

THE HON T F BATHURST AC
CHIEF JUSTICE OF NEW SOUTH WALES
GREAT SYNAGOGUE SERVICE
OPENING OF LAW TERM RECEPTION SPEECH
12 FEBRUARY 2020*

1. I would like to begin by respectfully acknowledging the traditional custodians of the land on which we meet, the Gadigal people of the Eora nation, and pay my respects to their Elders, past, present and emerging. This evening, as we carry on the ancient tradition of marking the Opening of Law Term with religious services, we recognise the rich cultural traditions that have been practised by Australia's First Nations people for thousands of years, and continue to be practised.
2. As always, I am delighted to have the opportunity to attend this service at the Great Synagogue to mark the Opening of the 2020 Law Term. On behalf of the judges of the Supreme Court of NSW and all members of the legal profession who are in attendance this evening, I extend our thanks to Rabbi Dr Benjamin Elton and all involved for welcoming us to this beautiful synagogue and organising the service tonight. This is now the ninth year that I have attended the Great Synagogue to celebrate this occasion, so I will keep my remarks brief so as not to detract from the real reason many of you have stayed back after the service: the catering.
3. This service is an opportune time to reflect upon the significant and diverse contributions to the rule of law and promotion of access to justice that have been made by the Australian Jewish community in this country. Oft-cited examples of significant Jewish leaders in the Australian legal community include the first Australian-born Governor-General, Sir Isaac Isaacs and my immediate predecessor, the Honourable James Spigelman.

* I express my thanks to my Research Director, Ms Jessica Elliott, for her assistance in the preparation of this address.

4. However, one does not need to go far back to appreciate the continued contributions of the Jewish community. Just a few weeks ago 44 Jewish Australians were recognised with Australia Day Honours for their outstanding service and contributions to society.¹ Remarkably, members of the Jewish community represented over 4% of award recipients whilst only making up 0.4% of the population.² The Jewish Australian recipients honoured for their service to the law and legal education included Professor Martin Krygier of the University of New South Wales who has written extensively on the rule of law, David Paratz for his work in alternative dispute resolution and mediation and Thomas Danos, a current member of the Victorian Bar.
5. It is also important to recognise other contributions made by members of the Australian Jewish community that may have gone less noticed. In 2018 the 'Keep NSW Safe' campaign was spearheaded by the NSW Jewish Board of Deputies, particularly its Chief Executive Officer Vic Alhadeff and President Jeremy Spinak. This successful campaign resulted in the *Crimes Amendment (Publicly Threatening and Inciting Violence) Bill 2018 (NSW)* being unanimously supported by both Houses of Parliament in June 2018. This bill amended the *Crimes Act 1900 (NSW)* to create an offence of threatening or inciting violence on the grounds of race, religion, sexual orientation, gender identity or intersex or HIV/AIDS status. In the Second Reading Debate, the Jewish Board of Deputies were commended for their advocacy skills and constructing and leading "a powerful community coalition" of "people of various backgrounds, religions, faiths and ethnic identities" to enact legislative reform.³
6. The efforts of the Jewish community to enact positive legislative reform are also exemplified in the community's important engagement with family

¹ The Australian Jewish News, 'Mazal tov to our Australia Day honorees!' (online, 25 January 2020) <<https://ajn.timesofisrael.com/mazal-tov-to-our-australia-day-honorees/>>.

² Australian Bureau of Statistics, 'Religion in Australia' (online, 28 June 2017) <<https://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/2071.0~2016~Main%20Features~Religion%20Data%20Summary~70>>.

³ New South Wales, *Parliamentary Debates*, Legislative Council, 20 June 201 (Daniel Mookhey).

violence reforms. Tayla Faigenbaum and Dr Ann Wollner, on behalf of the National Council of Jewish Women of Australia and Unchain My Heart Incorporated, a not-for-profit organisation promoting the resolution of religious divorce abuse, filed submissions to the Australian Law Reform Commission's Review of the Family Law System. These comprehensive submissions highlighted the refusal of a Jewish Bill of Divorce, or 'Gett' as a form of family violence in Australia.⁴

7. In light of the unfathomable persecution faced by Jewish communities across history, it is perhaps unsurprising that the Jewish community are at the forefront of the promotion of the rule of law and human rights for vulnerable members of our community.
8. Regrettably, anti-Semitism has not been relegated to the past. Anti-Semitic attitudes and violence still exist, and alarmingly, appear to be on the rise internationally. Last year, President Emmanuel Macron declared that France was experiencing "a resurgence of anti-Semitism that is probably unprecedented" since World War II, with incidents of anti-Semitism increasing a staggering 74 per cent in France between 2017 and 2018.⁵ Similarly, the United States has also recently seen a rise in anti-Semitic violence, prompting Mayor Bill de Blasio of New York to describe the "growing anti-Semitism problem" in the United States as "a crisis".⁶
9. Unfortunately, Australia is not immune from this trend with the frequency and severity of anti-Semitic incidents on the rise. The Annual Report of the Executive Council of Australian Jewry Report recorded 368 anti-Semitic

⁴ Tayla Faigenbaum and Dr Ann Wollner on behalf of Unchain My Heart Incorporated Inc and National Council of Jewish Women of Australia Ltd, Submission No 120 to Australian Law Reform Commission, *Review of the Family Law System* (7 May 2018) 12 [8].

⁵ 'Antisemitism at worst levels since second world war, says Macron', *The Guardian* (online, 21 February 2019) <<https://www.theguardian.com/news/2019/feb/21/emmanuel-macron-says-france-antisemitism-has-reached-worst-levels-since-second-world-war>>.

⁶ Michael Gold and Benjamin Weiser, 'Suspect in Monsey Stabbings Searched Online for 'Hitler', Charges Say', *New York Times* (online, 30 December 2019) <<https://www.nytimes.com/2019/12/30/nyregion/jewish-attacks.html>>.

incidents in Australia during the year ending 30 September 2019, with a 30 per cent increase from 2018 in the number of reported incidents involving direct verbal abuse, harassment and intimidation.⁷

10. Importantly, just over a fortnight ago we marked 75 years since the Liberation of Auschwitz. This occasion was marked by events across the world, including a ceremony attended by dignitaries and officials from more than 50 countries, and Holocaust survivors, including Australians at the site of the former camp. This solemn anniversary is a critical warning against the need to fight against persistent anti-Semitism and the need to remain vigilant to all forms of intolerance, racism and hatred in our communities.
11. The increasing prevalence of anti-Semitic incidents both internationally and domestically is deeply concerning. Polarising political rhetoric that fuels division, fear and hatred has become commonplace both domestically and abroad. Far too often we see minority groups, immigrants and the most vulnerable posited as a threatening 'other', engendering bigotry, discrimination and violence. We have seen modern technology and social media hijacked as weapons to easily and rapidly disseminate hatred across borders. As social media becomes ever more ubiquitous, online hate speech across mainstream forums such as Facebook, YouTube and Twitter and lesser known forums have become more pernicious, creating new challenges for users, regulators and social media platforms.⁸
12. Religious services to mark the Opening of Law Term provide us with an opportunity to come together to reflect upon the importance of the rule of law in our society. As the anniversary of the liberation of Auschwitz so tragically shows, it is imperative that we remember the unimaginable horrors that can

⁷ Executive Council of Australian Jewry, *Report on Antisemitism in Australia 2019* (Report, 24 November 2019) <<https://www.ecaj.org.au/wordpress/wp-content/uploads/2019/11/ECAJ-Antisemitism-Report-2019.pdf>>.

⁸ Sheera Frenkel, Mike Isaac and Kate Conger, 'On Instagram, 11,696 Examples of How Hate Thrives on Social Media', *New York Times* (online, 29 October 2018) <<https://www.nytimes.com/2018/10/29/technology/hate-on-social-media.html>>.

occur when we become indifferent to incursions on the rule of law and human rights of all individuals.

13. The protection and promotion of the rule of law is important for us all, irrespective of whether we have any interaction with the legal system. For the rule of law is not only upheld by the judges and legal professionals in attendance this evening. Instead, it is something that we all uphold when we make decisions, large or small, to respect and protect the rights and equality of each and every individual.
14. The marking of the Opening of Law Term with religious services prompts us to consider the importance of the administration of justice and rule of law in our communities. Gathering here tonight, we remember the role that we each play in fighting against any form of bigotry, hatred and racism. We also celebrate the outstanding contribution of the Australian-Jewish community to the law in Australia. This evening's gathering of the Jewish and legal community to reflect, to pause and to celebrate exemplifies the value of maintaining the ancient tradition of marking the Opening of Law Term with religious services.
15. I wish you all the very best for the coming legal year and thank you again to all those involved in organising tonight's service.