

INQUIRY INTO ANTISEMITISM IN NEW SOUTH WALES

Organisation: New South Wales Council for Civil Liberties (NSWCCL)

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NSWCCL SUBMISSION

**NSW Legislative Council
Justice and Communities
Committee**

ANTISEMITISM IN NSW

April 2025

Acknowledgment

In the spirit of reconciliation, the NSW Council for Civil Liberties acknowledges the Traditional Custodians of Country throughout Australia and their connections to land, sea and community. We pay our respect to their Elders past and present and extend that respect to all First Nations peoples across Australia. We recognise that sovereignty was never ceded.

About NSW Council for Civil Liberties

NSWCCL is one of Australia's leading human rights and civil liberties organisations, founded in 1963. We are a non-political, non-religious and non-sectarian organisation that champions the rights of all to express their views and beliefs without suppression. We also listen to individual complaints and, through volunteer efforts, attempt to help members of the public with civil liberties problems. We prepare submissions to government, conduct court cases defending infringements of civil liberties, engage regularly in public debates, produce publications, and conduct many other activities.

CCL is a Non-Government Organisation in Special Consultative Status with the Economic and Social Council of the United Nations, by resolution 2006/221 (21 July 2006).

Contact NSW Council for Civil Liberties

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1. Introduction

The NSW Council for Civil Liberties (NSWCCL) welcomes the opportunity to make a submission to the Justice and Communities Committee in regard to the inquiry into Antisemitism in NSW. Our organisation is proudly non-sectarian, but within our managing committee there are Jewish, Muslim, Palestinian and Christian people, along with atheists. Our members share a deep commitment to the elimination of all forms of racism, including antisemitism. We believe that responding to antisemitism in our community must be evidence-based, which means it cannot be responded to in isolation of other forms of discrimination.

The NSWCCL is concerned that antisemitism has been weaponised by politicians and the media particularly over the past year. This is done through the incorrect and harmful conflation of Zionism and Judaism. While Judaism is a religion and an ethnicity, Zionism is a modern political movement to establish a Jewish homeland in Israel. Conflating legitimate criticism of Israel with antisemitism at a time when Israel is justifiably being criticised for failing to meet international human rights standards by the International Court of Justice is dangerous. This not only stifles legitimate political discourse about foreign affairs but also treats Jewish people as having monolithic political beliefs, a view that is itself antisemitic.

In this submission, the NSWCCL argues that more laws are not needed to protect against antisemitism and other forms of racism. There are already a plethora of state and federal laws that prevent vilification and discrimination, and deal with criminal conduct arising out of the public using violence - especially if violence is being used to further a political ideology. We urge the NSW Parliament to repeal the *Protecting Places of Worship, the Racial Hate Speech, and the Racial and Religious Hatred Acts* that were passed in February. These laws have serious and anti-democratic consequences which were not properly examined through a parliamentary inquiry.

2. Freedom of speech and Assembly

NSWCCL has long held that it is appropriate to limit the right to free speech, and more specifically the right to freedom of political communication, in the case of discriminatory vilification (for example, on the grounds of race and other attributes). The right for all people to live safely without the threat of violence must be a priority of the law, however the bar for the criminalisation of speech and protest must always be kept high. The incitement of violence on the basis of race, religious beliefs, sexual orientation, gender identity, intersex status and HIV status is illegal, and rightly so. Anti-vilification laws protect our community while not unreasonably burdening free speech. The use of the criminal law should always be a last resort and reserved for the most serious instances of vilification in our community.

Despite the heightened recent focus on potentially inflammatory conduct and the growing prevalence of hateful rhetoric targeting vulnerable communities in Australia, NSWCCCL submits that this delicate balance has not been respected by the NSW Government through the passing of *The Crimes Amendment (Inciting Racial Hatred) Act 2025*. This offence carries a maximum penalty for an individual of two years' imprisonment, fines of up to \$11,000, or both, while corporations can face fines of \$55,000. The creation of this new offence goes against the findings of the Law Reform Commission review conducted by the Honourable Tom Bathurst AC KC into section 93Z of the Crimes Act that was handed to the government last year. The review into s93Z commented that expressions like those contained in provisions passed by the Minns Government, such as 'hatred', are imprecise and subjective. Further, the review made clear that the creation of the offence goes against the advice of the UN Committee on the Elimination of Racial Discrimination which warned that restrictions on freedom of speech should not be "broad or vague". The NSWCCCL is concerned that the offence will have unexpected outcomes. The prosecution of Sam Kerr in England for an offence against a white police officer is an example of how similar laws can be used to prosecute members of racial minority groups. There are no safeguards in place to prevent this taking place under the NSW law.

Placing restrictions on legitimate public speech risks substantially altering the fabric of our democracy and would likely disproportionately impact minority groups. NSWCCCL believes there is a desperate need for more community dialogue to combat prejudice and promote understanding. Community dialogue is not possible through the criminalisation of speech.

In February the NSW Government also passed *The Crimes Amendment (Protecting Places of Worship) Act*. This legislation creates an offence with a potential two years imprisonment and/or a \$22,000 fine for blocking, impeding or hindering access to places of worship. These penalties are disproportionate to what may be non-violent offences. It grants NSW Police the extraordinary powers to arrest and move on people in or near a place of worship for any reason. Concerningly, these offences could be used to charge members of a congregation protesting their own organisation, sexual abuse survivors demanding justice from that church, and any short-notice demonstration that happens within the vicinity of a place of worship, such as Sydney Town Hall. NSWCCCL believes these new powers will be used to silence legitimate protest. Prior to the passing of this law, there was already documented evidence of NSW Police using existing move-on powers to prevent three Jewish women from protesting a political event which Peter Dutton held at a synagogue.¹

These new laws will not make communities any safer from a perceived risk of violence or the risk of actual violence occurring. The antisemitic incidents that occurred over the summer were not violent incidents and already criminal offences, with heavy penalties, yet the existing criminal offence did not prevent the actions. It has also since been confirmed that the incidents targeting the Jewish community throughout Sydney were part of a criminal hoax and not racially or ideologically motivated. It is in these

¹ Jews Against Occupation 48 Australia, https://www.instagram.com/p/DGWqrd-zphD/?img_index=1

circumstances that Premier Minns unjustifiably connected the Dural caravan hoax, and the now debunked threat of a 'mass casualty event' against Sydney's Jewish community, to peaceful protest activity against Israel. In truth, the protests had nothing to do with the criminal hoax - the hoax had nothing to do with protests against Israel's genocide, they were entirely motivated by criminal opportunism. NSWCCCL is sceptical of claims that there is genuine and widespread increase in antisemitic sentiment in the Australian community. Even if this is wrong, the correct response is to promote dialogue in the community. Efforts made by the government at dealing with antisemitism over the summer should properly be directed at criminal organisations, rather than at genuine political communication.

There was no reasonable basis to prohibit protests outside places of worship or to link them to antisemitism. Laws restricting protest outside of religious institutions only cause more division by limiting the avenues to voice legitimate concern over political issues that religious institutions are involved in.

The NSWCCCL recommends that the committee should find that the *Protecting Places of Worship, the Racial Hate Speech, and the Racial and Religious Hatred Acts* should be repealed.

3. University Encampments

Universities are a centre of democratic debate and political life in NSW. They have long been sites of political protest. Universities are understood and often legislatively required to promote academic freedom, participation in public discourse and free debate and inquiry. For example, the University of Sydney is legally prohibited from imposing disciplinary sanctions against students for expressing their political views or beliefs.² In 2024, Australian student activists established encampments to call for their institutions to divest of funding from weapons manufacturers and to break ties with Israeli universities. These calls are not antisemitic and, as has been noted, many Jewish students were involved in the encampments.³

Following the student encampments, many universities have enacted severe restrictions on political speech and academic freedom. These include restriction on banners, posters and student announcements before lectures,⁴ and requirements for approval to be obtained for any protest (which approval effectively neutralises and renders impotent any protest).⁵ Furthermore, Universities Australia

² University of Sydney Act 1989 s 31.

³ Jewish Council, University encampments are no threat to Jews
<https://www.jewishcouncil.com.au/media/university-encampments-are-no-threat>

⁴ Daniella White and Lucy Carroll, 'Full-scale offensive': Sydney University restricts all student protests on campus, *Sydney Morning Herald*, July 24, 2024
<https://www.smh.com.au/national/nsw/full-scale-offensive-sydney-university-restricts-all-student-protests-on-campus-2024-0704-p5jr4t.html>

⁵ Caitlin Cassidy, 'University of Sydney criticised for plan to ban protest banners being displayed without prior permission' *The Guardian*

has endorsed a definition of antisemitism that explicitly states that support for the elimination of the state of Israel (for example, by calling for a single state including both Palestinians and Jews) is antisemitic. Universities have a role to ensure that Jewish students feel safe on campus. However, this new definition could inadvertently exacerbate the vulnerability of Jewish students to antisemitism. Where criticism of Israel is linked to antisemitism, Jewish students may be unfairly associated with the actions of the Israeli government, which they have no control over. Furthermore, this definition may lead to resentment or hostility because of the restrictions it places on academic speech and freedom and the perceived prioritisation of Israel's interests.

Academic freedom means that sometimes academics express unpopular views. Academics should not be fired for advocating for a single, democratic state in Israel-Palestine in which Palestinians and Israelis have the same rights. That is a legitimate perspective, and obviously not antisemitic. Universities should not be in the business of censoring legitimate views on geopolitics. Many academics advocate for a one-state solution in Israel-Palestine, many advocate for two states. It is not the role of university management to pick one and ban the other. A more appropriate definition of antisemitism would be deemed as antisemitic calls for the ethnic cleansing of Jews or Israelis rather than prohibiting support for eliminating or substantially reforming the nature of the State of Israel. Responding to antisemitism and all forms of racism by universities must safeguard freedom of expression and academic freedom.

NSWCCL recommends that the Committee recommend to Universities Australia to reconsider the adoption of the endorsed definition and to ensure that measures against antisemitism do not inadvertently suppress legitimate political and academic discourse.

4. The Definition of Antisemitism

The NSWCCL does not accept definitions of antisemitism which are unclear in key respects and widely open to different interpretations, such as that defined by the International Holocaust Remembrance Alliance (IHRA). The ambiguities in the IHRA definition have been misused to censor legitimate and reasonable criticism of the state of Israel. The NSWCCL's position is that any definition of antisemitism must not preclude expressing opposition to Israel's war crimes and breaches of international law, calling for, or participating in boycotts or sanctions on the state of Israel or corporations who benefit from the occupation as inherently antisemitic. Nor are calls for a single, democratic state where Palestinians and Israelis have equal political rights, antisemitic. As a matter of public policy, definitions which conflate criticism of Israel and its government's policies with antisemitism are of serious concern to freedom of speech.

<https://www.theguardian.com/australia-news/2025/jan/21/university-of-sydney-criticised-for-plan-to-ban-protest-banners-being-displayed-without-prior-permission>

NSWCCL recommends the rejection of the International Holocaust Remembrance Alliance definition of antisemitism in New South Wales and the NSW Government.

In conclusion, the NSW Council for Civil Liberties (NSWCCL) reaffirms its strong commitment to addressing antisemitism as part of a broader effort to combat all forms of racism and discrimination. However, this must be approached with an evidence-based perspective, and not based on kneejerk fear-mongering politics. NSWCCL urges the NSW Government to repeal the recent legislative changes that risk undermining free speech, academic freedom, and the democratic right to protest. The path to a safer and more inclusive society lies not in the criminalisation of speech or protest, but in cultivating mutual respect, open communication, and genuine commitment to human rights for all.

The people of NSW deserve a responsible parliament that is not reckless with their democratic rights.

Yours sincerely,

Adam Connor
Secretary
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