

Committee Secretary  
Senate Legal and Constitutional Affairs Committee  
PO Box 6100  
Parliament House  
Canberra ACT 2600

**Re: Submission for Commission of Inquiry into Antisemitism at Australian Universities Bill 2024**

My name is Anthony Small. I am a trustee for the Millie Phillips Jewish Education Fund. I am also a custodian of a new charity to combat antisemitism in Australia, established in accordance with the wishes of my grandmother, the late Millie Phillips of blessed memory, whose experiences as a Holocaust refugee and successful female Australian entrepreneur made her deeply passionate about both Australia and Jewish community flourishing in this country. I have also been involved in many progressive causes as an activist, policy analyst and assistant legal representative for various NFP organisations, and as a volunteer policy analyst for state and federal ALP members on a range of policy and law reform matters.

**Response to the Draft Bill: No Specific Reference to International State and Non-State Actors**

While the Bill in its current form is to be commended, it contains no specific reference to the role of international state and non-state actors in fomenting antisemitic thought and activities on campus.

In July this year Dr Charles Small, executive director of the institute of the US based study of global antisemitism and policy (ISGAP), gave compelling testimony to the US House Ways and Means Committee “on Qatari and Muslim Brotherhood funding to American universities” and links this has to rises in on campus antisemitism.<sup>1</sup> The Australian tertiary sector now boasts extensive and lucrative ties with Qatar, according to DFAT more than 20 domestic universities have collaborative projects with Qatari institutions, following the signing of the bilateral MOU on Higher Education, Research and Vocational Training in 2016.<sup>2</sup> The Qatari regime is infamous for ties both to radical political Islamist ideology and the Muslim brotherhood, providing a safe haven for senior leadership of avowedly antisemitic proscribed terrorist organisations, and its officials commonly espouse antisemitic libel and canards. As recently as April 2024 an official Qatari spokesperson at the Arab League noted that ‘the Jews’ were “the killers of prophets”.<sup>3</sup> In the education sector, there is evidence that at secondary, and tertiary levels Qatari education institutions commonly cite

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<sup>1</sup> Small, C A 23/7/2024 Testimony of Dr Charles Asher Small before the United States House Committee on Ways and Means, Subcommittee on Oversight, *Fueling Chaos: Tracing the Flow of Tax-Exempt Dollars to Antisemitism*, pg 1. Retrieved at:[<https://waysandmeans.house.gov/wp-content/uploads/2024/07/Small-Testimony.pdf>].

<sup>2</sup> Department of Foreign Affairs, Qatar Country Overview. Retrieved 21/08/2024 from: <https://www.dfat.gov.au/geo/qatar/qatar-country-brief> .

<sup>3</sup> Quitaz, S, 5/5/2024 *Qatari Paymasters and the Hijacking of American Democracy*. Retrieved at: [<https://www.jpost.com/middle-east/iran-news/qatari-official-jews-are-murderers-of-prophets-october-7th-is-only-a-prelude-798358>↵].

antisemitic fabrications and conspiracies, such as *'the Protocols of the Elders of Zion'* as factual academic sources.<sup>4</sup> This is also the case with various other education institutions in the region.

I express no firm view as to whether such bilateral ties do in fact contribute to the rise in antisemitism on campus, but it is worthy of examination by a Commission.

There is also documented evidence of the relationship between Hizb ut-Tahrir, an extremist Islamist organisation, and university protest activities, including the encampment at the University of Sydney. The Honourable Julian Lesser, sponsor of this bill, is on the record in Hansard citing this fact. Anecdotally when I visited my alma mater in April of this year I had conversations with activists affiliated with the camp who confirmed they knew members of the organisation that were involved in an organisational capacity. Hizb ut-Tahrir is a proscribed organisation in many other western countries, including the UK, while it and its affiliates are permitted to operate in Australia there should be a focus in the terms of reference proposed in the Bill on the links between such organisations, not only in terms of activism, but also in term of academic discourse in various areas of Islamic scholarship that may rely on, or condone, positions that ought to be unacceptable in a liberal democratic society otherwise.

#### **IHRA Definition and the Balance Between of Preserving Academic Freedom and Safety:**

The Bill's proposed requirement that universities adopt and implement appropriate definitions of antisemitism is to be commended. While the IHRA definition is often (at times legitimately) criticised, it does provide a tested and internationally replicated framework for addressing antisemitic events at an institutional level. This was demonstrated in the *Kaplan v State of Victoria* (No 8) [2023] FCA 1092 where Justice Mortimer relied expressly on the IHRA definition in assisting to determine where antisemitic conduct could be deemed to have occurred.<sup>5</sup> The IHRA definition is sometimes criticised for its lack of specificity, defining antisemitism as "certain perception of Jews, which may be expressed as hatred toward Jews". The fact antisemitism is a millennia old cultural phenomenon that has endured and morphed to suit an extremely wide variety of cultural and historical contexts (be it the Christian blood libels of the Middle Ages, the Social Darwinist racialism of the Nazis, or the Marjorie Taylor Greene's recent conspiracy concerning Jewish space lasers), means the vagueness of this definition can be understood as a necessity, especially when implemented at an institutional level, to ensure that there is definitional flexibility to address the polymorphic nature of antisemitism itself.

Further criticism of the IHRA definition cites that the majority of the 11 examples accompanying the definition centre on Israel (rather than Jews), and that the IHRA definition can, and arguably has, been used by Zionist activists to quash opposition. This criticism raises the question of how best to balance the freedom of academic inquiry and political communication with providing safety for Jewish students. A robust institutional mechanism to effectively identify hate speech and respond to it would be a step towards addressing this tension.

While other definitions of antisemitism do exist, such as The Jerusalem Declaration on Antisemitism, ultimately the specific form of definition on antisemitism should remain flexible enough to deal with

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<sup>4</sup> Harel, Z 28/4/2024 *Antisemitism, Holocaust Denial in Qatari Press*, Qatar Inquiry & Analysis Series No. 1634, Retrieved 21/8/2024 from: [<https://www.memri.org/reports/antisemitism-holocaust-denial-qatari-press>] and Carmon, Y 22/6/2023 *The Protocols Of The Elders Of Zion In The Arab And Muslim World - Past And Present* MEMRI Daily Brief No. 493. Retrieved 21/8/2024 from [<https://www.memri.org/reports/protocols-elders-zion-arab-and-muslim-world-%E2%80%93-past-and-present>].

<sup>5</sup> at [33].

antisemitism and how it may change in expression and form going forward, and crucially be able to effectively provide a means for identifying when contemporary speech or actions that are critical of Israel (broadly permissible in any free thinking democratic society) from those which use anti-Israel rhetoric to cloak antisemitic sentiments. It is worth noting that in recent years, and especially since October 7<sup>th</sup>, there has been both a marked rise in overtly antisemitic statements and actions, but also a rapid acceleration in adoption of speech by mainstream activists, of terminology which exists in a 'grey area' of implied or quasi antisemitism.

### **How a Definition Assists in Disambiguating Anti-Semitic Tropes from Legitimate Criticism in Pro-Palestinian Activism**

It is for this reason, that institutional definitions of antisemitism can be highly useful to guide staff and students to engage in appropriate and inclusive discourse on otherwise divisive and incendiary issues. As just one example recently a Sydney University academic was filmed questioning the veracity of claims of sexual violence perpetrated on a mass scale by Hamas operatives at the Nova Festival Massacre on October 7<sup>th</sup> during one of her lectures, suggesting that such false claims were the results of 'Zionist' media manipulation.<sup>6</sup> Without the context of a coherent antisemitism definition such as IHRA, one could view such speech as simply querying the role of potentially biased media representations in discussions of a contemporary geopolitical event, however with reference to the IHRA definition examples it is clear that there are elements of real time Holocaust denial (the accusation of exaggerating or fabricating documented crimes), and further seeming to rely on a classic antisemitic canard that Jews (or Zionists as a stand in) control the media. At a minimum universities utilising IHRA or a similar definition should implement codes and protocols for staff and students to adhere by so that, where academic study or political activism occurs on such topics, a greater degree of awareness and care is required so that antisemitic implications cannot be implicitly inferred. This is a reasonable and logical measure for publicly funded institutions that have a duty of care to vulnerable Jewish students, and ought to embody the highest standards of both community ethics and demonstrate how to functionally approach appropriately moderated discourse on contentions and incendiary topics.

On this basis, were an academic to wish to engage in inquiry concerning potential media bias in portrayals of the mass rapes on October 7<sup>th</sup>, it would be necessary for them to preface such a discussion by acknowledging the unfounded and hurtful antisemitic notion that 'Jews control the media' and the related canard of a Jewish conspiracy to fabricate evidence of suffering, and that any commentary in the lecture around media bias is not directed at Jews as a whole, or at the fact that serious crimes were committed against Israelis, but that the reporting around it may not have reached the standard of journalistic integrity one might desire etc.

### **IHRA and the Distinction Between Anti-Zionism and Antisemitism**

There is some debate as to the relationship between speech and actions being antisemitic and being merely 'anti-Israel' or 'anti-Zionist'. Obviously, Israel and its government, like any other nation, should not be free from criticism and protest. However, the unique justification for the creation of the modern state of Israel as a safe haven for Jews in the context of millennia of expulsions and

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<sup>6</sup> Chidiac, V and Haghighi, A 1/6/2024 *University of Sydney investigates sociology professor's lecture materials referencing Palestinian genocide, Honi Soi*. Retrieved 22/8/2024 from: <https://honisoit.com/2024/06/university-of-sydney-investigates-sociology-professors-lecture-materials-referencing-palestinian-genocide/>.

persecutions, complicates the issue of free political discourse and academic inquiry in Australia considerably, insofar as Australia maintains controls on speech which veers into hatred. Criticisms of Israeli policy against the Arab Israeli population or Palestinians in Gaza and the West Bank, even claims about specific land configurations (1967 borders, the green line etc.) are all acceptable. However, protesters often go a step further of attacking the legitimacy of Israel itself as a state and questioning its right to exist altogether. Commonly this is achieved through indirect speech, by advancing claims that “Israel is guilty of genocide” (a claim that significantly pre-dates the recent conflict, but has grown in tenor recently), or that “Israel is an apartheid state”. Whether or not one believes the actions of the Israeli state meet the specific legal definitions of these terms (and it is by no means a settled issue) by attacking Israel specifically on the basis of racial discrimination, and usually as the headline of such an attack (“Israel Apartheid Week” has been a common occurrence on campuses around the world for some years now) without any acknowledgment of the wider context activists serve to debase the moral significance of the fact of historical Jewish suffering, leading to an implication that antisemitism is not a special kind of hatred necessitating a different kind of discourse, and that the moral claim to requiring specific protections in recognition of the unique vulnerabilities Jews have experienced as a community are not valid as they are now the “Nazis” not the victims. Such speech is also especially hurtful to Australian Jews in light of the intergenerational experience of Holocaust trauma (Australia has the highest per capita number of Holocaust survivors, and thus their descendants, of any country other than Israel).<sup>7</sup> In this context it is no wonder that activists begin to countenance increasingly radical positions, with documented evidence of students on campus at the University of Queensland earlier this year providing not only a justification for the October 7<sup>th</sup> massacre by Hamas, but suggesting that killing Zionists in Australia could also be justified morally.<sup>8</sup>

Academic study campus Pro-Palestine activists internationally has noted that anti-Zionist tactics and rhetoric have a demonstrative accelerationist pattern of becoming increasingly radical, aggressive and, sometimes overtly antisemitic in character as previous positions become normalised – effectively seeing a new ‘floor’ of commonly accepted increasingly hateful speech accepted after each escalation.<sup>9</sup> In order to avoid this trend, more needs to be done to ensure safe, respectful discourse and inquiry is encouraged, while inflammatory antisemitic rhetoric is forcefully combatted.

### **Role of Universities**

As public institutions tasked with leading discourse in our society no body of organisations is better suited to facilitating inquiry and discussion of so complex a topic as the Israel-Palestine conflict. As recipients of public funds our universities have a higher standard of conduct to embody than other private institutions, and ought to embody the best of the liberal democratic western traditions. Currently they are failing to live up to their purpose. Nevertheless, if they implement better practices and procedures such institutions can provide guidance for the rest of society in how to best respond to the rising tide of antisemitism.

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<sup>7</sup> Rutland, S. D. (2006). *The Jews in Australia*. Cambridge University Press.

<sup>8</sup> See Pavlou, D (8/5/2025), *Interviewing Anti-Zionist Protesters at the University of Queensland in Australia*, [Online video accessed 22/08/2024 available at <https://www.youtube.com/watch?v=QKqUm43yHc8>]

<sup>9</sup> Nelson, C. (2024). *Hate Speech and Academic Freedom: The Antisemitic Assault on Basic Principles*. Academic Studies Press.