

AIJAC submission to the Inquiry into antisemitism at Australian universities

20 December 2024

The Australia/Israel & Jewish Affairs Council welcomes the opportunity to make a submission to the Parliamentary Joint Committee on Human Rights' Inquiry into antisemitism at Australian universities.

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

AIJAC is deeply concerned by the manifestations of antisemitism that have erupted on many Australian university campuses since the Hamas terror attack on Israel on October 7, 2023. This phenomenon is antithetical to Australian values and its multicultural ethos. It poses a genuine threat to the security of Jewish students and staff and their ability to participate in academic life. It also undermines academic freedom—not least by demonstrating the inability or unwillingness of many universities to enforce their own codes of conduct.

We welcome the fact that the Committee has accepted that antisemitism on campuses is at unprecedented and unacceptable levels, and is exploring how to address this problem. In this context, AIJAC is pleased to offer the following recommendations.

Recommendations

1. Expand the remit of the National Student Ombudsman to enable her to receive non-formal submissions about discriminatory conduct on campus, if the affected student does not wish to submit a formal complaint to their university, as well as to initiate wider investigations into the situation on specific campuses, where a pattern of discriminatory behaviour becomes evident.
2. Universities should seek regular updates from the Australasian Union of Jewish Students (and other representative student organisations) about alleged discriminatory conduct on campus.
3. A uniform complaints process should be adopted by all universities.
4. The uniform complaints process should include antisemitism in the list of examples of banned discriminatory behaviour. If a uniform complaints process is not recommended by the Committee, all universities should be encouraged to include antisemitism in their list of examples.
5. The national uniform complaints process and all universities should adopt the IHRA working definition of antisemitism as a tool to understand modern antisemitism.

6. Training into modern antisemitism should be compulsory for all staff involved in complaints handling. This training must be formulated in consultation with the nationally-elected representative bodies of the Australian Jewish community.
7. Administrators at universities at which there is an Australasian Union of Jewish Students chapter should hold regular meetings with the relevant AUJS leadership. Universities Australia and the Group of 8 should hold regular meetings with the AUJS national leadership.
8. Determine and amalgamate best practice university security liaison efforts with AUJS, and recommend that all universities adopt these.
9. Ensure better oversight of the TEQSA Act's Threshold Standards and ensure TEQSA holds universities accountable for any breaches.

Introduction

Australian Jewry is facing a crisis of antisemitism at universities. This is impacting Jewish students in many ways, including how they express their Jewish identity, their willingness to attend classes and take part in student campus activities, their academic freedom and more. The experience of Jewish students on campus in the wake of the October 7, 2023 Hamas massacre of Israelis was detailed in many of the 669 submissions made to the Senate Standing Committee on Legal and Constitutional Affairs' Inquiry into a Commission of Inquiry into Antisemitism at Australian Universities Bill 2024 (No. 2).¹ Some of those experiences were summarised in AIJAC's submission to the Inquiry.² Thousands of other pieces of evidence and testimonials about antisemitism in Australian universities since October 7 were made public in recent months by various organisations.³

However, the inability or unwillingness of the university sector to address the concerns of Jewish students in the face of antisemitism predates the October 7 massacre.

In 2023, the Zionist Federation of Australia (ZFA) and the Australasian Union of Jewish Students (AUJS) commissioned the Australian Jewish University Experience Survey. It was published in July 2023.

¹ Inquiry into a Commission of Inquiry into Antisemitism at Australian Universities Bill 2024 (No. 2): Submissions,

https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/AntisemitismBill/Submissions

² AIJAC's Submission to the Senate Legal and Constitutional Affairs Legislation Committee's Inquiry regarding the Commission of Inquiry into Antisemitism at Australian Universities Bill 2024 (No. 2), August 2024, <https://www.aph.gov.au/DocumentStore.ashx?id=7117672e-b4e5-4a88-84d8-96c9b6b9c748&subId=762242>

³ See, for example, "Jewish Community Incident Reporting on Victorian University Campuses", Community Security Group Victoria, May 2024, https://www.csgvic.com.au/files/ugd/6919b9_212e0032975f478bb2bc50846ca0873a.pdf

AIJAC notes that the author of that survey, Bren Carlill, is (as of September 2024) an AIJAC employee and co-author of this submission. This being the case, this submission will discuss authoritatively the results of the survey, as relevant to the topic at hand.

The Australian Jewish University Experience Survey revealed that two-thirds of Jewish university students had experienced antisemitism on campus, with many avoiding campus or hiding their Jewish identity as a result.⁴

The main relevance of the survey to this submission is the data relating to complaints.

According to the survey, 85% of Jewish students didn't submit a complaint after the most impactful incident of antisemitism in the previous 12 months. Asked why they didn't submit a complaint, 61% responded that it wouldn't make a difference, and 48% said that the university wouldn't take it seriously. Smaller numbers reflected worries about confidentiality (13%), that they wouldn't be believed (12%) or concerns their grades would be affected (10%).

Both before authoring the survey and after its publication, Dr Carlill engaged in meetings with senior officials from numerous universities. A key understanding that emerged from those discussions is that universities primarily assess the situation facing their students using complaints data. That few students submitted complaints about antisemitism on campus led universities to erroneously conclude that antisemitism was not a problem on their campuses.

The survey made clear that:

- a) universities aren't aware of the level of antisemitism on their campuses because they rely on complaints data; and
- b) students aren't making complaints because they lack confidence in the complaints processes and, indeed, the universities themselves.

Each of these problems compounds the other. What is required are policies to remedy both. This submission will explore what these policies could be. It will also explore the failures of universities to uphold their regulatory obligations in the face of antisemitism on their campuses over the last 14 months in particular.

Avoiding reliance on complaints data

There are many reasons why students don't want to submit formal complaints to their universities about discrimination they have faced. And while efforts should be taken to make the complaints process less daunting and more effective (see below), we have to

⁴ Key results, as well as the full survey report, can be seen at https://www.education.gov.au/system/files/2023-09/AUA_inter_tranche7_166%20Zionist%20Federation%20Australia%20Attachment.pdf.

assume that, going forward, it will likely remain the case that many students will not want to submit a formal complaint.

How, then, can university administrations learn about the experiences of their students?

There are two possible paths: expanding the role of the National Student Ombudsman; and listening to AUJS.

Expanding the role of the National Student Ombudsman

On November 28, 2024, Parliament passed the *Universities Accord (National Student Ombudsman) Act 2024*, which created a National Student Ombudsman. The National Student Ombudsman, Sarah Bendall, is expected to begin taking complaints in February 2025.⁵

The National Student Ombudsman's processes will be typical of an ombudsman; students will submit complaints to the Ombudsman about poor administrative processes (including complaints procedures) at their university.

AIJAC believes that the National Student Ombudsman's role should be expanded to include the ability for students to inform the Ombudsman about a discriminatory event on their campus. This would not be a formal complaint, but rather a way to inform the Ombudsman about an event. We imagine that the Ombudsman would make monthly reports to all universities—in broad, unidentifiable terms—about the type and number of alleged discriminatory actions on their campuses. It would also make public this list every six months.

This process would provide a means for students who have suffered from discrimination (or sexual assault, which was the original main focus of the Ombudsman) but who are unwilling to lodge a formal complaint, to inform an authority about what happened, thereby ensuring that universities become aware of the situation on their campuses.

Submitting a formal complaint to a university can be daunting. Even without the extension of remit suggested here, AIJAC is hopeful the Ombudsman will provide an important service in improving the complaints process over time. However, as currently constituted, if students do not submit formal complaints to their universities, the Ombudsman will not be made aware of the situation on campus and thus will not be in a position to help improve it.

Further, where a wider pattern of discriminatory conduct appears evident on a specific campus, based on formal and informal complaints, AIJAC would urge the Ombudsman

⁵ “National Student Ombudsman announced”, Ministers of the Education Portfolio Media Centre, 28 November 2024, <https://ministers.education.gov.au/clare/national-student-ombudsman-announced>

to initiate a wider investigation into the situation on that campus, and make recommendations for improvement.

Recommendation 1

Expand the remit of the National Student Ombudsman to enable her to receive non-formal submissions about discriminatory conduct on campus, if the affected student does not wish to submit a formal complaint to their university, as well as to initiate wider investigations into the situation on specific campuses, where a pattern of discriminatory behaviour becomes evident.

Allowing AUJS and other representative student groups to inform universities

A key way to increase Jewish student confidence in university administrations is through regular communication between AUJS and university administrations.

One facet of this communication could be AUJS informing university administrations of anti-Jewish discriminatory conduct that has taken place, should the affected student not wish to submit a formal complaint. AUJS campus (and national) leadership is typically made aware of such incidents, including if a student does not wish to submit a complaint. Were universities to encourage AUJS to tell them about such incidents, this would enable those universities to be more aware of the situation on campus.

Recommendation 2

Universities should seek regular updates from the Australasian Union of Jewish Students (and other representative student organisations) about alleged discriminatory conduct on campus.

The Australian Jewish community leadership will continue to encourage students to submit formal complaints. After all, if a formal complaint is not submitted, the discriminatory actor cannot be censured. However, we believe it is vital that universities increase their understanding of the situation on campus and the above two recommendations are suggestions for how universities can achieve greater understanding without relying solely on complaints data.

Increasing Jewish student confidence in complaints processes, and in universities

A uniform complaints process

Complaints processes vary across universities. In the 2023 Australian Jewish University Experience Survey, 21% of those students who did not submit a complaint after the most impactful antisemitic incident in the last 12 months reported that one of the reasons they did not do so was because the complaints process was too complex.

AIJAC believes that a uniform complaints process should be adopted by all universities. Best practice processes at individual universities can be identified and incorporated. Further, as improvements to the process are identified and implemented over time, all universities—and all students—will benefit from these improvements.

Recommendation 3

A uniform complaints process should be adopted by all universities.

Including antisemitism

University anti-discrimination policies typically include racism. While antisemitism is a form of racism, it is often not listed as a specific example. In conversations with Jewish students, we have found that, in those universities where antisemitism is listed as a specific example of a form of banned discrimination, Jewish students feel more confident about their university's stance.

Recommendation 4

The uniform complaints process should include antisemitism in the list of examples of banned discriminatory behaviour. If a uniform complaints process is not recommended by the Committee, all universities should be encouraged to include antisemitism in their list of examples.

Understanding antisemitism: A national standard

AIJAC contends that it is vital that all university staff involved in investigating complaints, as well as the National Student Ombudsman, understand modern antisemitism.

While often grouped together with other forms of racism, antisemitism is multifaceted and has its own unique characteristics. It can, in short, present as discrimination against Jews for reasons of ethnicity or religion; as discrimination against Jews based on

a worldview that places conspiracy theories about alleged Jewish power and domination at its centre; and also as discrimination against Jews by holding individual Jews responsible for the perceived crimes of Israel.

Outside of the Jewish community, many people erroneously believe that anti-Jewish discrimination can only be religion- or ethnicity-based; that is, they do not believe that criticism of Israel can be antisemitic.

AIJAC, as well as AUJS and the national elected Jewish community organisations, have repeatedly made the point that, while criticism of Israel similar to the way any other country could be criticised is not antisemitic, when Jewish Australians—individually or collectively—are involuntarily singled out or excluded because of someone else’s perceptions of Israel, then that *is* antisemitic. Further, we argue that denying Jews the right to self-determination (which is a universal right), is almost always antisemitic.

The Australian Government and most Australian states, along with AIJAC, AUJS and the national elected organisations of the Australian Jewish community, believe that the International Holocaust Remembrance Alliance (IHRA) working definition of antisemitism⁶ best describes modern antisemitism. Indeed, most democracies, the EU and the UN have adopted the IHRA working definition of antisemitism. This is why the IHRA working definition of antisemitism has been adopted by numerous Australian universities as a tool to understand antisemitism.

AIJAC urges the Committee to recommend that all universities, as well as the National Student Ombudsman, adopt the IHRA working definition of antisemitism as a tool to understand modern antisemitism.

The IHRA working definition of antisemitism has been incorrectly accused of equating criticism of Israel with antisemitism. However, the text of the working definition of antisemitism makes clear that this is not the case. It reads, in part, “criticism of Israel similar to that levelled against any other country cannot be regarded as antisemitic.” Further, the 11 examples provided in the working definition come with the caveat that the overall context of a situation should be taken into account. While some of the standards mention Israel, none of them should be interpreted as equating criticism of it with antisemitism.⁷

⁶ Working definition of antisemitism, International Holocaust Remembrance Alliance, <https://holocaustremembrance.com/resources/working-definition-antisemitism>

⁷ There are 11 examples provided in the IHRA working definition of antisemitism. Seven mention or refer to Israel, as follows:

- “Accusing the Jews as a people, or Israel as a state, of inventing or exaggerating the Holocaust.” This example is clearly not about criticism of Israel, but Holocaust denial or minimalisation. This example does not prevent criticism of Israel.
- “Accusing Jewish citizens of being more loyal to Israel, or to the alleged priorities of Jews worldwide, than to the interests of their own nations.” The subject of this example is not Israel, but Jews that live in countries other than Israel. This example does not prevent criticism of Israel.
- “Denying the Jewish people their right to self-determination, e.g., by claiming that the existence of a State of Israel is a racist endeavor.” This example refers to denying to Jews the right to self-

A key reason for a national complaints process that includes the IHRA working definition of antisemitism is that many Australian universities proved unwilling or unable to act against antisemitism on their campuses. Every Australian university was made aware of the results of the 2023 Australian Jewish University Experience Survey when it was published, which was before the events of 7 October that year. A key question the Committee might ask university administrators is, ‘What did you do to combat this antisemitism when you were made aware of it?’

The permissive environment on campus allowing for the discrimination against and intimidation of Jewish students resulted in substantial and overt antisemitism after 7 October 2023, in the face of a reluctance to confront it by almost all universities.

By having a national complaints process that includes the IHRA working definition of antisemitism, universities will be able to fall back on a standard accepted by all. This will help prevent them equivocating on whether or not a Jewish student involuntarily singled out or excluded (or otherwise purposefully intimidated) because of someone else’s views on Israel is actually discrimination.

determination. The reference to Israel is preceded by the indefinite article; it clearly refers to the accusation that Israel, as a Jewish state, is racist, as opposed to an accusation that specific policies, or even a specific government, of Israel is racist. This example does not prevent criticism of Israel.

- “Applying double standards by requiring of it a behavior not expected or demanded of any other democratic nation.” This example doesn’t mention Israel, but refers to it. Insisting that Israel is not held to different standards than other democratic nations is not to equate criticism of Israel to antisemitism. This example does not prevent criticism of Israel.
- “Using the symbols and images associated with classic antisemitism (e.g., claims of Jews killing Jesus or blood libel) to characterize Israel or Israelis.” This example is not about criticism of Israel, but about using known antisemitic tropes to characterise Israel, it being the world’s only Jewish state. This example does not prevent criticism of Israel.
- “Drawing comparisons of contemporary Israeli policy to that of the Nazis.” Because of the unique nature of the Holocaust in world history, and because Jews were targeted more than any other people during the Holocaust, comparing Israeli policy to the Nazis is – beyond being factually wrong – deeply insulting. This example does not prevent criticism of Israel.
- “Holding Jews collectively responsible for actions of the state of Israel.” The subject of this example is not Israel, but the Jewish population, both inside and outside of Israel. This example does not prevent criticism of Israel.

The four other examples are:

- “Calling for, aiding, or justifying the killing or harming of Jews in the name of a radical ideology or an extremist view of religion.”
- “Making mendacious, dehumanizing, demonizing, or stereotypical allegations about Jews as such or the power of Jews as collective — such as, especially but not exclusively, the myth about a world Jewish conspiracy or of Jews controlling the media, economy, government or other societal institutions.”
- “Accusing Jews as a people of being responsible for real or imagined wrongdoing committed by a single Jewish person or group, or even for acts committed by non-Jews.”
- “Denying the fact, scope, mechanisms (e.g. gas chambers) or intentionality of the genocide of the Jewish people at the hands of National Socialist Germany and its supporters and accomplices during World War II (the Holocaust).”

Recommendation 5

The national uniform complaints process and all universities should adopt the IHRA working definition of antisemitism as a tool to understand modern antisemitism.

Understanding antisemitism: Training

AIJAC urges the Committee to recommend that university complaints-handling staff, as well as the National Student Ombudsman staff, undertake training in modern antisemitism. This will help these bodies to provide an effective, trauma-informed complaints mechanism.

Failure to understand all the ways in which antisemitism presents itself will result in universities and the Ombudsman not recognising discrimination against Jewish students when it occurs on campus.

Such training should be formulated (and regularly assessed) in consultation with the nationally-elected, representative bodies of the Australian Jewish community.

Recommendation 6

Training into modern antisemitism should be compulsory for all staff involved in complaints handling. This training must be formulated in consultation with the nationally-elected, representative bodies of the Australian Jewish community.

Regular communication with AUJS

No organisation better understands the situation on campus faced by Australian Jewish students than the Australasian Union of Jewish Students (AUJS). On those campuses where there is regular and effective communication between campus or university leadership and the relevant AUJS leaders, there is greater confidence amongst Jewish students in their universities. Effective two-way communication can ensure that each side understands the other's perspectives, and that Jewish students can learn what the university is doing and, if relevant, why promised reforms or actions are taking time to implement.

In the same way, having regular consultation with the AUJS leadership—and the established relationships that would engender—would have allowed universities to understand just how impactful the tolerant attitude to the overtly anti-Israel student protests was on the Jewish student body. Understanding this might have led to better outcomes, quicker.

We believe these regular consultations should be replicated at the peak body level. That is, Universities Australia and the Group of 8 should hold regular meetings with the AUJS national leadership.

Recommendation 7

Administrators at all universities at which there is an Australasian Union of Jewish Students chapter should hold regular meetings with the relevant AUJS leadership. Universities Australia and the Group of 8 should hold regular meetings with the AUJS national leadership.

Security coordination

In the days after the October 7 attacks and the outbreak of overt antisemitism on campus, some universities (notably the University of Technology Sydney) had their security team liaise regularly with AUJS leaders, to learn about current or potential threats. This enabled the university and AUJS to find workarounds to maintain the safety of Jewish students. It also enabled the security team to learn of actual or potential threats to Jewish students of which the security team had not yet become aware.

AIJAC urges the Committee to learn from AUJS the best practices made by universities in terms of having their security teams liaise with AUJS, and to amalgamate these into a recommendation to be adopted by all universities.

Recommendation 8

Determine and amalgamate best practice university security liaison efforts with AUJS, and recommend that all universities adopt these.

The regulatory environment of Australian universities

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

Federal laws legislated specifically to regulate the academic activities of tertiary education providers include the *Higher Education Support Act 2003* (HES Act) and *Tertiary Education Quality and Standards Agency Act 2011* (TEQSA Act). Federal laws applicable generally to universities as workplaces include the *Racial Discrimination Act 1975* and Australia's Criminal Code.

Under the TEQSA Act (s. 58), Threshold Standards can be adopted by the Minister to set out requirements that a higher education provider must meet. The Threshold Standards are listed in the legislative instrument, *Higher Education Standards Framework (Threshold Standards) 2021*. Among them are obligations to ensure a 'safe environment

is promoted and fostered’ (s. 2.3.4) and ‘an institutional environment in which freedom of speech and academic freedom are upheld and protected’ (s. 6.4.1).

Under the HES Act, quality and accountability requirements include that academic freedom requirements be met (s. 19.15) and that the higher education provider comply with TEQSA standards.

Under the federal Criminal Code, it is prohibited to urge violence against groups (s. 80.2A), advocate terrorism (s. 80.2C), to display proscribed hate symbols (s. 80.2E), or to harass, threaten or distribute violent extremist material via a carriage service (s. 474). Cyber-bullying is prohibited under the federal *Online Safety Act 2021* (s. 46).

Racial vilification is sought to be restrained under civil law provisions in the *Racial Discrimination Act 1975*, where vilification is defined as an act that is reasonably likely to “offend, insult, humiliate or intimidate” someone because of their race or ethnicity.

Australian universities are usually constituted under state laws, other than those universities located within Australian federal territories. Generally, a dedicated constitutive law—for instance, the NSW *University of Sydney Act 1989*—establishes the university and its fundamental structure. Other state laws are generally applicable to universities, including legislation on racial discrimination, racial vilification and equal opportunity, as well as criminal laws.

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

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

It is the contention of AIJAC that many universities proved non-compliant with TEQSA standards requiring the promotion of a safe environment on campus and ensuring academic freedom during the last 14 months. Many universities declined to take action using powers available to meet their legal obligations to restrain racial vilification, threats of violence against groups, or distribution of violent, extremist or racist material. They also failed to fulfil their statutory obligations to ensure a safe environment for learning and teaching, and failed to protect academic freedom. They failed to utilise the powers available to them to combat antisemitism.

University administrators might claim that they were forced to choose between campus safety on one hand, and academic freedom and freedom of expression on the other. However, Australian universities have strict anti-racism and anti-discrimination policies. As such, they already significantly limit free speech so as to limit the dissemination of racism and prevent the abuse of or discrimination against students and staff from religious, ethnic, sexual or other minority groups. It is thus these universities’ established position that anti-discrimination policies do not impede academic freedom.

It is AIJAC's contention, however, that over the past year, when it has come to anti-Jewish discrimination, many universities have invoked 'academic freedom' as a tactic to avoid the hard but ethically necessary work of stopping anti-Jewish discrimination perpetrated by staff and students in lecture halls and on the universities' commons.

This being the case, AIJAC urges the committee to recommend better oversight of the Threshold Standards, and a willingness by TEQSA to hold universities accountable for any breaches.

Recommendation 9

Ensure better oversight of the Threshold Standards and ensure TEQSA holds universities accountable for any breaches.

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