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# Independent Research Report: Critical Analysis of Australia's Special Envoy's Plan to Combat Antisemitism

A Comprehensive Assessment of Legal, Constitutional, and Policy Implications

Prepared for: Australian Government Ministers, Members of Parliament, and Media Outlets

Date: 12 July, 2025

Classification: Public Research Document

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## Executive Summary

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This independent research report provides a comprehensive analysis of the **Special Envoy's Plan to Combat Antisemitism** submitted by Jillian Segal AO in July 2025. The plan's central requirement is the mandatory adoption of the International Holocaust Remembrance Alliance (IHRA) definition of antisemitism across all levels of government and institutions.

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Through rigorous examination of legal frameworks, constitutional principles, international law, and empirical evidence, this report identifies significant concerns regarding the plan's methodology, legal compliance, and potential impact on Australian democratic institutions.

#### **Key Findings:**

1. **Constitutional Concerns:** The plan's proposed funding restrictions may violate implied freedom of political communication and academic freedom protections under Australian law
2. **IHRA Definition Problems:** The controversial definition conflates legitimate political criticism of Israel with antisemitism
3. **Statistical Irregularities:** Evidence suggests systematic inflation of antisemitism statistics by approximately 400%
4. **Methodological Flaws:** The report contains factual inaccuracies, unsubstantiated claims, and biased data collection
5. **International Law Contradictions:** The plan conflicts with established international human rights frameworks
6. **Distinguished Jewish Opposition:** Prominent Jewish voices, including former Israeli leadership, oppose the plan's approach

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## **1. Background: The IHRA Definition Controversy**

### **1.1 What is IHRA?**

The **International Holocaust Remembrance Alliance (IHRA)** is an intergovernmental organization founded in 1998 to promote Holocaust education and remembrance. It became controversial in 2016 when it adopted a "Working Definition of Antisemitism."

### **1.2 The IHRA Definition**

**The Definition:** *"Antisemitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious*

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*facilities."*

### 1.3 Why IHRA Became Controversial

The IHRA definition includes 11 examples of antisemitism, but **7 of these 11 examples specifically focus on Israel:**

1. Denying the Jewish people their right to self-determination (e.g., claiming Israel is racist)
2. Applying double standards to Israel
3. Using Nazi symbols/imagery about Israel
4. Holding Jews collectively responsible for Israel's actions
5. Comparing contemporary Israeli policy to Nazi policy
6. Accusing Jewish citizens of being more loyal to Israel than their own countries
7. Denying Israel's right to exist

**The Core Problem:** Critics argue this conflates legitimate political criticism of Israeli government policies with antisemitism against Jewish people.

**Australian Legal Precedent:** This concern was validated by Federal Court Justice Angus Stewart's recent finding in July 2025 that it is not inherently antisemitic to criticise Israel. In the case involving Sydney Muslim cleric Wissam Haddad, Justice Stewart distinguished between legitimate criticism of Israeli policies and actual antisemitism, establishing important legal precedent that criticism of Israel does not automatically constitute antisemitism under Australian law. This judicial finding directly contradicts the IHRA definition's approach of treating criticism of Israel as presumptively antisemitic.

### 1.4 Why This Matters for Australia

**Segal's Plan Requirement:** The Special Envoy's plan mandates that all Australian government levels, universities, and institutions must adopt the IHRA definition. This would mean:

- Criticism of Israeli policies could be classified as antisemitism
- Universities could lose funding for hosting pro-Palestinian events
- Academic research on Palestine could be restricted
- Political debate about Middle East policy could be suppressed

**This mandatory IHRA adoption is the central controversy** driving opposition to the plan.

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## 2. Legal and Constitutional Analysis

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### 2.1 Australian Constitutional Framework Section 116 - Freedom of Religion

The Australian Constitution's Section 116 states: *"The Commonwealth shall not make any law for establishing any religion, or for imposing any religious observance, or for prohibiting the free exercise of any religion, and no religious test shall be required as a qualification for any office or public trust under the Commonwealth."*

#### Implied Freedom of Political Communication

The High Court has established that an implied freedom of political communication exists as an indispensable part of Australia's system of representative and responsible government. This freedom protects discussion of political and governmental matters.

#### Academic Freedom Protections

The Higher Education Support Act 2003 was amended in March 2021 to specify that one of the specific purposes of the higher education sector is "the promotion and protection of freedom of speech and academic freedom."

### 2.2 Constitutional Violations in the Plan

#### Funding Restrictions as Censorship

The plan's proposal to withhold government funding from universities and cultural institutions that "fail to act against antisemitism" (using the IHRA definition) raises serious constitutional concerns:

- **Indirect Censorship:** Using funding to control political speech about Israeli policies
- **Academic Freedom:** Threatening research and discussion about Middle East politics
- **Political Communication:** Restricting legitimate political debate about government policies

#### Legal Precedent Concerns

Distinguished barrister Greg Barns SC noted that threatening funding could lead institutions to "impose regulations that severely curtail" freedom of speech and expression rights, creating a

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"chilling effect" on legitimate discourse.

### 3. The IHRA Definition: Academic and Legal Criticism

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#### 3.1 International Academic Opposition

##### Jerusalem Declaration on Antisemitism

In response to IHRA's problems, **370+ international scholars** from leading universities created an alternative definition that:

- Clearly separates antisemitism from political criticism
- Explicitly protects criticism of Israel and Zionism as legitimate political speech
- Provides clearer, more legally sound guidelines

##### Scholarly Criticism

- **128 Jewish Studies scholars** criticized IHRA as "vague and incoherent"
- **100+ civil society organizations** urged the UN to reject the IHRA definition
- Multiple universities refused IHRA adoption due to academic freedom concerns

#### 3.2 Legal Problems with IHRA

##### Definitional Overreach:

- **Conflates Judaism with Zionism** - treats criticism of a political ideology as racism
- **Suppresses Legitimate Political Debate** - criminalizes discussion of government policies
- **Lacks Clear Boundaries** - too vague for consistent legal application
- **Violates International Law** - conflicts with freedom of expression protections

### 4. Methodological Analysis of Segal's Report

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#### 4.1 Statistical Methodology Problems

##### Inflation of Antisemitism Statistics

The Segal report cites "more than 2,000 cases of antisemitism" from October 2023 to September

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2024, but independent analysis reveals significant methodological flaws:

#### **Case Study Analysis:**

##### **1. Sydney University Misrepresentation:**

- **Segal's Claim:** 250 complaints to parliamentary inquiry
- **Reality:** 16 students reported feeling "intimidated" by the slogan "from the river to the sea"
- **Methodology Error:** Inflated single incident by 1,500%

##### **2. Non-Jewish Facility Misclassification:**

- **Segal's Claim:** Childcare center added to list of antisemitic attacks
- **Reality:** The facility was not actually a Jewish center
- **Methodology Error:** False categorization of incidents

##### **3. Unsolved Cases Prejudged:**

- **Segal's Claim:** Addas Israel synagogue attack labeled antisemitic terrorism
- **Reality:** Case remains unsolved after 7+ months, perpetrators unidentified
- **Methodology Error:** Assumed motivation without evidence

##### **4. Criminal Acts Misattributed:**

- **Segal's Claim:** "Terrorist plot" involving caravan combustible materials
- **Reality:** Police believe criminals seeking prison sentence reductions
- **Methodology Error:** Conflated unrelated criminal activity with antisemitism

#### **4.2 Independent Counter-Analysis**

##### **Jewish Council of Australia Statistical Review**

The JCA conducted an independent analysis of 389 reported antisemitic incidents using rigorous methodology:

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#### Results:

- ♦ **Only 79 incidents (20.3%)** met genuine antisemitism criteria
- ♦ **Nearly 50%** were legitimate political expressions supporting Palestine
- ♦ **Remaining incidents** were either unrelated or lacked sufficient evidence

#### Implications:

- ♦ **Systematic 400% inflation** of antisemitism statistics
- ♦ **Methodological bias** toward classifying political criticism as antisemitism
- ♦ **Lack of independent verification** in Segal's data collection

### 4.3 Factual Inaccuracies in Segal's Report

#### False Claims Analysis:

1. **Claim:** "Younger Australians more susceptible to antisemitism"
  - **Reality:** Younger Australians more critical of Israeli policies, not necessarily antisemitic
  - **Error:** Conflates political criticism with racial prejudice
2. **Claim:** Universities failing to protect Jewish students
  - **Reality:** No independent verification of systematic failures
  - **Error:** Anecdotal evidence presented as systematic pattern
3. **Claim:** "Nefarious funding sources" for protests and universities
  - **Reality:** No evidence provided for these conspiracy-like allegations
  - **Error:** Unsubstantiated claims "verging on conspiracy theory" (JCA assessment)

### 4.4 Methodological Bias in Data Collection

#### Confirmation Bias Problems:

- **Predetermined Framework:** Used IHRA definition to classify incidents, creating circular logic

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- **Lack of Control Group:** No comparison with other forms of racism or hate incidents
- **Selection Bias:** Focused only on incidents affecting Jewish community
- **Temporal Bias:** Linked all incidents to October 7, 2023, without establishing causation

**Missing Context:**

- **No analysis of Islamophobia** increases during same period
- **No consideration of anti-Palestinian racism** incidents
- **No examination of other minority community experiences**
- **No acknowledgment of legitimate political grievances**

#### **4.5 Lack of Independent Verification**

**Peer Review Absence:**

- **No external auditing** of incident classifications
- **No academic peer review** of methodology
- **No transparency** in data collection processes
- **No replication studies** to verify findings

**Institutional Bias:**

- **Segal's Background:** Former ECAJ president with clear pro-Israel stance
- **Stakeholder Consultation:** Limited to pro-Israel organizations
- **Missing Voices:** No consultation with Palestinian-Australian communities
- **Selective Engagement:** Excluded critical Jewish voices like JCA

## 5. International Context and Legal Precedents

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### 5.1 International Court of Justice Proceedings

#### Genocide Case Against Israel (South Africa v. Israel)

- **Active Proceedings:** 23 countries have intervened in support of South Africa's case
- **Provisional Measures:** ICJ ordered Israel to prevent genocide on 26 January 2024
- **Compliance Failures:** Human Rights Watch documented Israel's non-compliance with ICJ orders
- **Legal Significance:** The ICJ found "plausible" evidence of genocide, establishing legal precedent

### 5.2 UN Special Rapporteur Findings

#### Francesca Albanese Report - "Anatomy of a Genocide"

The UN Special Rapporteur on Palestinian Human Rights concluded:

- **Reasonable Grounds:** Evidence meets threshold for genocide commission
- **Systematic Destruction:** "Overwhelming nature and scale of Israel's assault on Gaza"
- **Intentional Targeting:** "Intent to physically destroy Palestinians as a group"
- **International Obligations:** States have duty to prevent and punish genocide

### 5.3 Human Rights Treaty Obligations

#### Australia's International Commitments:

- **International Covenant on Civil and Political Rights (ICCPR):** Article 19 protects freedom of expression
- **Genocide Convention:** Obliges prevention and punishment of genocide
- **International Convention on the Elimination of All Forms of Racial Discrimination:** Requires equal protection against all forms of racism

The plan's selective focus on antisemitism while ignoring other forms of racism violates Australia's equal protection obligations under international law.

## 6. Distinguished Jewish Voices Opposing the Plan

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### 6.1 Former Israeli Leadership

#### Ehud Olmert - Former Israeli Prime Minister (2006-2009)

In May 2025, Olmert stated to CNN:

- **War Crimes Acknowledgment:** "What is it if not a war crime?" regarding Gaza blockade
- **Genocide Recognition:** Unable to defend Israel against accusations of genocide
- **Moral Condemnation:** "What we are doing in Gaza now is a war of devastation: indiscriminate, limitless, cruel and criminal killing of civilians" "knowingly, evilly, maliciously, irresponsibly dictated," adding **"Yes, Israel is committing war crimes."**

### 6.2 Jewish Academic Opposition

#### Jerusalem Declaration on Antisemitism Signatories

**370+ Jewish scholars** from leading universities worldwide signed the JDA, including:

- **Prof. Omer Bartov** (Brown University) - Leading Holocaust historian
- **Prof. Judith Butler** (UC Berkeley) - Renowned philosopher
- **Prof. Amos Goldberg** (Hebrew University) - Holocaust Studies Chair
- **Prof. Eva Illouz** (EHESS Paris) - Sociologist

### 6.3 Jewish Voice for Peace

#### Organizational Opposition:

- **25,000+ Jewish members** actively opposing Israeli policies
- **Scholarly Support:** Includes prominent Jewish academics and rabbis
- **Distinguished Leadership:** Former Israeli scholars and peace activists
- **Genocide Documentation:** Systematic documentation of Israeli violations

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## 6.4 Jewish Council of Australia

### Institutional Criticism:

- **Rejected the Plan:** Called it "authoritarian" and "Trump-like"
- **IHRA Opposition:** Criticized the "widely discredited IHRA definition"
- **Democratic Concerns:** Warned of "undermining Australia's democratic freedoms"
- **Root Causes:** Emphasized need to address actual causes of antisemitism

***Dr Max Kaiser (JCA Executive Officer):** "This document reads more like a blueprint for silencing dissent rather than a strategy to build inclusion. Segal seems fixated on driving a pro-Israel narrative and repressing legitimate criticism of Israel's genocide in Gaza."*

## 7. Opposition from Civil Rights Organizations

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### 7.1 Amnesty International Australia

#### Official Statement:

Amnesty International Australia condemned the plan as "repressive" and warned it "risks weaponising criticism of Israel" to "silence and repress rights to freedom of expression and assembly."

#### Specific Concerns:

- **Authoritarian Measures:** "Straight out of Trump's authoritarian playbook"
- **Censorship Risks:** "Dangerously edges towards censorship of the media"
- **Funding Threats:** "Chillingly, the plan sets forth recommendations to defund... institutions"
- **Rights Violations:** "Undermines fundamental civil and political rights"

### 7.2 Legal Professional Opposition

#### Australian Lawyers Alliance

Greg Barns SC expressed concern that threatening funding could lead institutions to "impose regulations that severely curtail" freedom of speech and expression rights.

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## 8. Pattern of Misinformation and Bias

### 8.1 Systematic Misrepresentation

#### Evidence of Deliberate Inflation:

The pattern of statistical manipulation suggests systematic rather than accidental errors:

- **Consistent overstatement** of incident severity
- **Systematic misclassification** of political criticism
- **Repeated conflation** of unrelated criminal acts
- **Persistent exclusion** of alternative explanations

### 8.2 Political Timing and Motivation

#### Contextual Analysis:

- **Report timing** coincides with Israel's military operations in Gaza
- **Statistical period** begins with October 7, 2023 attacks
- **Narrative focus** on protecting Israel from criticism
- **Policy recommendations** serve to silence Palestinian advocacy

### 8.3 Comparison with Legitimate Research

#### Contrast with Academic Standards:

- **UN Special Rapporteur reports** use rigorous methodology
- **Academic genocide studies** employ clear definitional frameworks
- **International Court of Justice** requires substantial evidence
- **Peer-reviewed research** undergoes independent verification

Segal's report fails to meet any of these professional standards.

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## 9. Implications for Policy Making

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### 9.1 Dangers of Flawed Data

#### Policy Risks:

- **Misdirected resources** toward non-existent problems
- **Suppression of legitimate speech** based on false premises
- **Discrimination against Palestinian-Australians** through biased enforcement
- **Undermining of genuine anti-racism** efforts through selective application

### 9.2 Democratic Accountability

#### Transparency Requirements:

- **Independent audit** of all statistical claims
- **Peer review** of methodology
- **Public release** of raw data
- **Stakeholder consultation** with all affected communities

### 9.3 Constitutional Compliance

#### Due Process Requirements:

- **Evidence-based policy** making
- **Proportional responses** to actual threats
- **Equal protection** for all communities
- **Respect for fundamental rights**

## 10. Recommendations

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### 10.1 Immediate Actions

1. **Suspend Implementation:** Halt plan pending constitutional review
2. **Independent Legal Review:** Comprehensive constitutional assessment
3. **Public Consultation:** Genuine community engagement with all affected groups
4. **Statistical Audit:** Independent verification of antisemitism data

### 10.2 Long-term Reforms

1. **Adopt Jerusalem Declaration:** More balanced, legally sound framework
2. **Comprehensive Anti-Racism Strategy:** Address all forms of discrimination equally
3. **Academic Freedom Protection:** Strengthen existing protections
4. **International Alignment:** Ensure compliance with human rights obligations

### 10.3 Democratic Accountability

1. **Parliamentary Oversight:** Regular review by relevant committees
2. **Judicial Safeguards:** Court oversight of any restrictions
3. **Public Transparency:** Open reporting of all enforcement actions
4. **Civil Society Engagement:** Meaningful consultation with affected communities

## 11. Conclusion

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This comprehensive analysis reveals that the Special Envoy's Plan to Combat Antisemitism contains fundamental legal, constitutional, and methodological flaws that render it unsuitable for implementation in its current form. The plan's reliance on contested definitions, inflated statistics, and punitive measures threatens core democratic principles while potentially violating Australia's constitutional and international legal obligations.

The evidence presented demonstrates that:

- The plan is built on **methodologically flawed and potentially manipulated data**
- The IHRA definition **conflates legitimate political criticism with antisemitism**
- The proposed measures **violate constitutional protections** for freedom of expression and academic freedom
- The approach **contradicts Australia's international human rights obligations**
- Distinguished Jewish voices, including former Israeli leaders, **oppose the plan's approach**

The distinguished opposition from Jewish scholars, former Israeli leaders, and international human rights experts demonstrates that genuine concern for Jewish safety can coexist with legitimate criticism of government policies. Australia's commitment to democracy, human rights, and the rule of law requires a more balanced approach that protects all communities from discrimination while preserving fundamental freedoms.

### The path forward requires:

- ♦ Constitutional compliance
- ♦ Equal protection for all communities
- ♦ Respect for academic freedom and political communication
- ♦ Alignment with international human rights standards
- ♦ Genuine rather than performative responses to racism

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Australia's democratic institutions and international reputation depend on rejecting authoritarian approaches to complex social issues in favor of principled, legally sound, and genuinely protective measures. The government must ensure that any response to antisemitism is grounded in evidence, respects constitutional rights, and addresses the root causes of prejudice rather than weaponizing definitions for political purposes.

## References and Sources

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### Primary Sources

- Australian Constitution, Section 116
- Higher Education Support Act 2003 (Cth)
- International Covenant on Civil and Political Rights
- Convention on the Prevention and Punishment of the Crime of Genocide
- International Court of Justice, *South Africa v. Israel* (Case 192)

### Government Documents

- Special Envoy's Plan to Combat Antisemitism (July 2025)
- UN Special Rapporteur Report "Anatomy of a Genocide" (A/HRC/55/73)
- Australian Human Rights Commission Guidelines
- Attorney-General's Department Human Rights Guidance

### Academic Sources

- Jerusalem Declaration on Antisemitism (2021)
- Jewish Council of Australia Statistical Analysis (2025)
- 128 Jewish Studies Scholars' Letter on IHRA Definition
- Academic Freedom research by universities consortium

### Legal Analysis

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- Greg Barns SC, Australian Lawyers Alliance
- Amnesty International Australia Legal Assessment
- Human Rights Watch ICJ Compliance Report
- Constitutional Law experts' analysis

### **International Documentation**

- Former PM Ehud Olmert statements (CNN, May 2025)
- UN Special Rapporteur findings and recommendations
- International Court of Justice provisional measures
- Multiple countries' intervention in ICJ proceedings

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*This report is submitted in the public interest to inform democratic decision-making and ensure compliance with Australia's legal and constitutional obligations.*

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