;
  - v. there was no reference to contrary evidence; there was no balance.
- j. Rather, there were
  - i. bald, one-sided, inflammatory assertions; there was
  - ii. vilification and incitement;
  - iii. false and defamatory statements.

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<sup>31</sup> [2024] FCAFC 57, especially at [12]-[14], [18], [21], [49]-[52] and [54].

- k. This was not the upholding of the principle and practice of intellectual freedom in accordance with the highest ethical, professional and legal standards.
- l. The making of false, defamatory, intimidatory, one-sided, unscholarly, antisemitic statements of the kind about which complaint was made was inconsistent with, and inimical to, the upholding of the principle and practice of intellectual freedom.

48. It is submitted that, as a matter of law, it is not acceptable for a University to permit its academic employees - in the course and scope of their employment - to seek to indoctrinate students by making demonstrably false statements - such as demonstrably false statements that Israel is committing genocide (the crime of crimes), that it is intentionally murdering babies, that it is purposely not allowing any food whatsoever into Gaza in order to starve the Gazans to death, that it is an illegal colonial apartheid entity that ought to be shunned and boycotted, that it is a murderous rogue entity, that it ought to be destroyed.

#### **NEED FOR JUDICIAL COMMISSION; AHRC ENQUIRY WOULD BE COUNTER-PRODUCTIVE**

49. It is in the context of an extraordinary surge in antisemitism, particularly on university campuses, that it is essential, in the public interest, that a judicial commission of enquiry into antisemitism at university ought to be formed. It is necessary for such a judicial commission to consider

- a. whether what, in my opinion, is manifestly antisemitic vilification emanating from several staff members of certain prominent universities is in fact antisemitic vilification; and, if so, whether such vilification
  - i. is dehumanising, humiliating, alienating and intimidating to Jewish students and staff; and
  - ii. is demonstrably false, deceptive and misleading;
  - iii. is unscholarly and immoral; and
  - iv. incites antisemitism and creates a clear and serious danger to Jewish (and other) students and staff; and
  - v. constitutes 'serious misconduct' under the various Enterprise Agreements and Policies of the various universities, and under common and statutory law in Australia; and

- b. whether universities have – and are exercising – a duty of care to their Jewish students and staff to regulate such conduct clearly and effectively; and
- c. whether it is necessary and/or appropriate for universities to enforce their regulations to do so; and
- d. whether the respective universities, in the interests of Australia as a whole, and in the interests of academic standards, ought to take additional steps to deal with lecturers who engage in vilification and hate-speech;
- e. whether proposals ought to be made in relation to the establishment and enforcement of effective and enduring measures to guarantee a safe, supportive and tolerant educational setting for all students, irrespective of their race, religion, or ethnicity.

50. Since 7 October, the Jewish community has been living in fear of the ever-increasing rise in antisemitism. It is no longer uncommon to hear the comment “*This is what it must have felt like to live in Germany in the 1930s*”.

51. For, inter alia, the reasons to which the ECAJ referred in its submission, it would be wholly inappropriate – and indeed counter-productive - for the AHRC to be tasked with the investigation of Antisemitism at Australian Universities. There is a real and justified apprehension of actual bias on the part of the AHRC. That emerges from what it **has** said and published<sup>32</sup> – as well as from what it has not said and not published.

52. To instance but one example: in the light of the fact that the tsunami of antisemitism at Australian universities has been so notorious since mid-October 2023, the article published on 23 May 2024 by Giridharan Sivaraman, Australia's race discrimination commissioner, was – at best – tone-deaf, if not immoral, as it imputed, in my opinion, an equivalence between “*the horrific October 7 attacks in Israel, and the devastating military response in Gaza.*” It is a real concern that it would appear that Australia's race discrimination commissioner does not distinguish between the vicious and barbaric massacre and atrocities perpetrated by Hamas, a listed

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<sup>32</sup> See, for example, 23 May 2024, ‘Racism at universities has been an issue for decades,’ by Giridharan Sivaraman, The Mandarin. In the light of the fact that the tsunami of antisemitism at Australian universities has been so notorious since 7 October 2023, the article published on 23 May 2024 by Giridharan Sivaraman was – at best – tone-deaf, if not immoral, as it imputed, in my opinion, an equivalence between “*the horrific October 7 attacks in Israel, and the devastating military response in Gaza.*” It is a real concern that it would appear that Australia's race discrimination commissioner does not distinguish between a massacre and atrocities perpetrated by a terrorist organization whose stated aim is the annihilation of Israel, on the one hand, and Israel's defence – and attempt to rescue hostages - on the other hand. The imputation that “antisemitism and anti-Palestinian sentiment on campus” is of a similar magnitude is simply wrong.

terrorist organization whose stated aim is the annihilation of Israel, on the one hand, and Israel's legitimate self-defence – and attempt to rescue hostages - on the other hand.

53. Moreover, the imputation in the article that the problem of “antisemitism and anti-Palestinian sentiment on campus” is of a similar magnitude is simply wrong.
54. At the very least, there is a reasonable apprehension of bias on the part of the AHRC.
55. Should the committee decide not to form a *judicial commission* with Royal Commission-like powers to enquire into antisemitism at Australian universities, that failure will, in my opinion, be perceived as worse than a mere slap in the face to the Jewish community; it will be perceived as support for those who, in the opinion of the Jewish community, are antisemitic.

## **STRAW MEN DESIGNED TO OBFUSCATE**

56. These submissions will now briefly address certain *straw men* that are deployed (often as an antisemitic obfuscation) to cower universities into failing to take effective steps to prevent hate-speech of the kind referred to below, and/or to enable the person making the statement to play the “victim card.” Those straw men are
  - a. the canard – itself antisemitic – that “Jews or Zionists” seek to prevent criticism of Israel by labelling all criticism antisemitic (it is not – and no responsible person asserts otherwise). Israel can of course be criticised in the same way that any other country can be criticised; but just as one does not call for the annihilation of any other country, to call for the annihilation of Israel is antisemitic; and
  - b. the false assertion that Jews, and/or Israelis, and/or children or grandchildren of Holocaust survivors, cannot be antisemitic;<sup>33</sup> and
  - c. the false assertion that anti-Zionism of the kind one commonly hears from university academics and students is not antisemitism; it is – antisemitism has simply donned the cloak of anti-Zionism. (This has already been addressed above.)

## **Accusation that claims of antisemitism are deployed to prevent mere criticism of Israeli policies**

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<sup>33</sup> See, for e.g., Alan Dershowitz, [The Case Against Israel's Enemies](#), John Wiley & Sons, Inc. 2008, at 99-126; Douglas Murray [Israel-Hamas War: Douglas Murray Responds to Norman Finkelstein Calling Gaza a "Concentration Camp"](#) <https://www.youtube.com/watch?v=u8KNhzD1xDE>;

57. The assertion that “Jews or Zionists” use the antisemitism accusation to prevent mere criticism of Israeli policies by labelling all criticism antisemitic<sup>34</sup> is false.
58. Obviously, Israel or Israeli policies, can be criticised – just like any other country or its policies may be criticised.<sup>35</sup> Despite the ubiquitous accusation that Jews use antisemitism to prevent criticism of Israeli policies, I am not aware of any documented case in which any responsible person has contended that mere criticism of Israel is antisemitic. Such a contention would be absurd.
59. Prof Alan Dershowitz has publicly challenged anyone who asserts that Jews seek to prevent criticism of Israel by labelling all criticism antisemitic to “document that serious charge by providing actual quotations, in context, with the sources of the statement identified. No one has responded to [his] challenge.”<sup>36</sup>

**False assertion that Jews and/or Israelis and/or descendants of Holocaust survivors cannot be antisemitic**

60. Equally false is the assertion that Jews and/or Israelis and/or descendants of Holocaust survivors cannot be antisemitic.<sup>37</sup>
61. Regretfully, throughout history there have been prominent Jews – who have also been classic and blatant antisemites (Karl Marx is a case in point; as noted by Dershowitz, his stereotyping of Jews and his rabid hatred of all things Jewish “are *hard to distinguish from the beliefs of Adolf Hitler*”<sup>38</sup>)
62. In his book, The Case Against Israel’s Enemies, Professor Alan Dershowitz has noted that in contemporary society, there are some Jewish academics of the radical left for whom

“... dissociating from Zionism ... has become a litmus test for acceptability by the hard left. Unlike Marx, however, some of them emphasise their Jewishness while rejecting Jewish nationalism. **They point to their Jewish identity to discredit accusations that that their ideas are antisemitic (claiming that as Jews, they cannot be antisemites), to establish their special right to criticise Israel and give added stress to the evils of Zionism**

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<sup>34</sup> See Alan Dershowitz, The Case Against Israel’s Enemies, John Wiley & Sons, at 3-4.

<sup>35</sup> Speech by Chief Rabbi of the British Empire, Lord Jonathan Sacks, to the European Parliament. [https://youtu.be/uwN1WuDwIf0?si=2BVTc2V\\_jTZxGhn3](https://youtu.be/uwN1WuDwIf0?si=2BVTc2V_jTZxGhn3)

<sup>36</sup> Ibid at 4.

<sup>37</sup> See, for e.g., Alan Dershowitz, The Case Against Israel’s Enemies, John Wiley & Sons, Inc. 2008, at 99-126; Douglas Murray Israel-Hamas War: Douglas Murray Responds to Norman Finkelstein Calling Gaza a "Concentration Camp" <https://www.youtube.com/watch?v=u8KNhzD1xDE>

<sup>38</sup> Ibid at 99.

**(claiming that if we, as Jews, are troubled by Zionism, then it must be really bad).** Few of these Israel-haters are Jewish in any real sense, other than their parentage. They are Jewish on their ‘parents’ side’ ... Yet they accentuate their Jewish heritage (their names and connections to the Holocaust) to gain credibility for their Israel bashing. **By rejecting Zionism, they prove their commitment to the values of the hard left, as well as their lack of dual loyalty.**”<sup>39</sup> [Emphasis added.]

## CONCLUSION

63. Antisemitic vilification, incitement, intimidation and hate speech – particularly by prominent lecturers of a respected university – may lead to the most serious, real-life, consequences for Jewish and Israeli students and staff (and indeed others); it poses real risks – including risks of serious physical violence.
64. It is ironic – and irrational – that the most lethal outbreak of antisemitism since the Holocaust broke out in response to the biggest single atrocity against Jews since the Holocaust. That antisemitism has donned the cloak of anti-Zionism.
65. The ever-increasing antisemitism is an ever-deepening nightmare - exacerbated by the fact that, as noted by Melanie Phillips,
- “... universities, the supposed crucible of reason, have incubated murderous and brazen antisemitism .... the intellectual élites of the “civilised” west — its brain, if you will, and thus the source of its supposedly civilising ideas — have absorbed and are regurgitating [murderous lies in the cause of wiping out Israel and the Jews].”<sup>40</sup>.
66. However, one sided, demonstrably false, malevolent, antisemitic, propagandistic hate-speech by a university lecturer is inimical to, and inconsistent with, the duties and requirements of institutions of higher learning, and is expressly or impliedly inconsistent with the objects of the Higher Education legislation (including the Standards, Codes, and Guidelines) including, for example, ‘*the creation and advancement of knowledge*’ (HES Act s2-1(b)(ii)) and the provision of higher **education**. Freedom of speech does not permit false hate-speech, incitement and vilification.

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<sup>39</sup> Ibid at 100.

<sup>40</sup> Melanie Phillips, The campus crucible of Islamic holy war, 30 April 2024  
[https://open.substack.com/pub/melaniephillips/p/the-campus-crucible-of-islamic-holy?r=8t76y&utm\\_campaign=post&utm\\_medium=web](https://open.substack.com/pub/melaniephillips/p/the-campus-crucible-of-islamic-holy?r=8t76y&utm_campaign=post&utm_medium=web)

67. It is in the public interest that a *Judicial Commission* of Inquiry into Antisemitism at Australian Universities be established as a matter of extreme urgency.



**M A Friedgut**  
**26 August 2024**