

Instructions for lodging a complaint against a NSW judicial officer

These are the instructions for lodging a complaint with the Judicial Commission of NSW (the Commission). Use this form to lodge your complaint. Additional copies are available from the Commission's office and electronic copies can be downloaded from the Commission's website (<https://www.judcom.nsw.gov.au/>).

1. *Please note the Commission is not a court. It has no power to overturn a court's decision. If you are unhappy with your decision you may wish to seek your own legal advice. The Commission can only examine complaints about the ability and behaviour of current NSW judicial officers.*
2. A "judicial officer" under the [Judicial Officers Act 1986](#) (NSW) means:
 - a Judge or associate Judge of the Supreme Court of NSW
 - a member of the Industrial Relations Commission of NSW
 - a Judge of the Land and Environment Court of NSW
 - a Judge of the District Court of NSW
 - the President of the Children's Court of NSW
 - a Magistrate
 - the President of the Civil and Administrative Tribunal.

The definition of judicial officer includes acting appointments to a judicial office but does not include people such as arbitrators, registrars, assessors, members of tribunals, legal practitioners, retired judicial officers or federal judicial officers.

3. The [Judicial Officers Act 1986](#) requires that a complaint be in writing and that it name the person who is complaining and the judicial officer. The particulars of a complaint must be verified by statutory declaration (see paragraph 6 below).
4. If your complaint falls within the Commission's powers, you should use this form to lodge a complaint against a NSW judicial officer. Complete the form by providing all of the information requested on both pages. Make sure the information provided is complete and accurate. Where you do not provide the information required by this form, the Commission may refuse, or be unable, to process your complaint.
5. Please describe the circumstances that led to your complaint in the "Details of complaint" section. Attach additional sheets and other relevant documentation, as needed, to complete your statement. Your complaint should include:
 - details of the conduct you are complaining about,
 - dates and places of the hearing if they are relevant to your complaint,
 - list of all the events in the order in which they happened, and
 - any other relevant documentation to which you wish to draw the Commission's attention as a complaint may be summarily dismissed (see 10 below) without any further inquiry being made of you.
6. **Sign the complaint form in the space provided and have your signature witnessed by a Justice of the Peace, solicitor or other person as authorised by the [Oaths Act 1900](#) (NSW).**
7. It is recommended that you make and retain a copy of the complaint and all accompanying documents for your records.

Instructions continued

8. If you wish to make a complaint about more than one NSW judicial officer, please use a separate form for each one.
9. Send by post the complaint form and all the accompanying documents to the Chief Executive of the Commission at the address below. You can also email your completed complaint form to complaints@judcom.nsw.gov.au. Due to restrictions on the size of email attachments, **please ensure all accompanying documents are relevant to your complaint**. Please contact the Commission by mail, email or telephone if you need further information or have any questions about the procedures. The contact details are below.
10. A complaint may be summarily dismissed pursuant to section [20\(1\)](#) of the [Judicial Officers Act](#) if the Commission is of the opinion that, whether or not it appears to be substantiated:
 - (a) the complaint is one that it is required not to deal with,
 - (b) the complaint is frivolous, vexatious or not in good faith,
 - (c) the subject-matter of the complaint is trivial,
 - (d) the matter complained about occurred at too remote a time to justify further consideration,
 - (e) in relation to the matter complained about, there is or was available a satisfactory means of redress or of dealing with the complaint or the subject-matter of the complaint,
 - (f) without limiting paragraph (e), the complaint relates to the exercise of a judicial or other function that is or was subject to adequate appeal or review rights,
 - (g) the person complained about is no longer a judicial officer, or
 - (h) having regard to all the circumstances of the case, further consideration of the complaint would be or is unnecessary or unjustifiable.
11. All complaints made to the Commission will be treated in a confidential manner. The relevant judicial officer will be given a copy of your complaint, and if necessary, comments may be sought from the judicial officer.
12. The Commission aims to deal with all complaints as efficiently and expeditiously as possible. The length of time taken to resolve a complaint will depend on the seriousness and complexity of the complaint. There may be a delay in the processing of a complaint for a number of reasons, including waiting on transcripts or sound recordings from courts, and seeking further information from other parties or agencies.
13. **Please note that the use of generative AI in preparing your complaint may result in the making of a false statement to the Commission. The Commission's complaint form is a statutory declaration. Making a false statutory declaration is a serious offence under the *Oaths Act 1900 (NSW)* and carries significant penalties, including imprisonment. Penalties can apply regardless of whether the false declaration was made intentionally or unintentionally. Generative AI does not understand real-world context and may generate content that is inaccurate, incomplete, or vexatious. It is your responsibility to carefully review and verify any content generated by AI before lodging it with the Commission.**

Chief Executive
Judicial Commission of NSW
Postal address: GPO Box 3634, Sydney NSW 2001

Telephone: (02) 9299 4421
Email: complaints@judcom.nsw.gov.au
Website: www.judcom.nsw.gov.au

Complaint against a judicial officer

Your details

Title (Mr, Mrs, Ms etc): Mr First name: Robert Last name: Gregory

Address: POB 333 st. Leonards

State: NSW Postcode: 2065

Telephone – Landline: 1300285397 Mobile: _____

Email address: office@jewishassociation.org.au

Your complaint

To the Judicial Commission of NSW

I, Robert Gregory
[Your name]

of AJA POB 333 st. Leonards 2065 NSW
[Your address]

wish to complain against Phillip Boulten (nominee) of the Supreme Court.
[Judicial officer's name]

My complaint is as follows:

This is a complaint (the Complaint) against Mr Phillip Boulten SC (PB) pursuant to sections 15(1) and 17 of the Judicial Officers Act 1986 (NSW) (the JOA).
Made on made on my own behalf and on behalf of the Australian Jewish Association (the AJA) in my capacity as its President.

Complaint against a judicial officer

In support of these allegations, I submit the attached "Details of complaint" which I solemnly and sincerely declare are true, and request that the complaint be investigated by the Judicial Commission.

I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the [Oaths Act 1900](#) (NSW).

Declared at: Sydney on 29 Jan 2026
[Place] [Date]

Robert Gregory
[Signature of declarant]

in the presence of an **authorised*** witness, who states:

I, Amit Rochvarger a Lawyer
[Name of authorised* witness] [Qualification of authorised* witness]

certify the following matters concerning the making of this statutory declaration by the person who made it: (please cross out any text that does not apply)

1. I saw the face of the person **OR** I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification for not removing the covering, and
2. I have known the person for at least 12 months **OR** I have not known the person for at least 12 months, but I have confirmed the person's identity using an identification document and the document I relied on was:

NSW Driving License [Describe identification document relied on]
Amit Rochvarger 29 Jan 2026
[Signature of authorised* witness] [Date]

* witnessed by a Justice of the Peace, solicitor or other person as authorised by the [Oaths Act](#).

Details of complaint

Please refer to the attached document

[Attach additional sheets, as needed]

COMPLAINT TO THE JUDICIAL COMMISSION OF NEW SOUTH WALES

INTRODUCTION

1. This is a complaint (**the Complaint**) against Mr Phillip Boulten SC (**PB**) pursuant to sections 15(1) and 17 of the *Judicial Officers Act 1986* (NSW) (**the JOA**) made on my own behalf and on behalf of the Australian Jewish Association (**the AJA**) in my capacity as its President.

2. The essence of the Complaint is that for a period in excess of two years (at the very least) PB has engaged in *misbehaviour* within the meaning of s 53(2) of the *Constitution Act 1902* (NSW) (**the Constitution**) by openly, publicly, and repeatedly publishing social media posts that vilified, demonised and delegitimised Zionists/Jews and the one and only Jewish State in the world, Israel, and that also vilified and repeatedly defamed Australia's Federally appointed antisemitism envoy, Ms. Jillian Segal; and that PB has done so in a manner that was:
 - a. systemic and sustained;

 - b. dishonest or otherwise discreditable in contravention of Rule 8 (a) of the Legal Profession Uniform Conduct (Barristers) Rules 2015 (NSW) (**Barristers' Rules**);

 - c. likely to diminish public confidence in the legal profession or the administration of justice or otherwise bring the legal profession into disrepute. In contravention of Barristers' Rule 8 (c);

- d. demeaning and discrediting in contravention of the NSW Bar Association Social Media Guidelines (**the Guidelines**);
- e. inaccurate, misleading or dishonest in contravention of the Guidelines;
- f. defamatory of the Federally appointed antisemitism envoy, Jillian Segal, in violation of his obligations at general law under the tort of defamation, and in contravention of the *Defamation Act 2005* (NSW), and in contravention of the Guidelines;
- g. inflammatory in contravention of the Guidelines;
- h. discriminatory in contravention of the Guidelines;
- i. bullying (in the sense of unreasonable behaviour that could reasonably be expected to intimidate, degrade, humiliate, isolate, alienate or cause serious offence to a person, as defined in Rule 125 of the Barristers' Rules), discriminatory or harassing fellow members of the Bar and the wider legal profession (Jillian Segal/Jews/Zionists/Israelis);
- j. likely to exacerbate the very serious and significant increase of antisemitism in Australia which commenced on or about 7 October 2023 as a result of the brutal massacre in Israel by Hamas of 1,200 people on 7 October 2023, and the serious injuring of thousands more, in conditions of barbaric cruelty (including widespread rape, torture and burning of families alive) and the kidnapping of over 250 mostly civilians on that day;
- k. reckless and irresponsible in that, as an experienced senior counsel, PB knew, or ought reasonably to have known, that such vilification and hate-speech engaged in in Australia at the very time that it was suffering a

frightening scourge of antisemitism as a result of the 7 October 2023 massacre and kidnappings was likely to

- i. incite even greater hatred and violence against Jews and Jewish property in Australia; and was likely to
 - ii. incite greater hatred to the one and only Jewish State while it was fighting an existential seven-front war of self-defence;
 - l. in contravention of, and inconsistent with, the standards of conduct expected counsel – and in particular Senior Counsel - in New South Wales;
 - m. false and defamatory of, and concerning, the Federally appointed antisemitism envoy, Jillian Segal, and had the effect of undercutting her important work in a manner that was misleading and inappropriate;
 - n. based upon discriminatory double standards;
 - o. liable to bring the administration of justice in NSW into disrepute; and was
 - p. entirely one-sided and lacking in any nuance; and was published in a manner that was plainly
 - i. inimical to social cohesions in Australia; and was
 - ii. antisemitic.
3. The Complaint is unusual, if not unprecedented, as it concerns a person who has not yet been sworn-in as a Judge, and who has not yet exercised *any* judicial power. There is not – and there cannot be - any allegation, therefore, of

any “misbehaviour or incapacity” by PB as a Judge or whilst exercising a judicial office, as PB has not yet been sworn in as a Judge; he is currently scheduled to be sworn in on 3 February 2026.¹

4. The rationale for the Constitutional caution in relation to the removal of a judge - protection of judicial independence by requiring the involvement of both Houses of Parliament and, thus, in effect, preventing the executive from ‘sacking the umpire’² if unhappy with the judicial decisions made, does not apply in the circumstances of this case; PB has not yet served as “umpire”.
5. However, notwithstanding the fact that PB is not (and has never been) a “sitting judge” and has not exercised any judicial power by virtue of any judicial office in this State, it is inferred from media reports³ that
 - a. when making the decision to appoint PB to the Supreme Court, the Premier and the Attorney General were not aware of the systemic, sustained and ideological vilification, demonisation and delegitimisation – and defamation - that forms the basis of the Complaint; and that
 - b. had the Premier and the Attorney General been aware of the systemic, sustained and ideological vilification, demonisation, delegitimisation and defamation that forms the basis of the Complaint

¹ <https://supremecourt.nsw.gov.au/news.html>

² Nettle AC QC, Removal of Judges from office, Melbourne University Law Review, Vol 45(1):241 at 242 and 275: https://law.unimelb.edu.au/_data/assets/pdf_file/0011/4074257/06-Nettle-241-v2.pdf

³ See matters reported in The Australian on 8 January 2026 7 January 2026, The Australian, *NSW government reviews Supreme Court appointment after backlash over barrister’s posts* <https://www.theaustralian.com.au/nation/nsw-government-reviews-supreme-court-appointment-after-backlash-over-barristers-posts/news-story/bdf5722406754d2ceb64f17ba5a0b5c6>; 8 January 2026, The Australian, *Kellie Sloane heaps pressure on Premier to reverse Supreme Court pick* <https://www.theaustralian.com.au/nation/kellie-sloane-heaps-pressure-on-premier-to-reverse-supreme-court-pick/news-story/9d93f0c92520be5161c393be3be581be>; 16 January 2026, The Australian, *Pro-Palestine cases a no-go for activist judge Phillip Boulten, NSW Attorney-General rules* <https://www.theaustralian.com.au/nation/philip-boulten-sc-confirmed-for-nsw-supreme-court-after-social-media-controversy/news-story/e04f6a92e08f7791687ec231d266832f>.

(the Matters Complained of), the appointment would not have been made;

- c. prior to the Premier and the Attorney General learning of the Matters Complained of, the Governor of NSW issued a Commission appointing PB as a Judge (presumably pursuant to s 26(1) of the *Supreme Court Act 1970* (NSW));
- d. because the Commission had already been issued when the Premier and the Attorney General learnt of the Matters Complained of, the NSW Government considers that, as a matter of law, PB is already *a holder of a judicial office* within the meaning of section 53 of the Constitution; accordingly, the NSW Government believes that, by reason of s 53 of the Constitution, it **lacks the power** to revoke the appointment or to otherwise remove PB from judicial office, except as provided by the Constitution and the JOA – namely,
 - i. PB can only be removed from the office by the Governor
 - ii. on an address from both Houses of Parliament in the same session
 - iii. seeking PB’s removal on the ground of proved misbehaviour or incapacity;⁴
 - iv. subsequent to a report of the Conduct Division of the Judicial Commission (**the Division**) to the Governor under the JOA that sets out the Division’s opinion that
 - 1. the matters referred to in the report

⁴ Constitution, s 53(2).

2. ***could justify parliamentary consideration of the removal*** of the judicial officer on the ground of proved misbehaviour or incapacity.⁵ [Emphasis added.]

6. On the assumption that the Government is correct that, notwithstanding the fact that PB has not yet been sworn in as a judge and has not yet exercised any judicial power whatsoever, the Government does not have the *power* to revoke the appointment or to otherwise remove PB from judicial office because fortuitously the Commission has already been issued (even though the appointment would not have been made had the Government been aware of the matters dealt with below, and it would have been revoked had the Government learnt of those matters prior to the Commission being issued), the Complainants respectfully submit that, for the reasons submitted below, in the circumstances of this case, the matters alleged below *plainly would (a fortiori, they manifestly could)* justify parliamentary consideration of the removal of PB on the ground of proved misbehaviour or incapacity within the meaning of s 53(2) of the Constitution, and s 41 of the JOA.
7. Accordingly, the question for the Judicial Commission is whether “*the matters referred [to below] could justify parliamentary consideration of the removal [of PB] - assessed by reference to contemporary community standards, by reason of proved “misbehaviour” within the meaning of s 53(2) of the Constitution.*
8. The matters referred to below could justify parliamentary consideration of the removal of PB as they plainly demonstrate that, by reason of proved “misbehaviour”, PB is plainly an unsuitable repository of judicial power (including federal judicial power).

Urgency

⁵ Constitution, s 53(3); JOA s 41.

9. This Complaint is made on an urgent basis and urgent relief (even if only urgent *interim relief*) is respectfully sought on the following grounds:
- a. PB is currently scheduled to be sworn in at a ceremonial sitting in the Banco Court on **3 February 2026 at 9.15am**;⁶
 - b. serious prejudice – potentially of an **irrevocable nature** – will be suffered if the swearing-in ceremony proceeds before the Complaint is fully investigated;
 - c. such prejudice will be contrary to the public interest, and is likely to be inimical to the public confidence in the administration of justice – it may well bring the administration of Justice into disrepute;
 - d. accordingly it is respectfully submitted that, having regard to the seriousness of the issues in the Complaint, and the balance of convenience, the proposed swearing-in ceremony ought to be postponed, pending the finalisation of the Division’s investigation, and the provision of any report of the Division (including any report pursuant to s 41 of the JOA), and the Government’s determination of the steps, if any, that it will take as a result of any report from the Division;
 - e. as will be demonstrated below, the Complainants have acted with all due haste and diligence in relation to this matter, since the date of the proposed appointment came to their attention on or about 6 January 2026.

Background to the Institution of the Complaint

⁶ <https://supremecourt.nsw.gov.au/news.html>

10. On or about 6 January 2026, as a result of an article published in *The Australian* entitled “*Query over Phillip Boulten SC appointment to NSW Supreme Court amid criticism of Israel, anti-Semitism envoy*”⁷ (the **6 January Article**), it came to my attention and the attention of the AJA, for the first time, that the NSW Government proposed to elevate PB to the Bench of the Supreme Court.
11. The 6 January Article drew attention to **some, but by no means all**, of the public statements that had been published online by PB over a prolonged period – at least in excess of two years. Subsequent review revealed a much broader and more entrenched pattern of conduct, characterised by extreme ideological fixation, rather than isolated lapses of judgement on individual issues.
12. In the light of the exceptional importance, permanence, and public significance of judicial appointments to the Supreme Court, and the necessity that public confidence be maintained in the administration of justice in NSW, and the seriousness nature of the systemic vilification, demonisation, delegitimisation and defamation contained in PB’s online, social media posts, the AJA considered it to be imperative to raise its grave concerns urgently with the Premier of NSW, the Honourable Chris Minns MP, as well as with the NSW Attorney General, which it duly did, by urgent letter dated 7 January 2026.
13. A copy of the urgent 7 January 2026 letter was also emailed to the NSW Attorney General and the NSW Leader of the Opposition. A copy of that letter is in **Schedule A**.
14. It is respectfully requested that the AJA 7 January 2026 letter be read as if it had been duly set forth and incorporated in full in the Complaint.

⁷ 6 January 2026, *The Australian*, *Query over Phillip Boulten SC appointment to NSW Supreme Court amid criticism of Israel, anti-Semitism envoy*:
<https://www.theaustralian.com.au/nation/query-over-philip-boulten-sc-appointment-to-nsw-supreme-court-amid-criticism-of-israel-antisemitism-envoy/news-story/3b05e09e237ee6ae17d2667038e2f920>

15. A further article was published in The Australian on 7 January 2026 entitled *NSW government reviews Supreme Court appointment after backlash over barrister's posts*⁸ (the **7 January Article**).

16. Apart from drawing attention to further incendiary posts of PB to which certain people had taken strong objection (not only people in the Jewish community, but also the Police Association of NSW, with president Kevin Morton saying he found the remarks regarding police “offensive;” reference was also made to a post shared by PB on his social media - a graphic of former Northern Territory police officer Zachary Rolfe, who was acquitted of the murder of Aboriginal man Kumanjayi Walker in 2022, which included the phrase ‘**C U in the N T**’ and ‘**racist**’ in the image [emphasis added]), the 7 January Article also noted that

“A spokesperson said that the Minns government was “making enquiries” about the elevation of Phillip Boulten SC to the bench a day after The Australian published a report detailing the high-profile silk’s prolific social media criticism of Israel and anti-Semitism envoy Jillian Segal.

The only way to reverse an appointment to the court is through a successful vote to do so in both houses of the NSW parliament.

It is understood that course of action is being investigated by the NSW government.”

17. The 7 January Article also reported that Police Association president, Mr Morton, had called on the NSW Attorney-General Michael Daley to immediately reconsider the decision to appoint PB in the light of his “social media commentary.”

⁸ 7 January 2026, The Australian, *NSW government reviews Supreme Court appointment after backlash over barrister's posts* <https://www.theaustralian.com.au/nation/nsw-government-reviews-supreme-court-appointment-after-backlash-over-barristers-posts/news-story/bdf5722406754d2ceb64f17ba5a0b5c6>

“I find it astounding that a person like [PB] could be considered for one of the highest judicial positions in the state. His commentary on the public record makes it near impossible for him to be able to dispense justice fairly,” he said.

“At whatever stage the selection process is at the Attorney-General needs to step in and stop it immediately.”

18. President of the NSW Jewish Board of Deputies, David Ossip, was also quoted as saying that

“[PB’s] highly offensive comments about Jewish Australians and the police raise serious questions about how he could ever preside over any matter which involves either a Jewish person or NSW Police,” he said.

“This is surely not tenable for a judge who will be charged with overseeing criminal matters. The justice system needs judges who are beyond reproach. There are serious questions to answer about whether this meets that standard.”

19. A further article was published in *The Australian* on 8 January 2023 entitled *Kellie Sloane heaps pressure on Premier to reverse Supreme Court pick*⁹ (**the 8 January Article**) which reported that “*NSW Opposition has heaped pressure on the Minns government to reverse the appointment of a controversial barrister to the Supreme Court, after his comments attacking anti-Semitism envoy Jillian Segal and the police were revealed.*” The Article also reported that Ms Sloan had written to Premier Minns objecting to the appointment, noting that it

⁹ 8 January 2026, *The Australian*, *Kellie Sloane heaps pressure on Premier to reverse Supreme Court pick* <https://www.theaustralian.com.au/nation/kellie-sloane-heaps-pressure-on-premier-to-reverse-supreme-court-pick/news-story/9d93f0c92520be5161c393be3be581be>.

“sends precisely the wrong message ... For Jewish Australians in particular, many of whom are already questioning whether institutions are taking anti-Semitism seriously.” [Emphasis added.]

20. The 8 January Article reported that Ms Sloane [correctly] said that PB’s comments had raised “profound alarm within the Jewish community” and that:

[PB’s] repeated public attacks on Australia’s Special Envoy to Combat anti-Semitism are matters of public record,” she wrote.

“This conduct is not historic or incidental; it is recent, deliberate, and sustained. In the current climate, this appointment risks causing serious damage to public confidence in the independence of the Supreme Court.”

Ms Sloane also offered the NSW Opposition’s backing when parliament resumes if a vote in the upper and lower houses is required to reverse the appointment. [Emphasis added.]

21. The Article also reported that Ms Sloane wrote to the Premier that:

“[PB’s] appointment should not proceed at a moment when social cohesion, institutional neutrality and public confidence are under acute strain. **Judicial independence depends not only on actual impartiality, but on the clear and unmistakable appearance of it, ...**” [Emphasis added.]

22. On Friday afternoon, 16 January 2026, an extraordinary article was published by *The Australian* under the surprising title *Pro-Palestine cases a no-go for*

*activist judge Phillip Boulten, NSW Attorney-General rules*¹⁰ (the **16 January Article**).

23. The 16 January Article reported that PB was set to be elevated to the Supreme Court, despite a history of criticism of Zionists and police, but that the NSW Attorney-General said that PB would primarily handle common law and murder cases “in an effort to avoid any “apprehension of bias” in matters related to pro-Palestine protests or demonstration laws.”

24. Apart from the fact that it is constitutionally questionable whether the Attorney General can determine forever (or at all) what cases a Supreme Court Judge will handle, the above paragraph appears to be based on a non sequitur. The question of any “apprehension of bias” is certainly not in any way limited to matters related to pro-Palestine protests or demonstration laws. Far from it.

25. The apprehension of bias relates, *inter alia*, to

- a. PB’s obvious animus and demonisation of Jews/Zionists;
- b. his systemic and long-standing vilification, demonisation delegitimisation of the one and only Jewish state – and Jews who support it (virtually all Jews – as will be demonstrated below);
- c. his extraordinary – and sustained – defamation of the Federally appointed antisemitism envoy and his misleading attempt to undercut her work – particularly in the context of the raging antisemitism spreading through Australia;

¹⁰ 16 January 2026, The Australian, *Pro-Palestine cases a no-go for activist judge Phillip Boulten, NSW Attorney-General rules* <https://www.theaustralian.com.au/nation/philip-boulten-sc-confirmed-for-nsw-supreme-court-after-social-media-controversy/news-story/e04f6a92e08f7791687ec231d266832f>

- d. PB's incitement of antisemitism – particularly at a time when, to his actual knowledge, Jews were suffering from a serious and dangerous increase in antisemitism; his appointment will *de facto* give an imprimatur – and will provide encouragement - to those who engage in similar antisemitic hate-speech; they will be emboldened to persist in such hate-speech (irrespective of what additional laws the Government may pass) as they will have the PB extra-curial precedent upon which to rely; and
 - e. the fact that Jewish litigants and lawyers will have a reasonable apprehension of bias in those cases in which they are required to appear before him – even if he is limited to conducting criminal cases. The potential prejudice to the administration of justice is obvious; equally obvious is the risk that Jewish legal practitioners will not be instructed/briefed in Supreme Court matters – in order to guard against the possibility that the matter may be heard by PB.
26. Accordingly, the issue is far more serious than suggested in the 16 January Article. It relates, inter alia, to the principle that justice must be seen to be done; to the principle of uniformity of treatment; to the fair and equal administration of justice in NSW; to the question of the confidence that reasonable people in the community will have in the impartiality of the Supreme Court in New South Wales.
27. As a result of the 16 January Article, AJA sent a further urgent letter dated 19 January 2026 (the Monday immediately after the announcement of Friday, 16 January) to the NSW Attorney General (and copied to the Premier and the Leader of the Opposition).
28. A copy of the 19 January Letter (together with schedule 1 to that letter) is in **Schedule B**, and it is respectfully requested that that letter be read as if it had been duly set forth and incorporated in full in the Complaint.

29. An article about the appointment was published in The Daily Telegraph on Tuesday, 20 January 2026 under the heading “*Jewish Anger over Judge Call to revoke Barrister’s elevation to the Bench after his social media commentary.*”¹¹ In the same edition of The Daily Telegraph an Editorial was published under the heading: “*Seeing that justice be done.*” The editorial invoked the classic principle that it attributed to Britain’s Lord Chief Justice, Gordon Hewart, that “*justice should not only be done, but should manifestly and undoubtedly be seen to be done.*” Applying that principle, the editorial stated that, at the very least, “*a delay is needed — review the appointment.*”¹² A further article was published in **The Daily Telegraph** on Wednesday, 21 January 2026, under the heading “*Judge: Jewish leaders in plea to AG.*”

CONTEXT IN WHICH PB PUBLISHED THE MATTERS COMPLAINED OF AND CIRCUMSTANCES IN WHICH ‘MISBEHAVIOUR’ MUST BE DETERMINED

30. The complainants respectfully submit that in considering the question whether the publication by PB of the various Matters Complained of are capable of constituting “*misbehavior*” within the meaning of s 53 (2) of the Constitution that “**could justify** parliamentary consideration of the removal of the judicial officer from office” it will be necessary for the Judicial Commission to consider and have regard to

- a. the precise context in which the Matters Complained of were published – particularly the context of the very serious and dangerous antisemitic hate antisemitic violence that was spreading through Australia at the very times the Matters Complained of were published; and
- b. the fact that when publishing each of the Matters Complained of PB was an eminent and experienced Senior Counsel who, as an **officer of the**

¹¹ [Insert reference]

¹² [Insert ref]

court, was subject to continuing professional and ethical obligations, including obligations of integrity, independence, restraint, fairness, and the maintenance of public confidence in the administration of justice, and to **public conduct**, including public commentary, where such conduct bears upon the standing of the profession, and confidence in the legal system.;

- c. the fact that as an eminent and experienced Senior Counsel he would inevitably be aware of the dangers of incitement and hate-speech – of vilification, demonisation, and delegitimisation of a minority community in Australia;
 - d. the fact that PB has not yet been sworn-in as a Judge, and has not yet exercised any judicial power, and thus the rationale for the heightened scrutiny required under s 53(2) of the Constitution does not apply – this is not a case where there could be a fear or suspicion of a Judge being removed because the Government does not like his judgements or judicial decisions.
31. Since 7 October 2023 there has been an extraordinary surge in antisemitism in Australia (it is estimated to have increased by over 738%) *precipitated* by the savage, sadistic and barbaric massacre of over 1,200 innocent people perpetrated by Hamas in Israel on that day in circumstances of unprecedented cruelty and barbarism: the torturing to death of children in front of their parents; the torturing to death of parents in front of their children; the burning alive of babies and the elderly; the raping to death of women in front of their families – in a manner that is so sick and perverted as to defy belief; and the horrific abduction of about 250 hostages – including babies, toddlers and young children, and the elderly (some of whom were Holocaust survivors). (The last hostage, albeit that he was murdered by Hamas, was returned only on 27 January 2026.)

32. The floodgates of antisemitism were opened virtually immediately after the 7 October massacre – and prior to any significant response by Israel. Anti-Israel protests commenced almost immediately, there were celebrations with fireworks in at least one suburb in the Western Suburbs of Sydney on 7/8 October 2023. On the night of 9 October 2023, the Jewish community was warned by the NSW police not to go anywhere near the Opera House as it was anticipated that the anti-Israel riots on that site would be violent. They were. They included the burning of the Israeli flag, the throwing of flares, and the shouting of antisemitic obscenities. Images of those protests shocked the conscience of right-thinking people throughout the world.
33. This antisemitism surge was not abstract or theoretical. It manifested in threats, vandalism, intimidation, harassment, Synagogues and Jewish businesses and property being burnt down or vandalised, and physical threats were directed at hundreds of Jewish Australians.
34. This escalation was widely reported and well known. PB, as an experienced Senior Counsel specialising in criminal law, must have been aware of the seriousness of the situation and of the increasing risk that inflammatory rhetoric would translate into real-world harm.
35. The Complainants respectfully submit that in considering the question of “*misbehaviour*” within the meaning of s 53(2) of the Constitution, regard must be had to the fact that, at all material times, PB was a well-known Senior Counsel, subject to the ethical and professional obligations attaching to that office, and, when he published his posts, he was a person who must have been aware of the very serious and escalating problem of antisemitism in Australia following the events of 7 October 2023.
36. It is submitted that it will also be necessary for the Judicial Commission, when analysing the posts of PB, to consider not only what he published – but also, in the light of what he did publish, what he failed to publish – to consider in relation

to the question of misbehavior, **not only what he wrote, but what he did not write.**

37. In this regard it is noted that despite the fact that Israel was viciously attacked on 7 October 2023; that 1,200 Israeli civilians were mercilessly slaughtered, and thousands injured; that around 250 people were unlawfully kidnapped and taken into Gaza on that date; and that Hamas has never concealed its stated aim of completely annihilating the Jewish State and killing Jews wherever they may be, no post has been identified in which PB called for the **release of the hostages** abducted from Israel on 7 October 2023. This is so notwithstanding that, at all material times when PB published his posts, hostages remained in Gaza.

38. Nor is there any word of sympathy for Israel fighting what was, and remains, an existential war on seven fronts against enemies who openly proclaim their intention to destroy it.

39. Furthermore, in considering the matters complained of, it is apposite to remember that they were deliberately published by PB with full knowledge of all of the above matters and that he also was aware, or ought to have been aware given his position as a Senior Counsel and a distinguished officer of the Supreme Court of New South Wales, that:

- a. the Gaza War was a war of self-defence that Israel did not seek, or want; it was an existential war that Israel had to fight while trying to rescue hostages brutally kidnapped to Gaza's tunnels, against Hamas a genocidal death cult that, in its founding Charter, calls for the death of all Jews everywhere, and that promised to repeat 7 October again and again - that brazenly declared that 7 October was just a 'rehearsal' – and that still today calls for the annihilation of Israel: on 6 December 2025, Hamas leader Khaled Mashal, said in the keynote address to a conference in Turkey that the Al-Aqsa flood – i.e. 7 October – “with its

might has prepared the international arena,” and “this is our opportunity to build on this in order to expel this entity [Israel] from our homeland, and from the international stage.”

- b. It is a truism that – as noted by a previous Labour Prime Minister of Israel, Golda Meir - “If the Arabs put down their weapons, there would be no more war. If the Jews put down their weapons, there would be no more Israel.”

THE MATTERS COMPLAINED OF: SAMPLE OF PB’S PUBLISHED POSTS

40. We set forth below a **sample** of **some** of the posts published online over the past two years by PB – at a time when he was obviously aware of the serious problem of antisemitism in Australia.

41. At all times when he published the posts about which the Complaint is made, PB was an experienced Senior Counsel. As such, he was obviously aware of the fact that forwarding posts of another is, as a matter of law (and common sense) identical to publishing the post oneself. Indeed, one does publish a post when one forwards that post, notwithstanding the fact that the post may have been written by someone else.

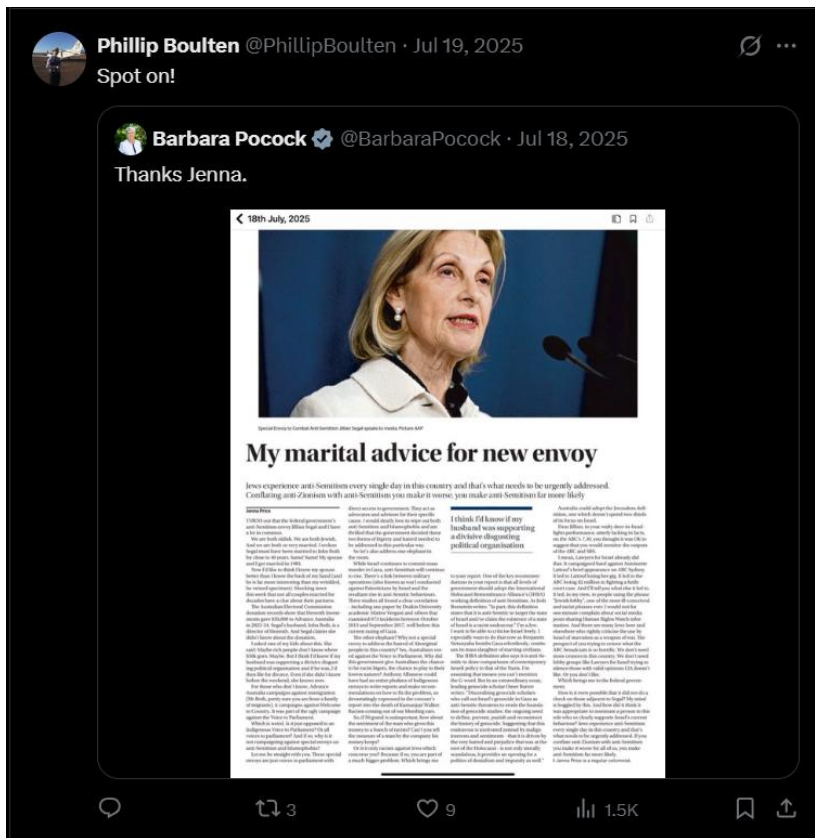
Malicious and sustained Vilification, delegitimisation and Defamation of Jillian Segal

42. It appears from an analysis of PB’s online posts that because a company, *Henroth Investments Pty Ltd (Henroth)* of which Jillian Segal’s *husband* is a *director*, made a \$50,000 donation to *Advance Australia* in 2023-4 – which was duly disclosed to the Australian Electoral Commission (**AEC**) - PB saw fit to mercilessly and maliciously vilify and defame and delegitimise the duly appointed Federal antisemitism envoy, Jillian Segal, and thereby knowingly undercut and weaken her extremely important work.

Adoption of the defamatory smears in Marital Advice Article

43. PB, for example, forwarded online – and gave his express approval to - an article published on or about 18 July 2025 in the Canberra Times entitled *My marital advice for new envoy (the Marital Advice Article)*.¹³

44. PB gave his express approval to the Marital Advice Article – and thus gave his imprimatur to, and thereby adopted, the defamatory imputations - by the words “Spot on.”



45. The Marital Advice Article is highly defamatory of Jillian Segal in that it imputed, *inter alia*, that

¹³ <https://x.com/PhillipBoulten/status/1946538200547164359>

- a. Jillian Segal lied when she said that she was not aware that her husband [in fact it was Henroth – a duly incorporated company of which her husband was a director] had donated \$50,000 to *Advance Australia* in 2023-4;
- b. Jillian Segal is a racist because any non-racist would have divorced her husband if she discovered that he had donated \$50,000 to a “divisive, disgusting” political organisation like *Advance Australia*;
- c. Jillian Segal is a hypocrite because she supports *Advance Australia* and thereby opposed the Voice, yet she has not opposed the appointment of the antisemitism envoy which gives the envoy a voice;
- d. Jillian Segal herself is responsible for causing antisemitism because she supports the mass murder in Gaza;
- e. Jillian Segal is a racist because she is worried only about Jews, and not about any other people;
- f. Jillian Segal is married to a racist, and is racist herself as well;
- g. Jillian Segal wrongfully conflates antisemitism with antizionism.

46. The following submissions are respectfully made about the above imputations – which by on-posting with the words **Spot On** – PB published himself, after expressly adding his endorsement and imprimatur.

47. First, the imputations are manifestly untrue – as evidenced by the fact that the Federal Government openly expressed its confidence in Jillian Segal – after the Marital Advice Article had been published;

48. Second, the monotonously repeated assertion by Israel haters that Jews should not “Conflate anti-Zionism with antisemitism” is based on either ignorance or malice. It is false. It is misconceived. It proceeds from a false dichotomy that treats Zionism as an external political ideology grafted onto Judaism, rather than recognising that Zionism is an integral and inherent tenet of Judaism; Judaism and Zionism are inseparable and always have been – no matter how many fringe Jews (who usually have zero knowledge of Judaism) assert the contrary. This will be dealt with in more detail below.
49. Third, anti-Zionism has today mutated into antisemitism. This too will be demonstrated in more detail below.
50. Fourth, the most reasonable and obvious inference from the nasty Marital Advice Article – and PB’s ‘**Spot on**’ adoption of it – is that PB published his imprimatur in an attempt to delegitimise Jillian Segal and her important report;
51. Fifth, vilification of the kind in issue in the Marital Advice Article obviously increases antisemitism and normalises hate speech;
52. Sixth, it ill behooved a Senior Counsel to publicly support the **nasty defamatory smears** published in the Marital Advice Article; the *ad hominem* attack on the husband of Jillian Segal was ugly – and particularly egregious when regard is had to the fact that a moment of research would have demonstrated that Jillian Segal’s husband (and his late brother) – through various entities – are extraordinarily charitable¹⁴ and it is certainly not surprising in those circumstances that Jillian Segal was not aware of each donation by each corporate entity (of which she was not a director) – even though that donation had been duly disclosed to the Australian Electoral Commission (**AEC**);

¹⁴ Beneficiaries have, inter alia, included the University of Sydney, Sydney Children’s Hospital.

53. Seventh, by approving the Marital Advice Article in the way that he did, PB thereby demonstrated that he regards the majority of Australians (who voted No to The Voice) to be racist bigots (*“Why did this Government give Australians the chance to be racist bigots, the chance to play to their lowest natures.”*);
54. Eighth, the disgusting imputation in the Marital Advice Article that the reason for the tsunami of antisemitism in Australia is that *“Israel continues to commit mass murder in Gaza”* is absurd – and fails to explain why it is that the antisemitism epidemic broke out virtually immediately – a joyous fireworks display in a suburb in Western Sydney on 7 October, with an Imam publicly making a speech with the words “I am happy” and the “F. the Jews” “where’s the Jews” celebration at Sydney Opera House on 9 October 2023.
55. Ninth, such reasoning is facile and (as will be demonstrated) false. If it was true and correct – if this huge scourge of antisemitism including serious antisemitic violence in Australia - was due to the actions of Israel (fighting an existential war of self-defence it never sought or wanted), it is surprising that PB fails to explain why there are no similar phenomena caused by genuine atrocities committed with regularity overseas – e.g. thousands murdered and brutally subjugated in Iran. Thousands of butchered in Sudan. Massive death tolls in the Ukraine-Russia conflict. Myanmar violently represses its Rohingya and other minorities. Mass atrocities by Boko Haram and other extremist groups in Nigeria. Extrajudicial killings of civilians in Tanzania. Massacres of Christians in churches and hospitals in the Democratic Republic of Congo.¹⁵
56. One can perhaps understand ignorant University students engaging in facile sloganeering; however it is deeply troubling when an eminent Senior Counsel does so – particularly when he knows, or ought to have known, that such hate speech will cause a real and serious risk to Australian Jews.

¹⁵ Alan Baker, 21 January 2026, The Jerusalem Post, [Buzzwords and false allegations are Western human rights inversion.](#)

57. Tenth, if PB was genuinely concerned about the situation in Gaza, then, given his vigorous and public condemnations of Israel, it is passing strange that he has not publicly condemned the genocidal violence and terror by Palestinian and Islamist fanatics, which is incited by Palestinian leadership and supported, encouraged, and financed by Iran, Qatar, and Turkey;¹⁶ why has he not repeatedly (or ever) berated Hamas for using its own civilians as human shields, while deliberately firing missiles into civilian areas in Israel (thereby committing a double war crime)? Why the double-standards?

58. Eleventh, PB in effect adopted and gave his imprimatur to the falsehood espoused in the Marital Advice Article. Unless he has not read it, PB must know that the assertion that the definition of 'antisemitism' formulated by the International Holocaust Remembrance Alliance (**IHRA**) stifles or prevents people from engaging in legitimate criticism of Israel is a total falsehood. Thus, either PB intentionally seeks to mislead people; or he, as a SC, publishes material online recklessly, without checking the correctness of his assertions.

59. This is particularly egregious not only because PB is a Senior Counsel, but also because both the State of NSW¹⁷ and the Commonwealth¹⁸ have duly accepted and endorsed the IHRA definition; thus, as Senior Counsel, PB was publishing deceptive and misleading statements in relation to legal issues in Australia.

60. Twelfth, as is clear from the Marital Advice Article, PB's vilification and defamation of Jillian Segal was not some one-off aberration, written in the heat of the moment. It was sustained. It was not a mistake. It was a pattern.

¹⁶ Ibid.

¹⁷ 16 December 2021, NSW adopts IHRA definition, <https://nswjbd.org.au/2021/12/16/nsw-adopts-ihra-definition/>;

¹⁸ 14 October 2021, Australia pledges to embrace the IHRA Working Definition of Antisemitism, <https://www.ecaj.org.au/australia-pledges-to-embrace-the-ihra-working-definition-of-antisemitism/>; 18 December 2025, Press conference - Parliament House, Canberra, <https://www.pm.gov.au/media/press-conference-parliament-house-canberra-40>.

61. Thirteenth, when PB adopted the facile and antisemitic polemic in the Marital Advice Article (and we will make clear submissions below why it is patently antisemitic) he did so while he was a Senior Counsel, subject to the NSW Bar Rules, including its Social Media Guidelines.

62. Fourteenth, PB's publication of the above defamatory imputations of and concerning Jillian Segal (and his publication of the defamatory imputations referred to below) constituted a particularly nasty form of bullying (in the sense of unreasonable behaviour that could reasonably be expected to intimidate, degrade, humiliate, isolate, alienate or cause serious offence to a person, as defined in Rule 125 of the Barristers' Rules), discrimination and harassment of Jillian Segal; as a matter of practical reality, in circumstances where she was performing her job as the Federally appointed antisemitism envoy, it was not really possible for her to institute proceedings against PB for defamation, as such proceedings, ipso facto, would inevitably have served as a major distraction prejudicing her important work, and would inevitably have destroyed her ability to perform her functions.

PB widely defames Jillian Segal by publishing that she is a deplorable racist without giving any foundation for so serious an assertion

63. Again, by forwarding a 16 July 2025 post, PB intentionally vilified and defamed Jillian Segal by asserting that she is not simply a racist – but a “**deplorable racist.**”¹⁹

¹⁹ <https://x.com/LDTFerguson/status/1945345066392019118>



64. As noted above, the defamatory imputation is false – as evidenced by categorical statements from the Federal Government.

65. The basis for PB publishing that Jillian Segal is a “**deplorable racist**” is not clear.

66. Again, the publication by PB of this defamatory imputation constituted a particularly nasty form of vilification, bullying, discrimination and harassment of Jillian Segal for the reasons to which we alluded above.

67. The NSW Bar Association “Senior Counsel Protocol” expressly states that the designation of Senior Counsel is a public identification of a barrister whose standing and achievements “justify an expectation, on the part of ... the judiciary and the public” that they will provide outstanding services “to the good of the administration of justice.” While he was not providing services, it is trite that the ethical standard of barristers does not apply only to their conduct as barristers. PB was a highly experienced and well-known high profile Senior Counsel. As such he had heightened obligations to act in a manner that would not bring the administration of justice – or even the dignity of the NSW Bar – into disrepute.

68. As a Senior Counsel a certain standard of conduct was expected of him. He failed to live up to that standard. He failed to comply with his obligations. It would be inimical to the administration of Justice if junior members of the Bar are required to comply with the Social Media Guidelines, but he is free to ignore

them with impunity. Greater seniority implies and requires greater responsibility.

69. This applies even in the case of solicitors – seniority carries higher levels of accountability and responsibility²⁰ and should therefore apply, *a fortiori*, to a person who has attained the designated as Senior Counsel.

PB widely defames Jillian Segal by imputing that she is not a fit and proper person to be an envoy, and that had a due diligence process been conducted, that would have been discovered

70. Ironically, having regard to the position that PB is in, PB defamed Jillian Segal by imputing on 14 July 2025 that she is not a fit and proper person to be an envoy, and that had a due diligence been done, she would not have been appointed. In fact, he imputed that she is not a real envoy by the quotation marks deployed and the double questions marks. ²¹

71. Again, the basis for the defamation, vilification, bullying, discrimination and harassment of Jillian Segal was not explained in the online public post between PB and Chris Murphy (a person who also clearly despises “Zionists” and Israelis – as will be seen below).

72. Yet again, PB’s published defamatory imputation constituted a particularly nasty form of vilification, bullying, discrimination and harassment of Jillian Segal for the reasons to which we alluded above.

²⁰ *Council of the Law Society of the ACT v Aulich* [2024] ACAT 43 at [82]

²¹ <https://x.com/PhillipBoulten/status/1944558071667433964>



PB implicitly supports a boycott of Jillian Segal’s husband’s business: boycotts are a classic antisemitic trope

73. For reasons which will be adumbrated in detail below, it is submitted that, properly understood, and considered in context, the Posts of PB are antisemitic.

74. In this regard, reference can be made to a post of Adam Houda dated 13 July 2025 and PB’s 14 July 2025 response.²²



²² <https://x.com/PhillipBoulten/status/1944520636325617903>

75. PB's response is to Houda significant. It functioned as a **tacit endorsement** of the boycott call. There is no hint of a suggestion that the boycott would be wrong.

76. The words "PLEASE BOYCOTT GELATISSIMO #boycottIsraelsupporters #FreePalestine #auspol smh.com.au/politics/" denote an attempt to boycott **all Israeli supporters** (#boycottIsraelsupporters #FreePalestine).

77. In truth, that means virtually every Jewish business in Australia. That was – or ought to have been - clear to PB. (Note that there is no suggestion that Houda believes or has any evidence that Jillian Segal's husband and late brother-in-law have any connection to Israel.)

78. Calls for the boycott of Jewish-owned or Jewish-associated businesses have a long and troubling historical pedigree. Economic targeting of Jews — by singling out businesses for exclusion, ostracism, or collective punishment — has been one of the most enduring manifestations of antisemitism.

79. Such boycotts are particularly pernicious where they are directed at private individuals or businesses, justified solely by asserted Jewish identity or tenuous and unsubstantiated links to Israel. In those circumstances, the boycott operates not as political expression, but as collective punishment by association.

80. The above Post is a good example.

81. When such conduct is endorsed or normalised – or not objected to by an eminent and experienced SC who is a former President of the Bar Association, the harm is magnified. It lends professional legitimacy to practices that history demonstrates are corrosive to social cohesion and equality before the law.

82. As will be demonstrated below, the evidence to which reference will be made suggests that PB has a longstanding relationship with Adam Houda – and that they both harbour a hatred towards “Zionists” and Israel.

PB underplayed seriousness of antisemitism in attempt to prevent implementation of envoy’s recommendations

83. As can be seen from the following 11 July 2025 Post of PB, PB patently sought to underplay the seriousness and importance of the antisemitism problem in Australia in an attempt to prevent the recommendations of Jillian Segal being implemented. This is evident from the context of all of his other posts, and the fact that by 11 July 2025 the extraordinarily serious antisemitism problem was common knowledge in Australia – indeed, it was common knowledge in many other countries as well.²³

84. In the context of all of his other posts, PB’s bare assertion that “*Jill Segal has not provided sufficient justification for most of her suggestions*” – without any identification as to the basis of his assertion suggests that his post was designed to undercut the effectiveness of Jillian Segal’s report – notwithstanding the extraordinarily dangerous antisemitism that was being faced by the Jewish community.

85. At the very best, in the Jewish community PB’s post was perceived as displaying a callous disregard for the safety of the Jewish people and for Jewish institutions, at a time when all Jewish Schools and institutions had to be protected by armed guards, and at a time when Jewish kids were afraid to walk in the street in school uniforms of Jewish schools for fear of being attacked, and at a time after a Synagogue had been burnt to the ground, and Jewish businesses had been burnt, and Jews had suffered boycotts and doxings.

²³ <https://x.com/PhillipBoulten/status/1943434529726775763>



86. There is of course another aspect of PB's post that is extremely troubling. He was responding to an absurd and **demonstrably false** Post of Cheryl Kernot which alleged that Jillian Segal's recommendations were

"more **akin to totalitarianism.**"

87. As a Senior Counsel, he would have known that the assertion of Cheryl Kernot that the recommendations were "**akin to totalitarianism**" was demonstrably false. However, although PB responded to Kernot, did not in any way challenge or correct her absurd assertion. Rather, he implied that it was correct – by simply responding that "*Jill Segal has not provided sufficient justification for most of her suggestions.*"

88. It follows, therefore, that PB sought – online and publicly – to promote the false impression that the suggestions were more "akin to totalitarianism" – and that there was no justification provided for such totalitarian suggestions.

89. On the other hand, if PB did not know that the suggestions of Jillian Segal were not anything akin to totalitarianism, then it must follow that he had not read the report and suggestions of Jillian Segal. However, if he had not actually read the report, he engaged in misbehaviour by implying that he

- a. Had read the report;
- b. Agreed that the suggestions were more akin to totalitarianism;
- c. He did not believe that the report provided any justification for the totalitarian recommendations of Jillian Segal.

90. In any event, read in the context of all the other posts, it is clear that, as Senior Counsel, PB engaged in misbehaviour.

PB's false imputation that the recommendations of Jillian Segal are designed to weaponise anti-racism and silence dissent and criminalise Palestinian advocacy – incites hatred

91. On 10 July 2025, PB published online his tacit approval of **patently incorrect assertions** published online by **APAN** (the *Australian Palestine Advocacy Network*) that the recommendations of Jillian Segal were

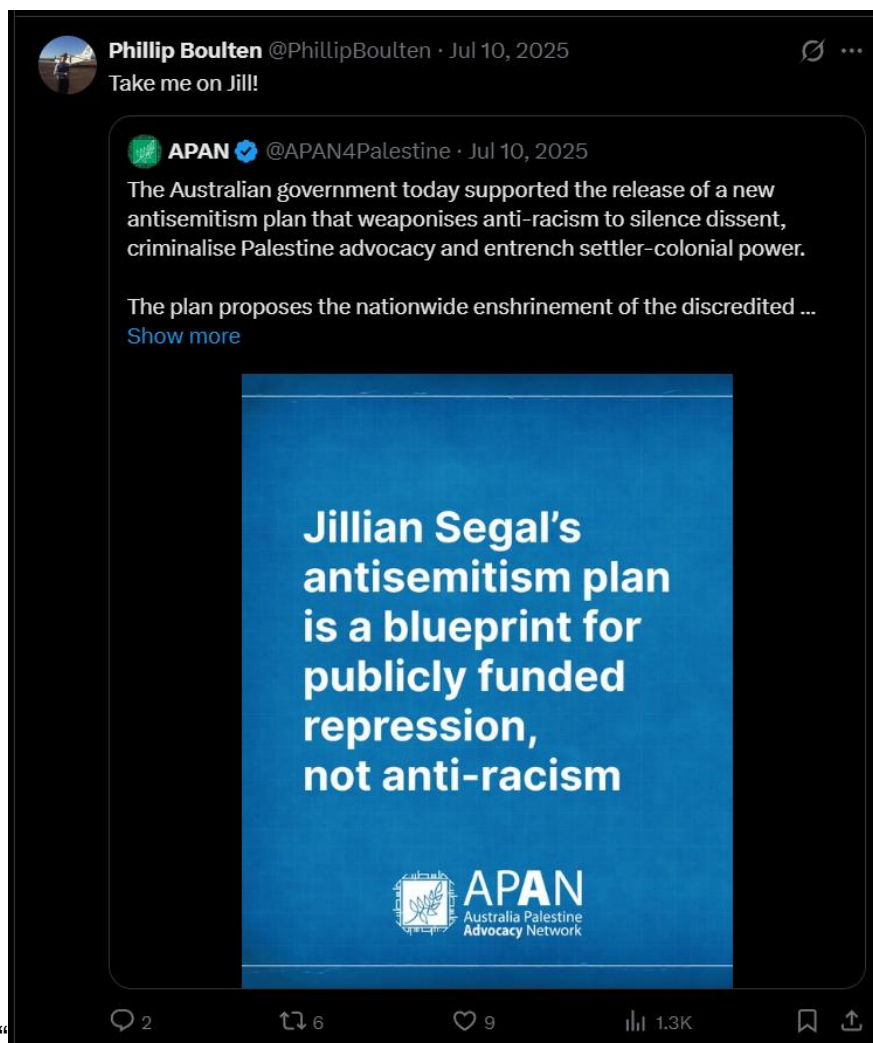
- a. designed to
- b. weaponise anti-racism and
- c. silence dissent and
- d. criminalise Palestinian advocacy.²⁴

92. PB not only failed to correct the patently false and inflammatory post of APAN, but he also affirmatively **endorsed and escalated it**, framing the issue as a personal confrontation with between himself and the Federally appointed antisemitism envoy by publishing the threatening words:

²⁴ <https://x.com/PhillipBoulten/status/1943248472984920249>

“Take me on Jill!”

93. The “Take me on Jill!” response was particularly deceptive, misleading and false – as it imputed that the recommendations of Segal were so draconian that he was willing to go into battle against Jillian Segal – indeed that he relished the idea of going into battle against Jillian Segal (as evidenced by the exclamation mark) - to oppose the draconian measures which would allegedly weaponise anti-racism, silence dissent and criminalise Palestinian advocacy.
94. In publishing his post, PB again lent professional legitimacy (as a well-known Senior Counsel) to a false and hostile narrative directed at an individual appointed by the Federal Government to combat antisemitism in circumstances where he must have known – or, at the least, ought to have known – that the false and hostile narrative would inevitably incite hatred against the Jewish people who – he falsely asserted – were racists (otherwise why weaponise **anti-racism**) who wished to silence dissent and criminalise Palestinian advocacy.
95. PB’s post also imputed that he agreed that Jillian Segal’s plan was a blueprint for publicly funded repression. In its context, that repression would be interpreted as repression against Palestinians and Muslims.
96. It defies credulity that PB did not know that such alleged “repression” would cause hatred and probably violence against the Jewish people.
97. It equally defies credulity that he did not know that the Jillian Segal plan was not in any way whatsoever a blueprint for publicly funded repression.

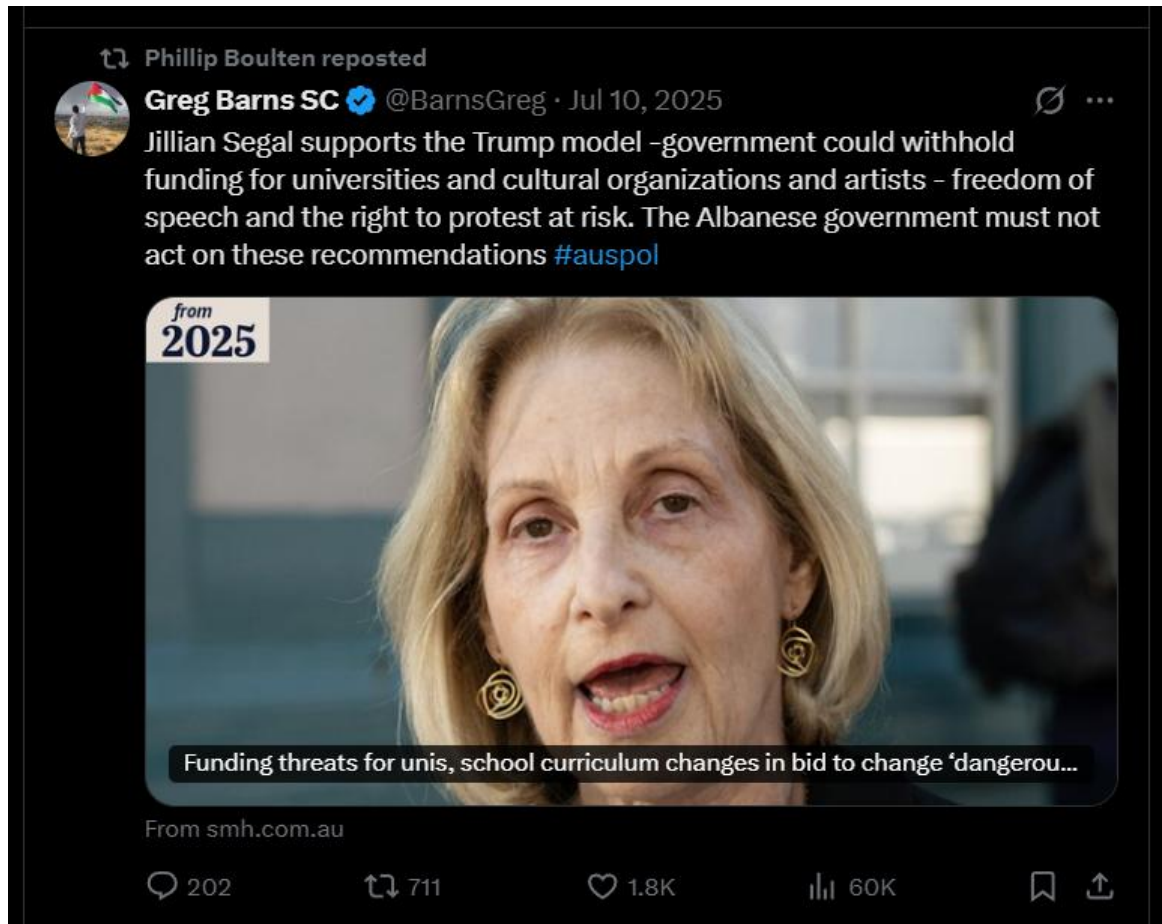


PB's misrepresentation of Jillian Segal report was deliberate

98. PB reposted a false post of another obsessed Israel-hater on 10 July 2025, instead of providing a nuanced analysis of the proposals – an analysis of the kind that one would expect from Senior Counsel. See below.²⁵

99. It is plain from a review of all of his posts that PB made a concerted effort to undercut and oppose the implementation of Jillian Segal's recommendations, and that he did so in a manner that was not honest, and that was inconsistent with his obligations as Senior Counsel.

²⁵ <https://x.com/BarnsGreg/status/1943127272795652567>



Zionist Jews lie and they lie and they lie

100. As noted, and as will be dealt with in more detail below, Zionism is an integral and fundamental tenet of Judaism, and contemporary antisemitism has today mutated into anti-Zionism.

101. On 26 December 2023, Adam Houda published a post incorporating a segment from a British comedian, Alexei Sayle, and wrote: *“Listen to what Alexei Sayle, a British Jewish comedian, comments about **Zionist Jews.**”* **#FreePalestine.**

102. Note the words Zionist Jews.

103. PB responded on 27 December 2023

“And they [Zionist Jews] lie, and they lie, and they lie.”²⁶



104. In other words, as a prominent Senior Counsel, PB expressly published, online, to a wide audience, that Zionist Jews “Lie and they lie and they lie”.

105. PB must have known that by publishing those words he was openly denigrating, humiliating, bullying, intimidating, isolating, harassing, and causing serious offence to, and discriminating against, Jews. The words sought to demonise, delegitimise and humiliate Jews – at the very time they were suffering from a tsunami of antisemitism.

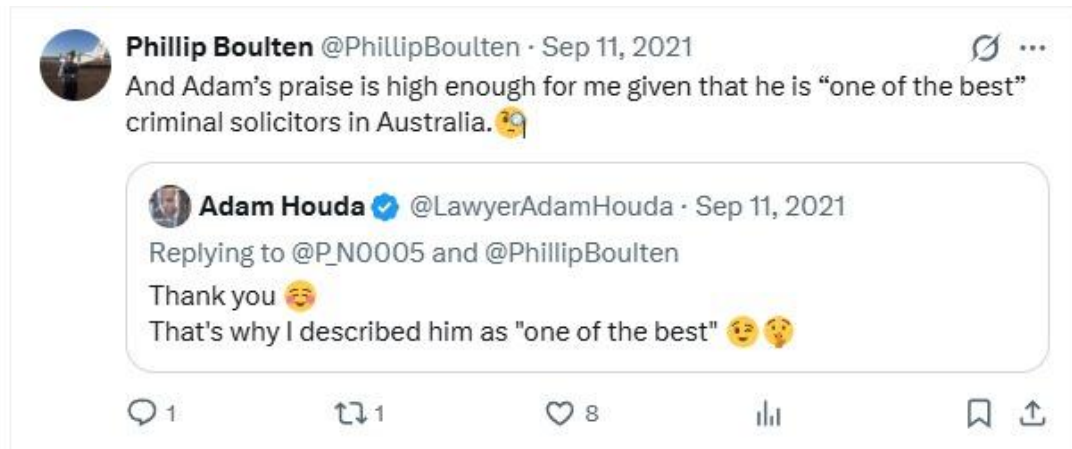
²⁶ <https://x.com/PhillipBoulten/status/1739826877236421100>

106. PB himself engaged in antisemitic hate speech – in circumstances where, in the light of his reputation and eminence, he must have known that he would thereby cause others to do so as well.

Support for Adam Houda’s vilification and demonisation

107. Adam Houda is a criminal lawyer who himself has an extensive history of publishing posts that, in our opinion, based on posts referred to below as well as the posts referred to at <https://www.israellycool.com/2025/01/24/more-speculation-as-to-why-some-might-think-lawyer-adam-houda-hates-jews/> are profoundly antisemitic (although he publicly threatens to sue anyone who refers to him as antisemitic – and, as will be seen below, he has been supported in that regard by PB).

108. PB has a long-standing connection with Adam Houda.



109. As will be demonstrated below, PB supports and reposts vilification of Zionists/Jews/Israel published by Houda.

Vilification, demonisation, delegitimisation of Israel – double-standards – Genocide – Incendiary and false statements about Israel

110. Before moving onto the next group of publications of PB, we emphasise – so as to avoid any doubt - that we know of no responsible Jewish leader who has ever suggested that it is antisemitic to criticise Israel. That would be a patently absurd suggestion.

111. Obviously one can criticise Israel just as one can criticise any other country. It is not antisemitic to do so. That is of course trite.

112. However, the utterly false charge or straw man – that Jews use the accusation of antisemitism to silence genuine non-antisemitic criticism - is often levelled at Jews who object to genuine antisemitism. That issue will be addressed further below.

113. It is in fact an antisemitic calumny that Jews use the accusation of antisemitism to silence genuine non-antisemitic criticism. It is false.

114. Where the criticism crosses the line – as will be demonstrated below – is when the “criticism” is in truth and in substance not genuine bona fide criticism but is in fact demonisation and delegitimisation of Israel/Zionists/Jews based upon double-standards; when standards are imposed on Israel/Jews/Zionists which are not imposed upon any other country or people in the entire world.

115. Properly understood, PB engaged in such demonisation and delegitimisation of Israel/Zionists/Jews based upon double-standards.

Zionists nefariously control Australia; Australia must distance itself from Israel

116. On 6 January 2024, in response to a classically antisemitic post in effect accusing the Jews of nefariously controlling Australia [*“How much power does (sic) the **Zionists** and Murdoch have in Australia that our PM can’t be real ...”*], (note the word “Zionists”) PB posted:²⁷

“Albo, it’s time for Australia to **distance ourselves from Israel**” [Emphasis added.]



117. One will of course search in vain for posts by PB advising the Australian Prime Minister to distance Australia from any other country. His opprobrium is reserved for Israel alone.

²⁷ <https://x.com/PhillipBoulten/status/1743568912732872751>

118. In context of the post to which PB was responding, the imputation published by him is that “Zionists” are uniquely evil – so much so that it is necessary to distance Australia from Israel – the land of the Zionists.

119. It is well known that the word **Zionist** is often deployed as a code word for **Jew**. This will be addressed below.

PB publicly publishes his express support and endorsement of grotesque post of Adam Houda containing multiple classic antisemitic tropes – and imputing that Israel is the most uniquely evil criminal state in the entire world – and has been since its inception – and publicly and expressly offers to assist Adam Houda

120. On 24 January 2024, Adam Houda published a vile antisemitic post that, *inter alia*, included assertions that there “are **people in the shadows** ... trying their best to discredit me simply for raising **awareness of the genocide taking place in Palestine - being perpetrated by the criminal state of Israel**. To those people & **insidious groups planning and plotting against me** – I will not be silenced. ... I will be taking issue with Israel’s **75 years of heinous OPPRESSION, OCCUPATION AND MASS MURDER** of the Palestinian people. For 3 months now we have witnessed **a horrific genocide** being perpetrated right before our eyes by Israel **against defenceless Palestinians** ... including **babies and children, slaughtered in cold blood**. I, like the majority of people on this earth, have been **completely horrified by this unprecedented evil, savagery, and barbarity of Israel’s war crimes**. ... If Bolt or Sky News had a shred of decency they would be leading the way in **trying to bring the criminal state of Israel to justice**. ... **... In the meantime, #Free Palestine**

121. PB responded to that ugly – and demonstrably false²⁸ - post by giving it his complete imprimatur and express support by writing:

“Strident, yes; front-footed, yes; misguided – certainly not. You and I have shared messages about the atrocious attacks on Gaza civilians. Not a single dollop of racism or antisemitism. Let me know if I can assist.” [Emphasis added.]

²⁸ As will be demonstrated below.



Adam Houda @LawyerAdamHouda · Jan 23, 2024



NEWS:

I intend to sue Andrew Bolt, Danica De Giorgio & Murdoch's @SkyNewsAust for the defamatory story they ran about me today calling me a "Jew hater".

The allegation is baseless and completely untrue. I challenge anyone on this planet to find one example demonstrating I hate Jews. You will never find one!!!

To the contrary, many of my heroes, who share similar views to me, are Jews. Just to name a few, they include:

1. Noam Chomsky
2. Norman Finkelstein
3. Ilan Pappé
4. Oliver Stone
5. Gideon Levy

If you look at my track-record, I don't take injustice lightly. I have always vigorously and successfully stood up for my rights through the appropriate channels.

No doubt, there are people working in the shadows who are behind this false story - trying their best to discredit me simply for raising awareness of the genocide taking place in Palestine - being perpetrated by the criminal state of Israel.

To those people & insidious group/s planning and plotting against me - I will not be silenced. As long as my heart beats, I will be taking issue with Israel's 75 years of heinous OPPRESSION, OCCUPATION AND MASS MURDER of the Palestinian people.

For over 3 months now, we've witnessed right before our eyes, a horrific genocide being committed by Israel against defenceless Palestinians which has seen over 30,000 civilians, including babies and children, slaughtered in cold blood.

I, like the majority of people on this earth, have been completely horrified by the unprecedented evil, savagery and barbarity of Israel's war crimes.

If Bolt or Sky News had a shred of decency about them, they would be leading the way in trying to bring the criminal state of Israel to justice. Instead they attack and defame those doing the job the world expects of them.

Andrew Bolt & Sky News - your reputations precedes you for the trashy, sleazy, gutter 'journalism' you dish out of your sewer offices daily. To the point, you bring the whole profession of journalism into disrepute.

My advice to you is to apologise to me immediately to mitigate the damage you've caused to my reputation.

You'll be receiving a Letter of Demand from my lawyers shortly.

In the meantime, #FreePalestine

Lawyer, Adam Houda.

671 2K 5.1K 357K



Phillip Boulten @PhillipBoulten · Jan 24, 2024



Strident, yes; front-footed, yes; misguided - certainly not! You and I have shared messages about the atrocious attacks on Gaza civilians. Not a single dollop of racism or anti-semitism. Let me know if I can assist.

12 31 238 34K

122. Mass violence virtually always begins with words – with incitement, with vilification, with demonisation.
123. It is submitted that it is obvious that posts – like the above Post – are responsible for the tsunami of antisemitism – particularly the tsunami of violent antisemitism that has swept across Australia over the past two years.
124. It defies credulity that a Senior Counsel of the caliber of PB would not know that such posts would inevitably incite hatred and violence.
125. PB, like Adam Houda, engaged in an arrogant form of gaslighting. Both contended that – in the words of PB – there is not **a single dollop of racism or antisemitism** – in the post of Houda. In other words, they both consider that there is not a **dollop** of antisemitism in imputing that
- a. Jews/Zionists are really pulling the strings – they are “**people in the shadows** ... trying their best to discredit me simply for raising **awareness of the genocide taking place in Palestine**” – they are part of **insidious groups planning and plotting against [Houda]**”;
 - b. Israel (the one and only Jewish State) is a criminal State – and, alone out of every country in the entire world – it does not have a right to exist;
 - c. Israel has never had a right to exist – ever – for the past 75 years;
 - d. Israel is so uniquely evil that for the past 75 years it has engaged in **heinous OPPRESSION, OCCUPATION AND MASS MURDER** of the Palestinian people;
 - e. Israel is intentionally slaughtering defenceless Palestinian babies and children in cold blood;

- f. Israel has engaged in war crimes of such **unprecedented evil, savagery and barbarity** that the majority of people on this earth, have been **completely horrified**;
- g. Israel is a criminal state that does not deserve to exist;
- h. It is moral to fight to free Palestine of Israel.

126. In other words, PB and Houda impute that Israel is not merely evil; its evil is unprecedented – it is worse than the Nazis – it is worse than those regimes that hang gays from cranes - it has engaged “in war crimes of such **unprecedented evil, savagery and barbarity** that the majority of people on this earth, have been **completely horrified.**”

127. The perverse inversion of reality – as will be demonstrated below – is is extraordinary.

128. And yet PB – again with his gravitas and responsibility of an eminent Senior Counsel and former President of the New South Wales Bar Association – not only gaslights the Jewish people by arrogantly asserting that there is not a single dollop of antisemitism in any of the above, but also asserts categorically that Houda’s post is “**certainly not**” misguided; in fact he **gratuitously offers to assist Houda.**

129. PB thus imputes that Israel is not simply profoundly evil; worse, it is the most evil country that has ever existed – its “war crimes” are of **unprecedented evil, savagery, and barbarity.** They have shocked the entire world.”

130. The consequences of PB's words are self-evident. As noted by Melanie Phillips in relation to vilification of this kind which:²⁹

“... [paints] Israel as worse than the tyrannies in the world where, you know, women are stoned and gays are hanged and thousands are murdered.

So we have to be clear what we're seeing here. This is not simply hostility to Israel. **This is painting Israelis as evil, as diabolical. These are accusations which say that Israelis are deliberately starving civilians, wantonly killing babies, they're being called Nazis.**

Well, if people are evil Nazis, they are enemies of humanity. **And what do you do with enemies of humanity? You justify killing them** in a war. **And that's what's being said about Israelis.** And if it follows that Israelis are evil Nazis, any ... **Jews who support Israel are also evil Nazis. And they're also then justifiably to be removed from the earth.**”

131. As further explained by Melanie Phillips, words like those deployed by Adam Houda – and endorsed and supported by PB – incite hate, and violence, and ultimately murder.

132. It will be demonstrated below that the posts of Mr Houda and PB, **far from containing “not a single dollop” of antisemitism, are profoundly antisemitic.**

²⁹ Melanie Phillips, 3 October 2025, [J'accuse](https://melaniephillips.substack.com/p/jaccuse) <https://melaniephillips.substack.com/p/jaccuse>.

133. PB has repeatedly engaged with, endorsed, and normalised publications by Mr Houda, a person well known for his vitriolic hostility towards Israel;³⁰ note PB's words to Adam Houda by PB - "***You and I have shared messages about the atrocious attacks on Gaza civilians.***"
134. PB's interactions with Mr Houda were **not accidental, isolated, or inadvertent**, but occurred within the context of an established relationship in which PB repeatedly lent credibility, validation and professional imprimatur to Mr Houda's posts.³¹
135. It is significant to note that the above posts were made about two months after the 7 October atrocities while most of the kidnapped hostages were still in the dungeons of Gaza. They were made at a time when the horrors of 7 October 2023 were still fresh. This is an aggravating – not an exculpating factor.
136. In fact, the last Israeli hostage was only returned to Israel – and then only through the efforts of the IDF – on 27 January 2026.
137. It is also noted that the above are but some of the posts of PB as evidenced by PB's words "***You and I have shared messages about the atrocious attacks on Gaza civilians.***"
138. The significance of these interactions between Mr Houda and PB lies not merely in their content, but in what they reveal about PB's **judgment, selectivity, and willingness to normalise and endorse conduct that targets Jews, Jewish-associated individuals, and Jewish-connected businesses**, particularly at a time of heightened antisemitic hostility.

³⁰ See the posts referred to in the article at <https://www.israellycool.com/2024/01/24/lawyer-adam-houda-threatens-to-sue-sky-news-australia-for-calling-him-a-jew-hater/>

³¹ See the posts referred to in the article at <https://www.israellycool.com/2024/01/24/lawyer-adam-houda-threatens-to-sue-sky-news-australia-for-calling-him-a-jew-hater/>

139. The pernicious nature and falsity of this gaslighting will be addressed below.

Israel is an illegal entity that the Zionists violently stole from the Palestinians whose land it was – and has no right to exist

140. An analysis of PB's posts demonstrates that PB believes – or at any rate seeks to incite other people to believe – that Israel is a criminal State that was violently stolen from the Palestinians; that, in the words of Adam Houda, Israel is, and always has been, a criminal state.

141. The following post of Adam Houda which was reposted by PB on April 10, 2024 demonstrate that, apart from the fact that both Houda and PB are ignorant of the history of the land, both believe that

- a. Israel is an illegal entity;
- b. Israel was wrongfully and violently stolen from its rightful owners;
- c. Israel should therefore be destroyed and returned to its rightful owners.³²

³² <https://x.com/LawyerAdamHouda/status/1778014426303701393>



142. It is appropriate for the Judicial Commission to review the segment as it was deliberately reposted by PB.

143. It is assumed that the Judicial Commission does not wish us to demonstrate the perverse fallacy and falsity of the above puerile and simplistic reasoning. However, if the Judicial Commission does wish us to do so we will of course be willing to do so.

144. Suffice it to say, at this stage, that in our submission it is clear that posts of this kind inevitably cause hatred and violence; they call for the annihilation of Israel. They impute that Zionists have no right or claim to Israel – that they violently stole the land from its settled and rightful owners who were happily living there as owners.

145. As a matter of practical reality, therefore, the “**Zionism in 60 seconds**” segment, strikes at the very heart of Judaism; it is liable to lead another genocide of Jews.

Israel guilty of the most serious criminal offences in the world – including genocide – the modern-day blood libel

146. PB repeatedly published online **incendiary statements** about Israel that are plainly apt to incite hatred and vilification of Israel and of all who support it, statements that seek to demonise and delegitimise Israel and Zionists.

147. A case in point is the accusation of genocide levelled against Israel. Genocide is the most serious crime that can be committed – it is the crime of crimes.

148. The allegation of Genocide against Israel (albeit that it appears to be made by some *ostensibly* well credentialed people) is so absurd that it has often been referred to as a “modern blood libel”³³ – referring to the medieval false accusations that Jews ritually murdered non-Jews (especially children) for religious purposes.

³³ See, for e.g., Friedgut, [Brief](https://briefonline.com.au/2025/12/23/the-accusation-of-genocide-a-rebuttal/), 23 December 2025, The accusation of genocide: A rebuttal <https://briefonline.com.au/2025/12/23/the-accusation-of-genocide-a-rebuttal/> and the sources referred to in that article – footnoted in fn 36050 below.

149. As noted by the respected former Canadian Supreme Court Judge, Rosalie Silberman Abella,³⁴ herself an expert in international law:

“it is a legal absurdity to suggest that a country that is defending itself against genocide is thereby guilty of genocide.” “To me, this case represents an **outrageous and cynical abuse of the principles underlying the international legal order that was set up after the Second World War**. ... As a lawyer, I find it **shameful**; as a Jew, I find it heartbreaking; and as the child of Holocaust survivors, I find it unconscionable.” [Emphasis added.]

150. Yet PB repeatedly made the Genocide allegation against Israel. For example, on 2 April 2024, in response to a particularly inflammatory post of Bob Carr, PB wrote that

“Israel has been committing a range of offences in Gaza for many months. Genocide is just one.”³⁵

151. It should be remembered that the above posts were published by PB just over two months after the 7 October atrocities when most of the kidnapped hostages were still in the dungeons of Gaza, and when Israel was fighting an existential war on seven fronts against enemies that openly and expressly seek to destroy it.

152. However, PB published his unequivocal assertions – including that Israel has been committing a range of offences in Gaza for many months, and Genocide is just one – in circumstances where it was widely known that he was an eminent and experienced Senior Counsel who specialised in criminal

³⁴ 9 January 2024, ‘The genocide case against Israel is an abuse of the postwar legal order’ <https://www.theglobeandmail.com/opinion/article-south-africas-genocide-case-against-israel-exploits-the-post-war-legal/>

³⁵ See Schedule 1 to 19 January 2026 letter to Attorney General – Schedule B

law. He, therefore, had a duty to ensure that he does not publish false and deceptive statements on line in relation to legal issues, without properly investigating the credibility of his sources, and without having considering the law.

153. In considering the publications of PB, the Judicial Commission should have regard to the following for purposes of determining whether the unequivocal one-sided statements that PB published were appropriate for an SC publishing online. PB's assertions in relation to Genocide were not only demonstrably false but, as noted by Michal Cotler-Wunsh, chief executive of the International Legal Forum, with reference generally to allegations of Genocide against Israel, such allegations constitute a dangerous example of the Orwellian inversion of fact and law, enabled by decades of systematic hijacking, redefinition, inversion, and weaponization of legal institutions and principles.³⁶

³⁶ for e.g., Friedgut, [Brief](https://briefonline.com.au/2025/12/23/the-accusation-of-genocide-a-rebuttal/), 23 December 2025, The accusation of genocide: A rebuttal <https://briefonline.com.au/2025/12/23/the-accusation-of-genocide-a-rebuttal/>; Orbach, Prof. Danny, Dr. Jonathan Boxman, Dr. Yagil Henkin & Adv. Jonathan Braverman. *Debunking the Genocide Allegations: A Reexamination of the Israel-Hamas War from October 7, 2023 to June 1, 2025*. Begin-Sadat Center for Strategic Studies, September 2, 2025. (Orbach, Boxman, Henkin and Braverman) <https://besacenter.org/debunking-the-genocide-allegations-a-reexamination-of-the-israel-hamas-war-2023-2025/>; Scholars for Truth about Genocide signed by 509 Scholars (Scholars): [Scholars for Truth about Genocide | Explore the Truth – Take Action](https://scholarsfortruth.org/explore-the-truth-take-action/); Elliot Malin, “The Genocide Scholars Who Can’t Define Genocide,” *Quillette*, September 11, 2025: <https://quillette.com/2025/09/11/the-genocide-scholars-who-cant-define-genocide-iags-israel/>; *Murky Waters: How HRW’s Report Obscures the Reality of Water Access in Gaza*. GovExtra, 22 August 2025. Available at: https://govextra.gov.il/media/ywtkhzwr/murky-waters_-how-hrws-report-obscures-the-reality-of-water-access-in-gaza.pdf; Sapir, Eliyahu V. “From apartheid to genocide: B’Tselem’s new gambit.” *The Times of Israel* (blog), August 1, 2025. <https://blogs.timesofisrael.com/from-apartheid-to-genocide-btselems-new-gambit/>; Permanent Mission of Israel to the United Nations & International Organizations, Geneva, “Israel Categorically Rejects the Libelous Rant Published Today by the Commission of Inquiry,” September 16, 2025, *Embassies of Israel – Geneva*, <https://embassies.gov.il/ungeneva/en/news/16-09-2025>; Permanent Mission of Israel to the United Nations & International Organizations, Geneva, “Israel Categorically Rejects the Libelous Rant Published Today by the Commission of Inquiry,” September 16, 2025, *Embassies of Israel – Geneva*, <https://embassies.gov.il/ungeneva/en/news/16-09-2025>; UN Watch, “U.N. Can’t Handle the Truth From Natasha Hausdorff,” *UN Watch*, October 1, 2025, <https://unwatch.org/the-u-n-cant-handle-the-truth-from-natasha-hausdorff/>; *HonestReporting*, “Rebutted: UN Inquiry Report Falsely Accuses Israel of ‘Genocide’,” *HonestReporting*, September 17, 2025, <https://honestreporting.com/rebutted-un-inquiry-report-falsely-accuses-israel-of-genocide/>; Michal Cotler-Wunsh, X (6 December 2024)

154. Indeed, in our submission, common sense would have demonstrated to an unbiased mind that if Israel **intended** to destroy the Gazan population – if Israel had the *dolus specialis* required for genocide - it could have done so easily on a single afternoon, from the air, without risking the life of a single Israeli soldier. The fact that Hamas remains an active fighting force more than two years into the conflict, in and of itself demonstrates the weakness of PB’s categoric assertion of Genocide.

155. However, given his status as a SC specialising in criminal law, it is strange that he failed to address or even obliquely refer to the clear evidence demonstrating the absurdity of the Genocide allegation. For example, as noted by John Spencer Chair of Urban Warfare Studies at the Modern War Institute at West Point and Chair of Urban Warfare Studies at the Madison Policy Forum, former U.S. Army Major and one of America’s leading experts on urban warfare, based on his own observations in Gaza, **“Israel has taken more measures to reduce civilian harm than any military in history,”**³⁷ including layered warnings, evacuation corridors, daily pauses, roof knocking, safe zones, and an unprecedented combination of precision fires and restrictions on ground manoeuvre that often put its own soldiers at greater risk to protect civilians. I have studied and documented urban warfare for decades. No other military has attempted to do what the IDF has done in Gaza.”³⁸ Similar assessments have been made by numerous other military experts, including multiple retired US generals, admirals, and military and legal specialists who have observed IDF operations in Gaza first-hand.³⁹

³⁷ John Spencer, April 4, [New York Post](https://nypost.com/2024/04/04/opinion/israel-defense-forces-work-to-protect-civilians-not-kill-them/), Israel Defense Forces work to protect civilians — not kill them, <https://nypost.com/2024/04/04/opinion/israel-defense-forces-work-to-protect-civilians-not-kill-them/>

³⁸ Spencer Response (n 3).

³⁹ Jewish Institute for National Security of America (JINSA), *The October 7 War: Observations, October 2023 – May 2024*, May 30, 2024, JINSA, https://jinsa.org/jinsa_report/gaza-war-observations-2023-2024; see also <https://www.icc-cpi.int/sites/default/files/CourtRecords/0902ebd180920f26.pdf>; Corn, Geoffrey. “*Those Who Criticize Israel for Using Indiscriminate or Excessive Force in Gaza Are Wrong.*” *thinc.*, 15 Apr. 2024, <https://thinc-israel.org/recommended/those-who-criticize-israel-for-using-indiscriminate-or-excessive-force-in-gaza-are-wrong>

156. British Military Expert, Col (Ret.) Richard Kemp CBE, former commander of British Forces in Afghanistan, Iraq, the Gulf War, Bosnia, and Northern Ireland who, like Spencer, has spent time on the ground in Gaza, has also observed that “*No country in history has ever shown more concern for civilians, and has ever done more to avoid civilian casualties, than Israel.*”⁴⁰
157. Furthermore, as noted by Spencer, “Israel did more to **feed, house, vaccinate, provide medical care**,”⁴¹ and to prevent harm to the civilian population in Gaza, than any nation in history has done in analogous circumstances. “Wanting to destroy your enemy is not genocide. It is war. War is not illegal, and in some cases it is necessary.”⁴² In facilitating such aid to Gaza, notwithstanding extensive evidence that Hamas hijacks, diverts, exploits and benefits from such aid, Israel has in fact exceeded its obligations under International Law.
158. Moreover, contrary to the impression that one will gain from a review of the vitriolic comments of JB, Gaza’s civilian-to-combatant casualty ratios are comparatively low by modern urban warfare standards⁴³ – probably lower

⁴⁰ Richard Kemp, ‘UK’s former defence secretary has played right into Hamas’s hands’ 19 December 2023 https://www.thejc.com/lets-talk/uks-former-defence-secretary-has-played-right-into-hamass-hands-qn7x3i1g?utm_source=sharebutton&utm_medium=email&utm_campaign=bottom

⁴¹ John Spencer, July 28, 2025, *The Jerusalem Post*, <https://www.jpost.com/opinion/article-862533>

⁴² Spencer Response (n 3).

⁴³ John Spencer, March 25, 2024, “Israel Has Created a New Standard for Urban Warfare. Why Will No One Admit It?” *Newsweek*; <https://www.newsweek.com/israel-has-created-new-standard-urban-warfare-why-will-no-one-admit-it-opinion-1883286>; Martin Sherman, April 11, 2024, JNS, ‘Misplaced moral outrage on civilian casualties’: <https://www.jns.org/misplaced-moral-outrage-on-civilian-casualties/>; Alessandro Spinillo and Paulina Guerrero, December 23, 2024, *thinc.*; Amnesty International seeks to expand the concept of genocide: <https://thinc-israel.org/articles/amnesty-international-seeks-to-expand-the-concept-of-genocide/>; Lewi Stone and Gregory Rose, January 18, 2025, When Military Targeting of Hamas Combatants was Misrepresented as Genocide: An Open-Source Data Analysis with a Focus on Israeli Airstrikes in the Gaza Urban Warfare, 2023–2024 <https://www.degruyterbrill.com/document/doi/10.26613/jca/7.2.162/html?lang=en&srsltid=AfmB OopXvWb1NiKmj6QAaczecznJRSZbdzvpDsGHyb3CwHFmah7iLCKj1I>; Professors Lewi Stone and Gregory Rose, 27 April 2025, Hamas Casualty Reports are a Tangle of Technical Problems, <https://henryjacksonsociety.org/publications/hamas-casualty-reports-are-a-tangle-of-technical-problems/>; Lewi Stone and Gregory Rose, April 29, 2025, Gaza by Numbers, the *Real Numbers*, *Quadrant*, <https://quadrant.org.au/news-opinions/israel/gaza-by-numbers-the-real-numbers/>; Lewi Stone and Gregory Rose, How Hamas won the (dis)information war: the manipulation of Gaza casualty data, *The Jewish Chronicle*, <https://www.thejc.com/opinion/hamas-disinformation-war-manipulation-gaza-casualty-data-opjplyb>. Hamas casualty numbers do not distinguish between

than any even remotely analogous theatre of battle - all the more remarkable given that – as JB must surely know - Hamas deploys civilians as human shields and that “Hamas fights among civilians and designs its tactics to ensure Israel kills as many civilians as possible. The IDF on the other hand have become world leaders at attacking an enemy while minimising the extent of civilian casualties.”⁴⁴.

159. As a Senior Counsel learned in criminal law, it would be surprising in our opinion, if JB was not aware of the fact that – as a matter of law - the critical factual matrix that governs the legal assessment of proportionality, distinction, and military necessity—facts that form the *sine qua non* of any proper inquiry into genocidal intent during a war. Compliance with these international laws of war is not judged on the basis of outcomes alone, but also on factors such as intelligence, effort and precaution.⁴⁵ Hamas intentionally built one of the world’s largest tunnel networks beneath residential areas, hospitals, schools and mosques, and used protected sites as command centres and weapons depots. These facts are extensively documented and undisputed by serious military analysts. Such tactics inevitably result in civilian harm, and are a far more plausible explanation of such harm than the legally untenable suggestion that Israel intentionally inflicts civilian harm as a means of group destruction.

160. Furthermore, as a SC specialising in criminal law, before making the unequivocal assertion that Israel **is committing genocide** he ought to have carefully considered the elements of that offence – and asked, as a SC, whether it was reasonable to make the categorical assertions that he made publicly online. For example, ICJ has repeatedly held that genocidal intent

militants and civilians, nor those killed by the IDF and those by errant Hamas rocket fire, or by detonation of Hamas booby-traps, or due to tunnels collapsing causing buildings overhead to collapse, or even due to natural deaths during the war. In any event, high civilian casualty numbers do not constitute evidence of genocide: there are much more reasonable explanations in the context of a protracted conflict taking place in an urban environment against a terrorist organization that openly endangers its own population.

⁴⁴ Kemp (n 14).

⁴⁵ Spencer Response (n 3).

can be established only where it is the *sole reasonable inference* from a State’s pattern of conduct.⁴⁶ We submit that no reasonable observer could argue that Israel’s military actions—directed against Hamas, a terrorist organization explicitly dedicated to its annihilation—constitute genocide under this, or indeed any, standard.

161. PB must surely have been aware that the allegation of “genocide” is particularly offensive to the Jewish people. The term Genocide was coined in 1944 by the Polish-Jewish jurist Raphael Lemkin in response to the Nazi attempt to annihilate the Jews and was criminalized in the 1948 UN Genocide Convention. Today it is cynically repackaged and applied against Israel, most prominently in South Africa’s absurd claims at the International Court of Justice. Thus, a legal instrument intended to punish genocide, as well as a once-respected international court, have been turned into political weapons.⁴⁷ It is a cynical inversion of reality.

162. Israel did not commit genocide. It fought a war of self-defence that it did not seek, or want, while trying to rescue hostages brutally kidnapped to Gaza’s tunnels, against a genocidal death cult that promised to repeat 7 October again and again⁴⁸ - indeed, that declared that 7 October was just a ‘rehearsal’⁴⁹ – and that **still today** calls for the annihilation of Israel: on 6 December 2025, Hamas leader Khaled Mashal, said in a keynote address that the Al-Aqsa flood – i.e. 7 October – “with its might has prepared the international arena,” and “this is our opportunity to build on this in order to

⁴⁶ *Bosnia v. Serbia* ICJ Rep. 43 (2007) at [373] (“for a pattern of conduct to be accepted as evidence of its existence, it would have to be such that it **could only point to the existence of such intent.**”); *Croatia v. Serbia* ICJ Rep. 2015, paras. [147]–[148].

⁴⁷ Alan Baker, 21 January 2026, [The Jerusalem Post](#), Buzzwords and false allegations are Western human rights inversion.

⁴⁸ ‘We Will Repeat October 7 Again and Again’ *The Jerusalem Post* (Online, 2024) <https://www.jpost.com>;

⁴⁹ Gaza Report – أخبار غزة (@GazaReport), X (formerly Twitter, 1 December 2023) <https://twitter.com>.

expel this entity [Israel] from our homeland, and from the international stage.”⁵⁰

163. However, rather than condemn Hamas’s genocidal massacre of 7 October, or acknowledge that the war could have ended in 2023 had Hamas returned the hostages and surrendered, PB directs vitriolic hatred towards Israel and Zionists. He in effect blames Israel for defending itself against a terrorist death cult that continued to attack Israeli civilians throughout the conflict, and that continues its call for its annihilation. He calls on Australia to join South Africa in its obscene ICJ case against Israel. (We do not know whether he is aware of the fact that South Africa has great respect and admiration for Hamas – a listed terrorist organisation. SA is one of the few countries where Hamas has an embassy. SA congratulated Hamas after the 7 October massacre.)

164. This is not to suggest that we are asking the Judicial Commission to make a final or any determination on this issue – other than on the question as to whether it was appropriate, having regard to the legal and ethical obligations to which barristers (a fortiori, SCs) are subject for PB to have published his vitriolic assertions of Genocide.⁵¹

PB publishes false statement about the ICJ judgments – and fails to correct his error

165. Having regard to his status as a Senior Counsel, PB made a seriously false statement concerning the decision of the International Court of Justice in a post dated 27 January 2024. Referring to the dissenting opinion of Judge Sebutinde of Uganda, he wrote:

⁵⁰ “*Top Hamas Official Khaled Mashal: The Battle with Israel Is Not Over; Our Weapons Are Our Honor and Glory – Rights Are Regained ‘At The Recruitment Office’.*” MEMRI TV, 6 Dec. 2025, www.memri.org/tv/khaled-mashal-hamas-battle-israel-october-7

⁵¹ See Barristers' Rules 8 a) to 8 c) - and the NSW Bar Social Media Guidelines,

Her Honour disagrees with 15 other judges about the nature and extent of **the IDF's acts and the pronouncements of Israeli leaders being prima facie evidence of Israel's genocidal intent.** She was not just outvoted. Her findings are unreasonable.”
[Emphasis added.]

166. The above is **factually wrong**. The majority of the ICJ made **no finding whatsoever** — not even on a prima facie basis — *that the acts of the IDF or statements of Israeli leaders constituted plausible evidence of genocidal intent.*⁵² That ought to have been clear from the reasons.

167. However, whether because of wishful thinking or ignorance or malice, many (including PB) sought to misconstrue the judgment. So much so that Judge Joan Donoghue, who was President of the ICJ when it made its original Order, saw fit to explain the meaning of the Order (and to debunk the misconstruction of it) when interviewed by Stephen Sackur on BBC's Hardtalk programme, broadcast on 25 April 2024⁵³ in which Judge Donoghue said, *inter alia*,

“... *I'm correcting what's often said in the media – it [the Judgment and order] **didn't decide that the claim of genocide was plausible.***”

⁵² *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v Israel)*, Provisional Measures, Order of 26 January 2024, I.C.J. Reports 2024, esp [36], [54], [62]

⁵³ BBC – for reasons best known to it – have now removed that interview. However, see ICJ President confirms it did not find there is a plausible case that Israel is committing genocide, <https://www.uklfi.com/icj-president-confirms-it-did-not-find-there-is-a-plausible-case-that-israel-is-committing-genocide>.

... *the shorthand that often appears, which is that there's a plausible case of genocide, **isn't what the court decided.***
[Emphasis added.]

168. Regretfully, we have not found anything online to suggest that PB has ever corrected his manifestly false statement.

PB publishes false statement about UNRWA

169. On January 28 2024, in relation to the proposed defunding of **UNRWA**, following Israel's provision of hard evidence that UNRWA staff had been directly complicit in the 7 October 2023 massacre (some had actually participated in the actual massacre), PB wrote:

“The timing of the defunding **shows how closely Australia is associated with the Israeli offensive** — and **barely a whisper about the ICJ.**” [Emphasis added.]

170. The non sequitur in that statement requires no elaboration. It does, however, further demonstrate PB's **animus and bias**.

PB's chilling call to 'Investigate war crimes by Australian citizens' following what he falsely described as 'outrageous murders' being part of Israel's demonstrated perfidy.

171. On 1 April 2024, Ms Zomi Frankcom, an Australian national, was killed by an Israel Defense Forces (**IDF**) strike in Gaza while supporting a World Central Kitchen (**WCK**) aid delivery.

172. On 2 April 2024, Prime Minister Netanyahu quickly accepted Israeli forces' responsibility for the incident, stating 'this happens in war' and that Israel would conduct a thorough enquiry.

173. Rather than waiting for the results of any enquiry, Mr Chris Murphy and PB rushed to judgment by posting highly inflammatory posts against Israel and Zionists [Jews].

174. Chris Murphy posted that Ms Zomi Frankcom was

“murdered by Israel Zionist killers #GazaGenocide. Please Australia move against Israel now”:

175. Note the fact that the words Israel and Zionist were both deployed.

176. PB immediately responded in a manner that was equally forceful, intemperate and inflammatory:

“Mere hand-wringing is not enough.

These **outrageous murders** are part of **Israel’s demonstrated perfidy**.

Send the Israeli ambassador home.

Ban weapons sales now.

Impose sanctions on Israel, Israeli elected officials, and the IDF.

Investigate war crimes by Australian citizens.

For **a start**.” [Emphasis added.]

177. It is surprising that an experienced Senior Counsel considered it appropriate to publicly publish a categoric, unequivocal and inflammatory set of assertions **in the absence of evidence**, when it was well known that an investigation was still to occur.

178. Given that PB appears to be so focused on Israel, it would be surprising if he is not aware of the truism that:

if Israel's enemies would put down their arms there would be peace, but

if Israel were to put down her arms Israel would be obliterated – and all the Jews living there would be murdered.

179. This is not a secret; Israel's enemies like Hamas, Hezbollah, Iran and the Houthis clearly broadcast their genocidal intentions against Israel.

180. However, we have been unable to find a single Post from PB condemning them for so doing; nor have we found any post condemning the barbaric 7 October massacres and kidnappings, and calling for the return of the hostages; or objecting to their numerous war crimes. Rather, PB calls for the ban on weapons sales only to Israel - a state facing a declared genocidal threat and a multi-front war supported by Iran and Qatar.


181. Further, given that compulsory military service exists in Israel, PB's call for sanctions against the IDF and against Israeli elected officials would, in practical terms, involve the sanctioning of a substantial proportion of Israeli society.


182. The call to "***investigate war crimes by Australian citizens***" is widely understood within the Jewish community as a coded reference to Jews who support Israel or to young Jews who may have volunteered in the Israeli Defence Forces (which is perfectly legal).


The rush to judgment by PB was proven to be wrong – but his false and inflammatory post have never been corrected, clarified or retracted

183. But the unseemly rush to judgment by Murphy and PB was misconceived. They were proven to be wrong by Air Chief Marshal Mark Binskin AC who was appointed by Australia to investigate the event.
184. Air Chief Marshal Mark Binskin AC went to Israel to investigate. His report was published on 2 August 2024. His assessment was that the IDF strike on the WCK aid workers was not knowingly or deliberately directed against the WCK. It was a classic type of mishap that occurs in war.
185. When Air Chief Marshal Mark Binskin AC's report was published on around 2 August 2024, the story, by and large disappeared from the media which had been so focused on the issue until that time. A copy of his 10-page report is at <https://www.dfat.gov.au/sites/default/files/special-advisers-public-report-israels-response-wck-strikes-august-2024.pdf>.
186. It has not been possible to locate any retraction or correction or clarification in relation to the shockingly inflammatory – and patently false – post of published by PB.
187. The inference is that PB's posts have nothing to do with truth – and everything to do with the agenda of vilification and demonisation that he has been systemically pursuing. The report does support his narrative; it has thus been ignored. (Given PB's apparent interest in the topic and the fact that the Binskin investigation was well known, it would be extraordinary if he has not read it.)
188. It is respectfully submitted that there is the clearest evidence of a double standard.

PB has endorsed artwork including the words “From the River to the Sea” and “Palestinians have the right to resist” words widely construed as endorsing terrorism and genocide⁵⁴

 Phillip Boulten
October 21, 2024 · 🌐



 The Cross Art Projects
October 21, 2024 · 🌐

FBI Radio's Best Arts Program Announcement: the annual arts and culture awards presented by FBI Radio has nominated the exhibition 'Forms of Censorship' (The Cross Art Projects, 11 May to 15 June 2024) in the category for Best Arts Program.

We are very proud of this huge collaborative project and hope you can vote for us!

The FBI awards are on Instagram:
<https://www.fbi.radio/smac-awards/2024>
[https://www.instagram.com/p/DBGBViStVOG/...](https://www.instagram.com/p/DBGBViStVOG/)

The exhibition archive page is at - <https://www.crossart.com.au/exhibiti.../forms-of-censorship/>


Thank you so much always for your support. Jo Holder, Director

⁵⁴ <https://www.facebook.com/share/p/1DLhbefTAz/>

189. The phrase “**from the river to the sea**” denotes the geographical area extending from the **Jordan River to the Mediterranean Sea** — that is, the entirety of the State of Israel. In other words, it is a slogan calling for the **elimination of the one and only Jewish state**.
190. The words “**Palestinians have the right to resist**” similarly instill in the Jewish community and invite the obvious question: *to resist what?* In context, and particularly when coupled with the phrase “from the river to the sea”, the reference is plainly to opposing the very existence of the State of Israel in its entirety.
191. It is noteworthy that in the Posts of PB one does not see calls for a two-state solution, mutual recognition, or peaceful coexistence.
192. Nor does one see any criticism of the Palestinian Authority’s “Pay for Slay” policy, pursuant to which the PA pays terrorists to murder Israelis. Given that PB is an eminent SC specialising in Criminal Law, one may be forgiven for thinking that he would understand that it is not appropriate to make it known that one will pay attractive life stipends to terrorists who murder Israelis.
193. The clear inference from all the above posts is, in my opinion, that PB favours the **destruction of Israel**; his Posts do not evince any type of balanced criticism of any particular Israeli policy whatsoever.

PB posted about a rally on the first anniversary of the October 7 massacre, a rally which included flags deliberately reminiscent of Hizbollah⁵⁵

Phillip Boulten
6 October 2024 · 🌐



Shaoquett Moselmane
6 October 2024 · 🌐

الألاف يتظاهرون في مدينه سدنني لإدانة الإرهاب الصهيوني في فلسطين ولبنان
In their thousands, Australians at Hyde Park Sydney, protesting against Israeli genocide. Stop the killing. Stop the Zionist occupation. Stop the war. Peace now.
[NSW Labor](#) [Australian Labor Party NSW](#) [Young Labor](#) [Sada-e-Watan Sydney](#)

See translation

👍❤️ Shaoquett Moselmane and 8 others 11 comments

👍 Like 💬 Comment

⁵⁵ <https://www.facebook.com/share/p/1Pzkipexvm/>

194. The words “**peace now**” and “**stop the killing**” are apt to mislead. The rally of 6 October 2024 took place at the height of the Gaza war — a war Israel neither sought nor desired by Israel — and at a time when **many of the hostages abducted on 7 October 2023 remained in captivity in Gaza**, and at the time when Hamas was still firing rockets indiscriminately into Israeli civilian areas and remained a powerful armed force; and at the time they were promising to repeat 7 October again and again. To this day, Hamas has not yet laid down its arms.

195. The phrase “**stop the Zionist occupation**” denotes, in this context, the alleged Jewish occupation of the State of Israel itself. In other words, it again denotes the complete **annihilation of Israel**.

Publication of classic antisemitic trope

196. On 1 May 2024 PB re-posted a post of Adam Houda that contained classic antisemitic tropes - the powerful, nefarious lobby – the “**insidious Zionist/Israeli lobby**.”.⁵⁶



⁵⁶ <https://x.com/LawyerAdamHouda/status/1785506284021878911>

197. Note that PB reposted an imputation that “zionists” are treacherous and deceitful – hence insidious.

Gaslighting around 80% of Australian Jews with false assertions

198. In a somewhat bizarre post – **reposted by PB** – Adam Houda asserted that European or Ashkenazi Jews (i.e. around 80% of Australian Jews) are not “semites.”⁵⁷

199. Adam Houda, as a lawyer, and PB as an experienced Senior Counsel, must know that antisemitism refers to Jews.

200. Note also how Houda – and thus PB – use the word “zionists” for Jews.



Willing to supplement

⁵⁷ <https://x.com/LawyerAdamHouda/status/1749997985809997876>

201. Regretfully, this Complaint, of necessity, is being prepared in haste – in the light of the fact that it is considered necessary that the swearing in ceremony scheduled for 3 February 2026 be postponed, pending the finalisation of the Division’s investigation, and the provision of any report of the Division (including any report pursuant to s 41 of the JOA), and the Government’s determination of the steps, if any, that it will take as a result of any report from the Division.

202. For reasons of time, we have not included all of the objectionable posts of which we are currently aware. Notwithstanding the fact that PB appears to have sought to sanitise his social media profile, there are of course additional posts published by PB of which we are aware that demonstrate, in the complainants’ submission, that he has engaged in *misbehaviour* within the meaning of s 53(2) of the Constitution.

203. We will of course be happy to supplement by adding additional posts of which we are aware, if the Judicial Commission wish us to do so.

204. However, it is respectfully submitted that the nature of the misbehavior (which will be addressed below) should be evident from the above.

205. Before analysing the basis upon which it is submitted that the above conduct of PB is “misbehavior” within the meaning of s 53 (2) of the Constitution that “***could justify*** parliamentary consideration of the removal of the judicial officer from office” particularly when considered in the light of the contextual matters referred to above, it is first appropriate to address the following matters referred to above.

THE MUTATION OF ANTISEMITISM: DONNED THE CLOAK OF ANTI-ZIONISM

Denying the right of Jews to exist collectively as Jews with the same rights as everyone else

206. Antisemitism has mutated. In its current mutation it masquerades as anti-Zionism. It is now constituted primarily by hostility towards Israel, the one and only Jewish State — the Jew amongst the nations — and, by extension, hostility towards Zionists – those who support the existence of the Jewish State in the ancestral Jewish homeland.

207. The phenomenon of the virus of antisemitism mutating was explained in a perspicacious speech made by the former Chief Rabbi of the United Kingdom, Lord Jonathan Sacks, to the European Parliament, on 27 September 2016, entitled *'The Mutating Virus: Understanding Antisemitism'*⁵⁸ in which, in analysing the resurgence of antisemitism after the Holocaust. He noted that

“... viruses always defeat the human immune system, namely, by mutating. The new antisemitism is different from the old antisemitism, in three ways. ... Once Jews were hated because of **their religion**. Then they were hated because of **their race**. **Now they are hated because of their nation state.** ...

... It is easy to hate, but difficult publicly to justify hate. Throughout history, when people have sought to justify antisemitism, they have done so by recourse to the highest source of authority available within the culture. In the Middle Ages, it was religion. So we had religious anti-Judaism. In post-Enlightenment Europe it was science. So we had the twin foundations of Nazi ideology, Social Darwinism and the so-called Scientific Study of Race. Today the highest source of authority worldwide **is human rights. That is why Israel—the only fully functioning democracy in the Middle East with a free press and independent judiciary—is regularly accused of the five cardinal sins against human rights: racism, apartheid, crimes against humanity, ethnic cleansing and attempted genocide.**

The new antisemitism has mutated so that any practitioner of it can deny that he or she is an antisemite. After all, they'll say, I'm not a racist. I have no problem with Jews or Judaism. I only have a problem with the State of Israel. But in a world of 56 Muslim nations and 103 Christian ones, there is only one Jewish state, Israel, which constitutes one-quarter of one per cent of the land mass of the Middle East. **Israel is the only one of the 193 member nations of the**

⁵⁸ The transcript is at <http://bit.ly/2dCyUyq>.

United Nations that has its right to exist regularly challenged, with one state, Iran, and many, many other groups, committed to its destruction.

Antisemitism means denying the right of Jews to exist as Jews with the same rights as everyone else. ... [Emphasis added.]

Zionism as a Fundamental Tenet of Judaism

208. Zionism is a fundamental tenet of Judaism; it is an inherent and integral principle of the Jewish religion; the centrality of the land of Israel is a basic and core belief in Jewish theology, law, liturgy and religious practice. Judaism is the inseparable fusion of the people, the religion and the land.⁵⁹

209. The integral link between Judaism and Zionism can easily be demonstrated by the following non-exhaustive examples: the observant Jew faces towards Jerusalem when saying his/her thrice daily prayers, and in each one of those services, three times every day, he/she prays for the return to Zion, and *every time* he/she says grace after meals; the Holy Ark of every Synagogue is meant to face towards Jerusalem; Psalm 137 appears in every Orthodox Jewish prayer book (**Siddur**) before the Grace after Meals to be said on weekdays and references the Babylonian exile of the Jews in around 586 BCE and expresses the Jew's yearning to return to Jerusalem: "*By the rivers of Babylon, there we sat, sat and wept, as we remembered Zion ... How can we sing a song of the LORD on alien soil? If I forget you, O Jerusalem, let my right-hand wither; let my tongue stick to my palate if I cease to think of you, if I do not keep Jerusalem in memory even at my happiest hour.*" In every Siddur Psalm 126 - which joyously deals with the Jew's **return to Zion** - appears before the Grace after Meals to be recited before Grace on Sabbath and Festivals: '*When the LORD restores the fortunes of Zion —we see it as in a dream our mouths*

⁵⁹ See below and Melanie Phillips, "Judaism without Zionism": the latest form of Jew-baiting, 6 January 2026, <https://melaniephillips.substack.com/p/judaism-without-zionism-the-latest> . Zionism is the movement for the self-determination of the Jewish people in their ancestral homeland.

shall be filled with laughter, our tongues, with songs of joy.' At every Jewish wedding performed in accordance with Jewish law a glass is broken under the wedding canopy to remember Zion. Certain Jewish commandments (Mitzvot) can only be performed in Israel. The major Jewish Festivals relate to Israel. After the annual Passover Seder, the Jew invokes the prayer "*leshana Haba birushalayim*" – "*Next year in Jerusalem.*"⁶⁰ Those words are traditionally recited at the end of the services on the Day of Atonement, Yom Kippur.⁶¹

210. Whether religiously observant or not, the **overwhelming majority of Australian Jews identify as Zionists**. In lived reality, vilification of Zionism is experienced as vilification of Jews as a group.

211. Contemporary antisemitism frequently manifests through the language of anti-Zionism. This mutation is now well recognised by scholars, courts, and human rights bodies, including through the **IHRA Working Definition of Antisemitism**, which identifies the denial of Jewish self-determination as a core manifestation of modern antisemitism.

212. Accordingly, public demonisation and delegitimisation of Zionism cannot be divorced from its **impact on Jewish Australians**, particularly in a climate of heightened hostility and violence.

213. This is not to say that one cannot criticise Israel. Of course one can. No responsible person contends otherwise. One can obviously criticise Israel in exactly the same way that one can criticise any other country. To suggest otherwise would be absurd and nonsensical.

214. To the contrary, the assertion that "Jews or Zionists" use the antisemitism accusation to prevent mere criticism of Israel by labelling all criticism

⁶⁰ See also paragraph [106 I] below.

⁶¹ Prager and Telushkin, Why the Jews, Simon & Schuster, Inc. 1983 at 171

antisemitic⁶² is not only false – it is a straw man often set up by the antisemite. Professor Alan Dershowitz has challenged anyone who asserts that Jews seek to prevent criticism of Israel by labelling all criticism antisemitic to “document that serious charge by providing actual quotations, in context, with the sources of the statement identified. No one has responded to [his] challenge.”⁶³

Double standards for purposes of demonising and delegitimising Israel and creating prejudice against it and the Jewish people

215. Natan Sharansky⁶⁴ formulated the “*3D test for anti-Semitism*” to distinguish **legitimate criticism** of State of Israel from antisemitism; the 3D test for anti-Semitism — denotes the **demonization** of Israel, adopting **double standard** in relation to Israel, and the **delegitimization** of the State of Israel. Sharansky explained⁶⁵

“These 3Ds—demonization, delegitimization and double standards—are the three main tools that anti-Semites employed against Jews throughout history. ... The Jewish faith and the Jewish claim to nationhood was delegitimized. ...

...

My 3D test shows that if we see these same tools of delegitimization, demonization and double standards that were used against Jews in the past being used against the collective Jew, the Jewish State, today—we know we are witnessing a new face of the old anti-Semitism.

When the legitimacy of the Jewish State is denied ... , there is no place for a Jewish state in the Middle East in any borders – that is delegitimization; that is anti-Semitism.”

And when the Jewish State is singled out for criticism that not even the vilest dictatorship is subject to and it is held to standards that not even the most vibrant democracy is judged by—those are double standards; and that is anti-Semitism.

⁶² See Alan Dershowitz, *The Case Against Israel’s Enemies*, John Wiley & Sons, at 3-4.

⁶³ Ibid at 4.

⁶⁴ Natan Sharansky is a former Prisoner of Zion. He was Israel's Minister for Diaspora Affairs and Deputy Prime Minister. He served as Chairman of the Jewish Agency for Israel and was Chair of The Institute for the Study of Global Anti-Semitism and Policy.

⁶⁵ Natan Sharansky: *Why BDS Fails My 3D Test on anti-Semitism*, September 25, 2019, Newsweek, <https://www.newsweek.com/antisemitism-bds-natan-sharansky-3d-test-1461305?utm>.

Just as the anti-Semites of yesteryear sought to prepare the ground for the expulsion and murder of Jews, leaders and key figures ...[the antisemites of today] **seek to use the ancient tools of demonization, delegitimization and double standards to put in place the foundations for a world without Israel. ... to bring the level of hatred against Israel today to the level of hatred against Jews in the past, to delegitimize the Jewish state to the point where it is seen by the world as a cancer that should be removed. It is the same approach that created the atmosphere that can lead to bloodshed** [Emphasis added.]

International Holocaust Remembrance Alliance definition of Antisemitism

216. The International Holocaust Remembrance Alliance definition of Antisemitism (**the IHRA**) provides *examples* of antisemitism which, *inter alia*, include the following

- a. Denying the Jewish people their right to self-determination, e.g., by claiming that the existence of a State of Israel is a racist endeavour.
- b. Applying double standards by requiring of it a behaviour not expected or demanded of any other democratic nation.
- c. Using the symbols and images associated with classic antisemitism (e.g., claims of Jews killing Jesus or blood libel) to characterize Israel or Israelis.
- d. Drawing comparisons of contemporary Israeli policy to that of the Nazis.

- e. Holding Jews collectively responsible for actions of the state of Israel.

217. As noted above, both the State of NSW⁶⁶ and the Commonwealth⁶⁷ have duly accepted and endorsed the IHRA definition.

218. It is antisemitic to subject Israel to a perverse double standard; to demonise and delegitimise Israel; to **falsely accuse** Israel — the only fully functioning democracy in the Middle East with a free press and independent judiciary — of the five cardinal sins against human rights: racism, apartheid, crimes against humanity, ethnic cleansing and attempted genocide.⁶⁸

219. It is antisemitic when Israel is singled out for condemnation in a way that no other country is; when, for e.g., it is subjected to enmity and criticism of the worst kind despite the reality that its human rights record is far better than that of any other country in the region, and at least as good as – if not substantially better than – any other country that has faced comparable dangers. As noted by Dershowitz:

“... no other nation, including those with the most abysmal of human rights records, face as much enmity. Most significantly, the intensity of the enmity directed against the Mideast’s only democracy is unexplainable on any rational basis.”⁶⁹

⁶⁶ 16 December 2021, NSW adopts IHRA definition, <https://nswjbd.org.au/2021/12/16/nsw-adopts-ihra-definition/>;

⁶⁷ 14 October 2021, Australia pledges to embrace the IHRA Working Definition of Antisemitism, <https://www.ecaj.org.au/australia-pledges-to-embrace-the-ihra-working-definition-of-antisemitism/>; 18 December 2025, Press conference - Parliament House, Canberra, <https://www.pm.gov.au/media/press-conference-parliament-house-canberra-40>.

⁶⁸ Speech by Chief Rabbi of the British Empire, Lord Jonathan Sacks, to the European Parliament. https://youtu.be/uwN1WuDwIf0?si=2BVTe2V_jTZxGhn3

⁶⁹ Dershowitz, The Case Against Israel’s Enemies, John Wiley & Sons, at 5.

220. It **is** antisemitic to deny the right of Jews to exist collectively as Jews in their country with the same rights as everyone else; to adopt a double standard when dealing with Jews, or the Nation State of the Jewish people; to subject Jews or Israel to obloquy and abuse of a kind that would not be applied to any other people or country; to single out Jewish national aspirations (Zionism) as an illegitimate and racist endeavour, and to "propose actions that would result in the death of millions of Jews."⁷⁰

221. Criticisms of Israel in a manner that is disproportionate in degree and in kind – and that would not be levelled at any other country - is usually a manifestation of antisemitism.⁷¹ In contemporary society, antisemitism has donned the cloak of anti-Zionism

222. It is antisemitic to knowingly or recklessly make false accusations of the most serious kind against Israel in circumstances where such accusations, if believed, would almost certainly lead to hostility or discrimination or hatred or violence against Israel and the Jewish people.⁷²

223. Anti-Zionism usually has substantially the same characteristics as classic antisemitism:

“... anti-Zionism treats Israel and Jewish national self-determination differently from any other country, people or cause. **Israel is demonised, dehumanised and delegitimised in order to bring about its destruction. Israelis are accused of crimes of which they are not only innocent but the victims; they are held to impossible standards expected of no other people, country or cause; Zionism is depicted as a global conspiracy of unique**

⁷⁰ <https://en.wikipedia.org/wiki/Antisemitism>, citing "Antiglobalism's Jewish Problem" in Rosenbaum, Ron (ed.) *Those who forget the past: The Question of Anti-Semitism*, Random House 2004, p. 272. Accessed 4 January 2024. See also Prager and Telushkin, *Why the Jews*, Simon & Schuster, Inc. 1983 at 171.

⁷¹ Ibid

⁷² Cf <https://en.wikipedia.org/wiki/Antisemitism>, accessed 4 January 2024.

malice and power; and Zionists and Israelis are invested with diabolical influence.”⁷³

224. As seen since 7 October 2023, Israel has been uniquely singled out amongst the nations of the world for moral condemnation of an intensity not applied to any other State, including the most brutal dictatorships. Israel – the only true democracy in the Middle East with a fiercely independent judiciary - is portrayed not merely as flawed or mistaken, but as uniquely evil.

False Assertion that Jews, Israelis, or Descendants of Holocaust Survivors Cannot Be Antisemitic

225. Another straw man that will no doubt be raised by PB is that his posts cannot be antisemitic because there are some Jews who agree with the vilification that he has posted.

226. The assertion that Jews and/or Israelis and/or descendants of Holocaust survivors cannot be antisemitic is entirely false.⁷⁴

227. Throughout history there have been prominent Jews – who have also been classic and blatant antisemites (Karl Marx is a case in point; as noted by Dershowitz, his stereotyping of Jews and his rabid hatred of all things Jewish “are *hard to distinguish from the beliefs of Adolf Hitler*”⁷⁵).

228. In his book, The Case Against Israel’s Enemies, Professor Alan Dershowitz has noted that in contemporary society, there are some Jewish academics of the radical left for whom

⁷³ Melanie Phillips, Is anti Zionism antisemitism:
https://open.substack.com/pub/melaniephillips/p/is-anti-zionism-antisemitism?r=8t76y&utm_campaign=post&utm_medium=web&showWelcomeOnShare=false

⁷⁴ See, for e.g., Alan Dershowitz, The Case Against Israel’s Enemies, John Wiley & Sons, Inc. 2008, at 99-126; Douglas Murray Israel-Hamas War: Douglas Murray Responds To Norman Finkelstein Calling Gaza a "Concentration Camp" <https://www.youtube.com/watch?v=u8KNhzD1xDE>

⁷⁵ Ibid at 99.

“... dissociating from Zionism ... has become a litmus test for acceptability by the hard left. Unlike Marx, however, some of them emphasise their Jewishness while rejecting Jewish nationalism. They point to their Jewish identity to discredit accusations that their ideas are antisemitic (claiming that as Jews, they cannot be antisemites), to establish their special right to criticise Israel and give added stress to the evils of Zionism (claiming that if we, as Jews, are troubled by Zionism, then it must be really bad). **Few of these Israel-haters are Jewish in any real sense, other than their parentage. They are Jewish on their ‘parents’ side’ ... Yet they accentuate their Jewish heritage (their names and connections to the Holocaust) to gain credibility for their Israel bashing.** By rejecting Zionism, they prove their commitment to the values of the hard left, as well as their lack of dual loyalty.”⁷⁶ [Emphasis added.]

MISBEHAVIOUR IN SECTION 53(2) OF THE CONSTITUTION

Not confined to misconduct in office, or criminal conduct: any conduct that casts doubt upon the judge’s suitability to continue in office; to be determined by Parliament in the light of contemporary values

229. The expression “proved misbehaviour” in s 53(2) of the Constitution is identical in terms to the expression “proved misbehaviour” in s 72(ii) of the Constitution of the Commonwealth of Australia (**the Commonwealth Constitution**), and there is no principled basis upon which it should be given a different construction in NSW. Indeed, any divergence in construction would be doctrinally incoherent, given the shared constitutional purpose of safeguarding judicial independence while maintaining public confidence in the administration of justice.

⁷⁶ Ibid at 100.

230. Accordingly, it is submitted that the authoritative interpretation of that expression in the federal constitutional context applies with equal force in the present case.

231. The scope of “misbehaviour” for constitutional purposes has been authoritatively explained in a Federal Parliamentary Commission of Inquiry Special Report dealing with the meaning of “misbehaviour” for the purposes of s 72 of the Commonwealth Constitution.⁷⁷ Sir George Lush explained in that Report, if the conduct of a judge—even in matters remote from the performance of judicial functions—is such that, judged by the standards of the time, it casts doubt upon the judge’s suitability to continue in office, or undermines the judge’s authority or the standing of the court, removal may be warranted.

232. In that report, Sir George Lush wrote:

“The view of the meaning of misbehaviour which I have expressed leads to the result that **it is for Parliament to decide what is misbehaviour**, a decision which will fall to be made in the light of contemporary values. The decision will involve a concept of what, again in the light of contemporary values, are the standards to be expected of the judges of the High Court and other courts created under the Constitution.”⁷⁸ [Emphasis added.]

233. Consistently with the approach of Sir George Lush, Sir Richard Blackburn stated that “proved misbehaviour” means conduct—whether criminal or not,

⁷⁷ *Parliamentary Commission of Inquiry*, Parliament of the Commonwealth of Australia, *Special Report dealing with the meaning of “misbehaviour” for the purposes of s 72 of the Constitution* (1986), cited in Keane AC, Casey and Carter, *Judicial Ethics in Australia* (4th ed) at 18 [3.12]

⁷⁸ Cited in Nettle AC QC, *Removal of Judges from office*, *Melbourne University Law Review*, Vol 45(1):241 at 262: https://law.unimelb.edu.au/_data/assets/pdf_file/0011/4074257/06-Nettle-241-v2.pdf

and whether or not occurring in the exercise of judicial functions—which, being morally wrong, demonstrates the unfitness for office of the judge concerned.⁷⁹

234. Those views were confirmed by the Constitutional Commission (Sir Maurice Byers, Professor Enid E Campbell, Sir Rupert Hamer, E G Whitlam and Professor Leslie Zines), which, in its *Final Report* (1988), stated that conduct warranting removal **includes**:

“any conduct that, **according to the standards of the time**, would **tend to impair public confidence in the judge or undermine his or her authority as a judge**.”⁸⁰ [Emphasis added.]

235. The concept of “misbehaviour” under s 72 of the Commonwealth Constitution (and hence under s 53 of the Constitution) is sufficiently broad to encompass pre-appointment conduct.⁸¹

236. Thus, proved “misbehaviour” for constitutional purposes is not confined to conduct occurring while in office; it extends to any conduct that, judged by the standards of the time, casts doubt upon the judge’s suitability to continue in office, or undermines the judge’s authority or the standing of the court, and it is for Parliament to decide what is misbehaviour, in the light of contemporary values.

Constitutional stringency inapposite in this matter

237. As noted above, the rationale for the Constitutional caution in relation to the removal of a judge - protection of judicial independence by requiring the involvement of both Houses of Parliament and, thus, in effect, preventing the

⁷⁹ *Judicial Ethics in Australia* at 19 [3.12].

⁸⁰ *Final Report of the Constitutional Commission*, vol 1, 1988, p 403, cited in *Judicial Ethics in Australia* at 19 [3.12]

⁸¹ *Judicial Ethics in Australia* at 21 [3.18] and authorities cited at fn 29

executive from ‘*sacking the umpire*’⁸² if unhappy with the judicial decisions made, does not apply in the circumstances of this case; PB has not yet served as ‘umpire.’

238. Accordingly, this is not a case engaging concerns about parliamentary interference with judicial independence. To the contrary, it would be a triumph of form over substance if PB could not be removed solely because the commission had been delivered by the Governor before the Attorney-General and the Premier became aware of the matters set out above, in circumstances where they became aware of the circumstances shortly thereafter – and before PB had been sworn-in as a Judge, or exercised any Judicial Power.

239. It would be an untenable result if, by way of example, the Attorney-General were free to revoke the appointment at 1:00 pm on 7 January because the commission had not yet been delivered, yet powerless to do so at 1:15 pm on the same day merely because the commission had been delivered at 1:10 pm by reason of chance timing alone.

Role of the Conduct Division

240. The Judicial Commission is entitled to have regard to the Premier’s indication that, had he been aware of the above matters prior to delivery of the commission, the appointment would not have been made, or, if made, would have been revoked.

241. For the reasons developed below, this is a paradigm case in which Parliament would conclude that, assessed by reference to contemporary standards, the matters complained of would tend to impair public confidence in PB and undermine his authority as a judge. It would plainly be open to

⁸² Nettle AC QC, Removal of Judges from office, Melbourne University Law Review, Vol 45(1):241 at 242 and 275: https://law.unimelb.edu.au/_data/assets/pdf_file/0011/4074257/06-Nettle-241-v2.pdf

Parliament to conclude that PB is **not a suitable repository of judicial power**, including Federal judicial power.

242. However, the question for the Conduct Division of the Judicial Commission is **not** whether PB SC *should* be removed from office. Rather, the statutory question is whether, if the matters alleged in this Complaint are substantiated (and it is submitted that they clearly are), it would be **open to the Parliament**, assessed by reference to contemporary standards and values, to conclude that PB is an unsuitable repository of judicial power, including Federal judicial power, by reason of “**misbehaviour**” within the meaning of s 53(2) of the Constitution.

243. For the reasons set out below, the answer to that question is plainly **yes**.

THE MISBEHAVIOUR

Breach of legal and ethical obligations, including obligations as barrister (and Senior Counsel) in public communications on social media

244. PB breached fundamental ethical and legal obligations governing communications made on social media platforms.

245. In contravention of the Barristers’ Rules⁸³ PB failed to act with the requisite with honesty and integrity, and to maintain the highest professional standards so as not to diminish public confidence in the legal profession or the administration of justice.

246. These obligations are not confined to the courtroom or to professional correspondence but extend to all conduct which bears upon a barrister’s standing, judgment, and fitness to practise.

⁸³ Legal Profession Uniform Conduct (Barristers’) Rules 2015 (NSW), in particular rr 8(a)–(c).

247. PB's conduct was inconsistent with the standards of professionalism expected of the Bar – particularly experienced Senior Counsel.

248. PB's conduct crossed the line into antisemitism. PB repeatedly demonised, delegitimised and vilified the Jewish people/Zionists/Jillian Segal and the State of Israel in a manner that was:

- a. systemic and sustained,
- b. dishonest or otherwise discreditable in contravention of Rule 8 (a) of the Legal Profession Uniform Conduct (Barristers) Rules 2015 (NSW) (**Barristers' Rules**);
- c. likely to diminish public confidence in the legal profession or the administration of justice or otherwise bring the legal profession into disrepute. In contravention of Barristers' Rule 8 (c);
- d. demeaning and discrediting in contravention of the NSW Bar Association Social Media Guidelines (**the Guidelines**);
- e. inaccurate, misleading or dishonest in contravention of the Guidelines;
- f. defamatory of the Federally appointed antisemitism envoy, Jillian Segal, in violation of his obligations at general law under the tort of defamation, and in contravention of the *Defamation Act 2005* (NSW), and in contravention of the Guidelines;
- g. inflammatory in contravention of the Guidelines;
- h. discriminatory in contravention of the Guidelines;

- i. bullying (in the sense of unreasonable behaviour that could reasonably be expected to intimidate, degrade, humiliate, isolate, alienate or cause serious offence to a person, as defined in Rule 125 of the Barristers' Rules), discriminatory or harassing fellow members of the Bar and the wider legal profession (Jillian Segal/Jews/Zionists/Israelis);
- j. likely to exacerbate the very serious and significant increase of antisemitism in Australia which commenced on or about 7 October 2023 as a result of the brutal massacre in Israel by Hamas of 1,200 people on 7 October 2023, and the serious injuring of thousands more, in conditions of barbaric cruelty (including widespread rape, torture and burning of families alive) and the kidnapping of over 250 mostly civilians on that day; and that was
- k. reckless and irresponsible in that, as an experienced senior counsel, PB knew, or ought reasonably to have known, that such vilification and hate-speech engaged in in Australia at the very time that it was suffering a frightening scourge of antisemitism as a result of the 7 October 2023 massacre and kidnappings was likely to
 - i. incite even greater hatred and violence against Jews and Jewish property in Australia; and was likely to
 - ii. incite greater hatred to the one and only Jewish State that was in the midst of fighting an existential seven-front war of self-defence; and was
- l. in contravention of, and inconsistent with, the standards of conduct expected counsel – and in particular Senior Counsel - in New South Wales; and was

- m. false and defamatory of and concerning the Federally appointed antisemitism envoy, Jillian Segal, and had the effect of undercutting her important work in a manner that was misleading and inappropriate; and was
- n. based upon discriminatory double standards;
- o. liable to bring the administration of justice in NSW into disrepute; and was
- p. entirely one-sided and lacking in any nuance; and was published in a manner that was plainly
 - i. inimical to social cohesions in Australia; and was
 - ii. antisemitic.

Systemic, Sustained and Ideological Conduct

249. PB's conduct was not episodic commentary, nor an isolated lapse of judgment. It was a persistent and obsessive pattern of public conduct, conducted openly and repeatedly, on social media.

Obsessive and One-Sided Nature of the Publications

250. The publications were extreme and entirely one-sided.

251. PB repeatedly and aggressively attacked Israel/Zionists/Jews, and Jillian Segal, yet conspicuously failed to condemn — or even acknowledge — the mass kidnapping of civilians on 7 October 2023, including babies, children and the elderly, or to call for the release of hostages unlawfully taken to Gaza.

252. The absence of such acknowledgment is not incidental. It reinforces the conclusion that the conduct was ideological and obsessive, rather than principled, measured, or balanced.

Patently false and inflammatory posts have never been corrected, clarified or retracted

253. As noted above, we are not aware of any evidence that PB ever corrected any of his Posts – even if they were extraordinarily inflammatory – when they were shown to be false. His concern appears to have been with the narrative; not with the truth.

Knowledge, Status and Persistence

254. The publications were made knowingly and deliberately by a **Senior Counsel**, at a time when PB must have been aware that the Jewish community in Australia was experiencing an unprecedented and escalating wave of antisemitism, increasingly violent and dangerous in character. He was reckless as to the consequences. He ought reasonably to have foreseen the grave consequences of the hate he was causing.

255. PB's seniority, experience and professional standing aggravate, rather than mitigate, the seriousness of the conduct. His words carried authority, influence, and foreseeable consequences.

Hate Speech and Incitement Contrary to Public Policy

256. PB must also have been aware that governments at both State and Federal level had publicly committed themselves to combating antisemitism, hate

speech, incitement, and social fragmentation, and to promoting social cohesion.

257. Yet the content he published was plainly hate speech and incitement, particularly in its demonising and delegitimising character. His conduct was therefore directly antithetical to those public policy objectives.

Public Confidence, Policy Coherence and Governmental Legitimacy

258. If PB remains appointed, the appointment will, as a matter of practical reality, undermine the Government's ability to legislate effectively against hate speech.

259. Reasonable members of the community will conclude that the Government has, by proceeding with the appointment, given its imprimatur to the very vilification it purports to condemn. The effect will be to normalise and legitimise conduct that the law seeks to prevent.

Dangerous Precedent

260. Proceeding with the appointment would establish a deeply troubling precedent, suggesting that it is acceptable to appoint a judge who has engaged for years in systemic and vitriolic one-sided vilification of a particular minority.

261. By parity of reasoning, it would imply that sustained **homophobic**, **Islamophobic**, **racist**, or other forms of minority-targeted vilification are likewise compatible with judicial office.

Vilification of a Federal Office-Holder

262. It would further create an entirely false and dangerous precedent that it is not "misbehaviour" to engage in extreme one-sided vilification and defamation

of a Federal Government envoy — for example, an Islamophobia envoy — merely because one objects to a charitable donation made by that envoy's spouse.

263. PB's public vilification of Australia's Antisemitism Envoy, Jillian Segal, based on no more than her husband's lawful charitable donations, is particularly serious. It was baseless, misleading, and destructive of the effectiveness of a duly appointed Commonwealth office-holder.

Denial of Equal Justice and Apprehended Bias

264. PB's conduct is such that reasonable people would apprehend that Zionists, Israelis, and Jews would not receive a fair and impartial hearing before him.

265. That apprehension cannot be cured by recusal on a case-by-case basis.

266. The prejudice would extend beyond litigants to Jewish lawyers and legal representatives, impairing briefing practices, and equality of professional opportunity.

267. Solicitors may reasonably hesitate to brief Jewish practitioners in matters where PB may be allocated, for fear of disadvantaging their clients.

Contemporary Standards and the Nature of Misbehaviour

268. To conclude that such conduct does not amount to misbehaviour would falsely suggest that, judged against contemporary standards, in a society where antisemitism has become a serious and recognised problem, it is acceptable to vilify and demonise Jews and the antisemitism envoy — and that doing so cannot even “meet the threshold” for removal.

Words as Precursors to Violence

269. Massacres do not begin in a vacuum. They begin with words: demonisation, delegitimisation, and portraying a people as uniquely evil and genocidal.

270. The narrative repeatedly endorsed by PB — that Israelis are uniquely evil and genocidal, and that Jews and Zionists who support Israel are therefore complicit in genocide — is precisely the narrative that has fuelled the explosion of antisemitic hatred in Australia over the past two years.

271. To treat such conduct as irrelevant to misbehaviour is to ignore the causal role of incitement in real-world violence.

272. The administration of justice would be brought into disrepute if to Government knowingly allows PB to be sworn in as a judge just over a month after the worst massacre of Jews in Australian history, in circumstances where the Jewish community consider that it is precisely the vilification of the kind engaged in by PB that led to the Bondi Beach massacre.

Administration of Justice

273. Ultimately, the conduct is such that, if substantiated, it would be open to Parliament to conclude that Mr Boulten is an **unsuitable repository of judicial power**, and that his continued appointment would:

- bring the administration of justice into disrepute;
- destroy public confidence in the Supreme Court;
- undermine equality before the law;
- fracture social cohesion; and
- seriously, if not fatally, undermine the fight against antisemitism.

CONCLUSION AND RELIEF SOUGHT

274. For all of the above reasons, the Complaints meet and exceed the threshold required by s 15(2)(a) of the JOA.

275. The issues raised by this Complaint are of profound public importance. If the conduct complained of were held not to be sufficiently serious to warrant a report by the Conduct Division to the Governor under the *Judicial Officers Act* expressing the opinion that the matters could justify parliamentary consideration of removal, it would necessarily follow that it would be open to the Attorney-General to appoint to the Supreme Court Bench — or to permit to remain on the Bench — a person who has repeatedly published statements asserting that “all Muslims lie and they lie and they lie”; or that all women, all Black people, or all gay people are liars or bloodthirsty murderers; or who has repeatedly defamed a federally appointed statutory envoy by branding him, inter alia, a “deplorable racist”; or who, in circumstances where a minority community is already suffering serious and violent hatred, including a mass-casualty attack, nonetheless compounds that harm by further demonisation, delegitimisation and vilification of that group and its representative through dishonest and inflammatory public communications.

276. It is respectfully submitted that such a result cannot represent the law. To accept it would strike at the heart of equality before the law and the uniform application of ethical and constitutional standards governing judicial office.

277. Such an appointment would fatally undermine public confidence in the administration of justice by conveying that conduct plainly incompatible with judicial temperament and professional integrity may nonetheless be tolerated at the highest level of the judiciary

Relief

278. Accordingly, **the final relief** sought by the Complaints is that the Conduct Division of the Judicial Commission provide a report to the Governor under s

41(1) of the JOA that sets out the Division's opinion that the matters referred to in the report could justify parliamentary consideration of the removal of PB.

279. **The interim** relief sought (insofar as it is in the power of the Judicial Commission to provide such relief) is that the proposed swearing-in ceremony of PB be postponed, pending the finalisation of the Division's investigation, and the provision of any report of the Division (including any report pursuant to s 41 of the JOA), and the Government's determination of the steps, if any, that it will take as a result of any report from the Division.