



**NTEU Submission to**

**Parliamentary Inquiry into  
Antisemitism at Australian  
Universities**

**The Parliamentary Joint Committee on Human Rights**

Dr Gabe Gooding, NTEU National Assistant Secretary  
[ggooding@nteu.org.au](mailto:ggooding@nteu.org.au)

Terri MacDonald, Director NTEU Public Policy and Strategic Research  
[tmacdonald@nteu.org.au](mailto:tmacdonald@nteu.org.au)

Mr Kieran McCarron, Policy Officer, NTEU Public Policy and Strategic Research  
[kmccarron@nteu.org.au](mailto:kmccarron@nteu.org.au)

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## Introduction

NTEU welcomes the opportunity to make a submission to this inquiry and thanks the Committee for attention being given to our submission to the Senate Committee on Legal and Constitutional Affairs' Inquiry into a Commission of Inquiry into Antisemitism at Australian Universities Bill (No.2) 2024.

We reiterate the positions expressed in our previous submission and supply the following submission as supplementary and further explanatory information.

NTEU is the union representing university employees with 28,000 members working within the sector. As we expressed in our previous submission, we represent members, but we do not control them. The responsibility for harassment, abuse and bullying is entirely within the purview of the universities as the employers, including where allegations of antisemitism are made. While NTEU is not responsible for the actions of persons on campuses NTEU does have a Code of Conduct which applies to all members when participating in NTEU related or endorsed activities.

## The National Picture - Social Cohesion

There has been much speculation about a loss of social cohesion and a rise in antisemitism and racism in Australia in recent years and particularly in the last 12 months. The Scanlon Index of Social Cohesion, a model that provides longitudinal data across 17 years, was stable between 2023 and 2024 reflecting the resilience of Australian society, nevertheless the index is at its lowest level since 2017<sup>1</sup> indicating the decline commenced prior to 2023.

The Mapping Social Cohesion report 2024 details that 34% of Australians have a somewhat or very negative attitude to Muslims, an increase from 27% before the October attacks on Israel but still better than in the period 2018-2020. Negative attitudes to Jewish people also increased in the past year from 9% to 13% with positive views declining by 8%. In the same period positive attitudes to Buddhists, Hindus and Sikhs also declined by 6-8%. The percentage of people having a negative view of religions other than their own rose by 10% to 48% leading to the observation that

*“while attitudes to Australia’s Muslim and Jewish communities is a particular area of concern, relations towards and across all faiths appear to be under pressure.”<sup>2</sup>*

During 2024 the media reported significant increases in incidents of islamophobia and

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<sup>1</sup> <https://scanloninstitute.org.au/mapping-social-cohesion-2024>

<sup>2</sup> Ibid p.8

antisemitism compared with previous years,<sup>3</sup> and there is no doubt that there is a greater awareness of perceived and actual acts of antisemitism and islamophobia.

The report also observes that levels of political activism in 2024 were consistent with 2023, but that people were more likely to have attended a protest in 2024. To quote the report:

*'Political activity reflects and engaged citizenry, people prepared to fight for what they believe in, to enact and realise change, In this way political engagement contributes positively to social cohesion. Clearly though, political activism in recent years has also been a symbol of divisions and dissatisfaction in society, including with respect to violence in the Middle East and violence against women in Australian communities.'*<sup>4</sup>

Universities are in many ways a microcosm of Australian society. They have a history of intense debate due to their fundamental character as places where knowledge is questioned and challenged, and where freedom of speech, protest, and academic freedom prevail. It is of no surprise therefore that there were protests against the war in Gaza on campuses and that those protests have involved sometimes intense exchanges of opinion.

### **Defining antisemitism**

NTEU is opposed to anti-semitism. NTEU believes that it is important when dealing with an issue such as antisemitism that there is a common understanding of the term. Unfortunately, that is not the case in the current debates around alleged antisemitism on campus.

NTEU is strongly of the view that criticism of the state of Israel and its leaders is not in and itself antisemitic. As such, we do not support the IHRA definition<sup>1</sup>.

### **Academic Freedom and Freedom of Speech**

Academic freedom and freedom of speech are two of the defining characteristics of universities. Along with institutional autonomy and collegiate governance they form the bedrock on which universities are based and are recognised in such international instruments as the UNESCO Recommendation concerning the status of higher education teaching personnel.<sup>5</sup>

They were recognised in the Model Code for the Protection of Freedom of Speech and Academic Freedom in Australian Higher Education Providers. The Federal Minister at the time, Alan Tudge, noted when accepting all recommendations of the *Walker Review* into

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<sup>3</sup> For example: <https://www.theguardian.com/australia-news/2023/nov/10/islamophobic-and-antisemitic-incidents-rise-in-australia-advocates-say>

<sup>4</sup> Ibid p.11

<sup>5</sup> <https://www.unesco.org/en/legal-affairs/recommendation-concerning-status-higher-education-teaching-personnel>

implementation of the Model Code on Freedom of Speech and Academic Freedom, that universities needed to ensure

*“... the alignment of institutional policies with the Model Code’s principles and foster a culture in which freedom of speech and academic freedom are valued, nurtured and actively defended.”<sup>6</sup>*

The Minister actively encouraged universities to adopt Recommendation 6:

*“Academic freedom provisos or requirements of a kind not authorised by the Principles of the Code section of the Model Code should be designated as ‘expectations’ with which students and staff should comply, but that the policy or code must make it clear that failure to meet these expectations is not sanctionable, that is, it will not constitute misconduct or attract any penalty or adverse action.”<sup>7</sup>*

The responses by universities to allegations of antisemitism and the presence of encampments on the campuses have been variable. Most have recognised the value and right to peaceful protest and the academic freedom rights where applicable but sought to shut down protests and evict protestors from campuses. By contrast, by adopting the recommendations of the University of Sydney External Review Report authored by Bruce Hodgkinson SC AM<sup>8</sup>, the University of Sydney has engaged in significant over-reach that has the potential to undermine both free speech and academic freedom on their campuses. Some of the proposals they adopted run directly counter to the recommendations of the Walker Review of the Model Code.

This is despite the Hodgkinson Report itself identifying that there were no acts of violence associated with the protests on campus and that the widely publicised event that generated many complaints i.e. that two visitors from Tel Aviv University attending an information stall had been locked in a room with protestors, was the subject of false media reporting.

The report notes that *“many submissions referenced events about which they had heard from media reports as the reason for not feeling safe on campus”<sup>9</sup>*. Disturbingly the report declares that all the submissions that referenced the incident with the two Israeli academics, referred to the false media assertions that the two Israeli professors had been locked in a room with the protestors, and claimed that as the reason why they felt unsafe on campus. Nevertheless, the University has chosen to enact sweeping changes that will suppress free speech, debate and academic freedom at the university. Two such recommendations are recommendations 9 and 10<sup>10</sup>.

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<sup>6</sup> Department of Education, Skills and Employment [Review of Adoption of the Model Code on Freedom of Speech and Academic Freedom in Higher Education Australian Government Response](#). D21/419228 Australian Government, Canberra. 2020. Pg 2.

<sup>7</sup> Ibid Pg 8.

<sup>8</sup> <https://www.sydney.edu.au/news-opinion/news/2024/11/27/university-receives-hodgkinson-external-review-report.html>

<sup>9</sup> Ibid Pg. 23

<sup>10</sup> Ibid Pg. 56

Recommendation 9 states:

*The University should amend its policies and procedures to make clear that each person utilising a word or phrase is responsible at the time the word or phrase is used to identify to the audience the context in which it is used (New Civility Rule).*

Recommendation 10 states:

*A failure to conduct a lecture, seminar, tutorial or meeting which takes place in any of the University's facilities in accordance with the New Civility Rule should be recognised as misconduct and treated accordingly.*

The report itself concedes that it will be very difficult for a speaker to know when they will be subject to the New Civility Rule:

*'However, it can be a very difficult matter to determine when a particular word or phrase is used in a legitimate way and when the same word or phrase is impermissible. Many complaints have been made that words or phrases which have been used on campus are antisemitic. Others, including Jewish people, who have heard the same words or phrases have determined that they have been used legitimately.'*<sup>11</sup>

Yet staff, students, and visitors to the campus are somehow to determine whether each word or phrase that they use requires additional context to avoid being in breach of the New Civility Rule. Given that the Rule applies to all speech, not just speech that could be interpreted as antisemitic, it effectively means that anyone could be the subject of a complaint for not complying with a Rule that they did not know would apply. It is open to and almost certainly will be misused to target individuals and will have a very significant dampening effect on freedom of speech on campus.

Recommendation 10 strikes to the heart of academic freedom, the freedom of academics and students to teach, study, and pursue knowledge and research without unreasonable interference or restriction from law, institutional regulations, or public pressure. It includes the freedom of academic staff and students to express their opinions and beliefs and to contribute to public debate in relation to their subjects of study and research.

By imposing the New Civility Rule on how academics teach, the University is limiting the capacity of academic staff to teach as they determine to be appropriate. Given the breadth of the rule this will have a suppressive effect on the teaching of controversial topics as failure to follow the rule will constitute misconduct. Fundamental to university life is exposure to challenging ideas and this recommendation will displace much of that experience for students at the University of Sydney.

NTEU is also concerned about the potential threats to academic freedom and freedom of speech from use of the IHRA definition of antisemitism.

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<sup>11</sup> Ibid Pg. 6

For example, the IHRA definition states that ‘drawing parallels of contemporary Israeli policy to that of the Nazis’<sup>12</sup> is an act of antisemitism. We agree with Dekkers and Coulter that:

*‘broad unqualified statements treating Nazism and Zionism as similar, or equally bad, are likely to spring from antisemitism and/or gross ignorance. However, historians and others who study these and other ethno-nationalist movements of European origin, for example Serbian nationalism, may quite reasonably identify certain historical parallels along with major dissimilarities.’*<sup>13</sup>

Labelling such work as antisemitic fundamentally works against academic freedom and any action taken against a lecturer for example who makes a valid historical comparison would be in conflict with the obligations of Australian universities under the Higher Education Support Act 2003, Subdivision 19 S115 to have a policy that upholds freedom of speech and academic freedom<sup>14</sup>. Importantly, it suppresses the conduct and publication of legitimate research.

### **Regulation of conduct, policies and processes**

While academic freedom is enshrined in Australian law and in international instruments the real protection of academic freedom lies in enterprise agreements validly negotiated by NTEU and certified by the Fair Work Commission. This protection is a qualified protection with a significant majority of enterprise agreements mandating that academic freedom cannot be used to harass, vilify or intimidate, and that academic freedom must be applied within scholarly norms. Most enterprise agreements also contain binding provisions relating to what constitutes misconduct and serious misconduct and the processes that must be applied when allegations are made. While it is within the purview of the Committee to make recommendations about what universities should seek in those agreements, the outcomes are subject to the negotiation process.

### **Safety on Campus**

NTEU believes that university campuses, which are the workplaces of our members, must be safe and protect workers and visitors from hazards that pose risks to their health and safety. The recent entrance into a university professor’s work-space where he was subjected to chanting and was called out as being responsible for genocide was not acceptable and rightly stands condemned.<sup>15</sup> This type of intimidation and bullying by masked protestors is not welcome on university campuses and should not be.

While campuses should offer safety to all who enter they do not necessarily need to ensure that all feel comfortable. Controversial and novel ideas should be encouraged on campuses, that is what they are designed to elicit, the generation of new knowledge and understanding. The fact that an idea or opinion makes some feel uncomfortable does not necessarily undermine the value of expressing it, provided that in doing so the line is not crossed into

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<sup>12</sup> <https://holocaustremembrance.com/resources/working-definition-antisemitism>

<sup>13</sup> Dekker, J., and Coulter, J. *Res Publica*, 2022 May 11: 28(4):733-752.

<sup>14</sup> <https://www.legislation.gov.au/C2004A01234/latest/text>

<sup>15</sup> <https://omny.fm/shows/3aw-drive/im-very-sad-jewish-professor-speaks-out-after-shoc?t=31s>

unlawful speech or bullying, intimidation and harassment. Freedom of speech must apply to all and not be preserved for those with the loudest and strongest voices who seek to shut down alternative views. This is the antithesis of what a university environment should be.

## **Conclusion and Recommendations**

NTEU:

- acknowledges the controversy surrounding anti-war protests and activities on campuses and re-affirms our long-standing policy that antisemitism, islamophobia, all forms of racism, bullying, harassment and intimidation are not welcome at Australian universities - the workplaces of our members.
- submits that the fundamental characteristics of universities such as freedom of speech, right to protest and academic freedom are essential to the operation of universities as conveyors and generators of knowledge and should not be undermined by heavy-handed regulation.
- Recommends that the Committee interrogate the use of 'antisemitism' to describe criticism of the Israeli government and to reject definitions that are can be used to suppress legitimate debate.
- Recommends that in its deliberations the Committee give priority to analysis of objective evidence over subjective responses given the role that inaccurate media reporting has had on the perception of the extent of the problem on university campuses. This is not to diminish the experiences and feelings of those who have perceived themselves to be at risk or may have been at risk but instead is support for applying objective research methods to the work of the Committee.
- Notes that the working conditions of our members, including protections for academic freedom, definitions of misconduct and serious misconduct and processes for dealing with complaints against an individual are regulated by enterprise agreements negotiated by NTEU and each individual university and certified by the Fair Work Commission. While it is within the purview of the Committee to make recommendations about what universities should seek in those agreements, the outcomes are subject to the negotiation process.