

Australian court upholds sacking of academic Tim Anderson over criticisms of Israel

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In a significant attack on democratic rights and a threat to all those opposing Israeli's genocide in Gaza, Australia's Full Federal Court last month ruled two-to-one in favour of the University of Sydney, which sacked academic Tim Anderson in 2019, primarily for comparing Israel with the Nazi regime and criticising US war propaganda.

After a contorted series of cases stretching over the past five years, the judges ruled two-to-one on May 17 to overturn an earlier ruling by a single Federal Court judge that the university unfairly dismissed Anderson according to the provisions of the Fair Work Act. By pursuing the case for so long and at such expense, the university management has shown its determination to remove Anderson and set a precedent.

During the protracted litigation, an earlier Full Court judgment in Anderson's favour was effectively overturned as well. This indicates that this was not simply a legal ruling but a political one. Last month's decision was made in the context of an intensifying witch hunt by the media and political establishment, including the Albanese Labor government, falsely labelling anti-genocide protesters, including anti-Zionist Jews, as antisemitic.

In 2018, the university management charged Anderson, a senior lecturer in political economy, with "serious misconduct" after he posted on social media numbers of comments condemning the misleading media coverage of the Israeli regime's attacks on Palestinians in 2014 and US allegations against the Assad regime in Syria.

Much of the final outcome rested on the fact that in 2018 Anderson had posted on Facebook a PowerPoint presentation titled "Reading Contemporary Controversies" that he had displayed at a Centre for Counter Hegemonic Studies seminar. One slide with

the heading, "Look for independent evidence and/or admissions to **test** assumptions / qualifiers" [emphasis in original] included an image of a swastika superimposed over an Israeli flag.

The graphic noted that Israel's aerial bombardment of the besieged Palestinians was widely described in the corporate media as "precision strikes" targeting militants. This was despite the reality that the barrage resulted in over 1,000 deaths, 75 percent of which were of civilians. By contrast, primitive Palestinian rocket attacks, which resulted in six civilian deaths, were denounced as "indiscriminate."

The slide encouraged students to seek out independent evidence and to "be wary of moral equivalence claims carrying inbuilt assumptions" and recognise that "both the objectives and actions of the parties are important."

In court affidavits, Anderson described the graphic as "an evocative image consistent with my published view that Zionist racial ideology and racialised violence ... was reminiscent of the murderous, racialised pogroms of Nazi Germany." He said: "The purpose of the slide was to encourage critical analysis ... No student raised any issue with the slide during the seminar."

The university accused Anderson of "offensive conduct" and suspended him in December 2018, following an extensive campaign against him by the then Liberal-National Coalition government, Zionist organisations and the corporate media.

University staff came to Anderson's defence, recognising the broader implications of this attack. Within days, 30 prominent academics and lecturers signed an open letter warning that his dismissal would be "an unacceptable act of censorship and a body-blow to academic freedom," which, by "instilling a fear of arbitrary reprisal... stifles the very freedom of debate

and of thought that education requires.”

However, the National Tertiary Education Union (NTEU) organised no defence campaign. Instead, it channelled the opposition to his sacking into an unfair dismissal case in the federal courts, arguing that the dismissal breached academic freedom clauses in the union’s enterprise agreement with the university management.

The initial ruling by Federal Court Justice Thomas Thawley in November 2020 found that the enterprise agreement (EA) “does not recognise the existence of, or give rise to, a legally enforceable right to intellectual freedom.”

This ruling caused shock and opposition among university workers. NTEU University of Sydney branch president Kurt Iveson told the campus newspaper *Honi Soit*: “This issue is widely and deeply felt across our entire membership.” But the union held out the hope that the result would be reversed on appeal.

Anderson and the NTEU appealed to the Full Federal Court, which ruled in October 2021 that Thawley had made eight legal errors in his judgment and sent the case back to him to determine again.

In 2023, Thawley finally ruled that Anderson’s graphic was not “a form of racial vilification intended to incite hatred of Jewish people,” and ordered the university to re-instate him. The university appealed that decision, however, and extraordinarily the Full Federal Court heard the case again, though this time with different judges.

In their majority judgments, Justices Nye Perram and Michael Lee relied on clause 317 of the NTEU-management EA, which requires academics to uphold, “the principle and practice of intellectual freedom in accordance with the highest ethical, professional and legal standards.” They ruled that the burden of proof was on Anderson to prove he had met those standards, not for the university to prove he had not.

In other words, it was not up to the management to prove it was justified in sacking Anderson. He had to prove he met such undefined “highest standards,” which the two judges said he did not do.

Lee wrote that Anderson’s graphic “is self-evidently offensive and obviously disturbing.” Perram labelled Anderson’s conduct as “at least incendiary.” This is under conditions in which broad layers of students and workers have protested, week after week, against US-

backed genocide in Gaza genocide by the fascistic Netanyahu regime.

Anderson’s dismissal has dangerous implications, not just for academics but the working class as a whole, with opposition growing to the Labor government’s backing for the Israeli onslaught as part of its unequivocal commitment to US militarism globally, including in the war against Russia in Ukraine and the preparations for war against China.

The ruling on Anderson is already being used as a precedent. In late May the *Australian* launched an attack against University of Sydney sociology professor Sujatha Fernandes for showing students a lecture slide stating that the corporate media facilitates the Gaza genocide by “suppressing coverage of the atrocities, peddling fake news (promoted hoaxes that Hamas beheaded babies and carried out mass rape, in order to shore up support for Israel), and distorting events.”

The Executive Council of Australian Jewry, which claims to be the peak representative body of Australian Jews, and receives substantial government funding on that basis, demanded an investigation into Fernandes. A university spokesperson duly told *Honi Soit* it was “looking into this matter as a priority” and that academics “must exercise their intellectual freedom according to the highest ethical, professional, and legal standards.” That echoes the language of the EA clause used to sack Anderson.

In response, the current NTEU branch president, Nick Riemer, said that it was up to management to show Zionists that “the university’s internal processes are [not] there to be weaponised for their own political purposes.”

Anderson’s case demonstrates, however, that far from management standing up to the Zionists, the University of Sydney has been at the forefront of efforts to intimidate or dismiss academics who call into question Israeli, US and Australian policies.



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