

Palestinian Human Rights Issues in Canada: A Legal & Tactical Guide

CHAPTER 1: FREE SPEECH RIGHTS



Just Peace Advocates
Mouvement Pour Une Paix Juste

For the full guide, visit justpeaceadvocates.ca/legal-and-tactical-guide/

1 FREE SPEECH RIGHTS

A QUICK GLANCE

FREEDOM OF EXPRESSION

The *Canadian Charter of Rights and Freedoms*¹ guarantees “freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication.” Freedom of expression is the right to speak, to dissent, to express yourself, and to listen to the expression of others. It is a foundational right of any democratic society.

Violent expression is NOT protected by s. 2(b) of the *Charter*.² This includes, threats of violence, which are not protected expression pursuant to s. 2(b).³

HATE SPEECH AND HATE PROPAGANDA

Hate propaganda is material that promotes hatred against minority groups. Hate speech is a term used to describe speech aimed at an individual or group that is offensive or even hateful and may have no value other than to disparage the person or group based on their identity, such as race, national origin, religion, etc. Even such speech that is offensive and hurtful cannot be prohibited or punished unless it amounts to incitement, defamation, obscenity, or harassment.

The *Criminal Code of Canada* (ss. 318-320) prohibits hate propagation, including any of the following against an identifiable group:

- (a) Advocating genocide⁴
- (b) Public incitement of hatred⁵
- (c) Publicly communicating statements willfully promoting hatred⁶

Provincial and territorial legislatures in Canada have passed human rights laws that prohibit discrimination based on certain prohibited grounds. However, the law differs based on province and territory. All human rights laws across Canada, except for that in the Yukon Territory, prohibit in some respect the public display, broadcast or publication of messages that announce an intention to discriminate or that incite others to discriminate, based on the identified prohibited grounds.⁷ However, publications will typically only be found to be discriminatory when they have a very harmful impact on the person or group affected, based on a specific protected ground in the legislation.

TL;DR (too long; didn't read)

Expression critical of Israeli policies is neither hate propaganda nor hate speech aimed at disparaging a religious or ethnic group's identity, as many detractors claim. Rather, criticism of Israel is constitutionally protected speech addressing an issue of domestic and international importance.

¹ s 2, Part 1 of the *Constitution Act*, 1982, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11 [*Charter*].

² *Irwin Toy Ltd v Quebec (Attorney General)*, 1989 CanLII 87 (SCC) [*Irwin Toy*]; *R v Keegstra*, 1990 CanLII 24 (SCC) [*Keegstra*].

³ *R v Khawaja*, 2012 SCC 69.

⁴ *Criminal Code*, RSC 1985, c C-46, s 318(1).

⁵ *Ibid*, s 319(1).

⁶ *Ibid*, s 319(3).

⁷ See fn 35 for details.

IN-DEPTH: Free Speech Rights



FREEDOM OF EXPRESSION UNDER THE CHARTER

FREEDOM OF EXPRESSION IS THE RIGHT TO SPEAK, TO DISSENT, TO EXPRESS YOURSELF, AND TO LISTEN TO THE EXPRESSION OF OTHERS. IT IS A FOUNDATIONAL RIGHT OF ANY DEMOCRATIC SOCIETY.

Section 2(b) of the *Canadian Charter of Rights and Freedoms* guarantees “freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication.” The right to freedom of expression in s. 2(b) of the *Charter* is subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society (s. 1).

Section 2(b) protections apply to all individuals in Canada regardless of citizenship or immigration status. The *Charter* applies to government action and therefore s. 2(b) limits how government actors can restrict your expression. Like all other *Charter* rights, it generally does not apply to private actors unless they are controlled by a government body or are performing a government action or function of some sort.

The Supreme Court of Canada (SCC) has identified the following three broad principles and values that underlie the *Charter*’s guarantee of freedom of expression:

- (1) Seeking and attaining the truth;
- (2) Fostering and encouraging participation in social and political decision-making; and
- (3) Cultivating diversity in forms of individual self-fulfillment and human flourishing.⁸

WHAT IS “EXPRESSION”?

The SCC has defined expression extremely broadly. It has held that an activity is “expressive” if “it attempts to convey meaning.”⁹ According to this definition, conduct such as wearing a t-shirt with a message, holding a banner, chanting at a protest, performing street theatre, as well as dance, music, writing, paintings, films, etc. would all be considered protected forms of expression.

“Content neutrality” is the governing principle of the SCC’s definition of expression.¹⁰ This means that, with few exceptions, the content of a statement cannot deprive it of the protection afforded to it by s. 2(b), no matter how offensive it may be.¹¹ Based on this expansive, content-neutral approach to expression, the SCC has held that the right to freedom of expression encompasses communication for the purpose of prostitution,¹² the dissemination of hate propaganda,¹³ the deliberate dissemination of falsehoods and defamatory libel,¹⁴ and even child pornography.¹⁵ Violent expression, including threats of violence, are NOT protected by s. 2(b) of the *Charter*.¹⁶

⁸ *Irwin Toy*, *supra* note 2; *Montréal (City) v 2952-1366 Québec Inc.*, 2005 SCC 62 at 74.

⁹ *Reference re ss. 193 and 195.1(1)(C) of the criminal code (Man.)*, 1990 CanLII (SCC) [Prostitution Reference].

¹⁰ Peter Hogg, *Constitutional Law of Canada*, 5th Ed (Toronto: Thomson Reuters Canada, 2019) (loose-leaf revision), s. 43.

¹¹ *Keegstra*, *supra* note 2.

¹² *Prostitution Reference*, *supra* note 9.

¹³ *Keegstra*, *supra* note 2.

¹⁴ *R v Lucas*, [1998] 1 SCR 439.

¹⁵ *R v Sharpe*, 2001 SCC 2.

¹⁶ *Irwin Toy*, *supra* note 8; *Keegstra*, *supra* note 11; *R v Khawaja*, *supra* note 3.

MIND THE “P” WORD, ACCORDING TO THE CBC

CBC journalist standards led to the “deletion” of the word “Palestine” from a segment already aired.¹⁷

On August 18 2020, in an interview on CBC’s The Current, guest anchor, Indigenous journalist Duncan McCue introduced his guest, Joe Sacco, referencing Sacco’s “work in Bosnia, Iraq, and Palestine.”¹⁸ Joe Sacco is a graphic novelist and the creator of a work called Palestine. He was being interviewed regarding colonization and resource extraction.

McCue’s use of the word “Palestine” caused a flurry with CBC editors as they worked to scrub the word Palestine before the edition could play in time zones in Western Canada. The revised transcript introduced Sacco, saying “your work in conflict zones, Bosnia, Iraq” and closed out with “Joe Sacco has spent his career telling stories from conflict zones from the Gaza Strip to Bosnia.”¹⁹ Palestine was deleted.

In the August 19, 2020 recorded version of the program, CBC issued a formal correction and apology, stating: “Yesterday in my interview with Joe Sacco I referred to the Palestinian territories as ‘Palestine,’ we apologize.”²⁰

Joe Sacco has said: “It’s ironic that the CBC would apologize for the use of the word “Palestine” for a segment about my book, whose subject is at least partly the attempted obliteration of the cultural identity of [I]ndigenous people of the Northwest Territories, particularly through the notorious residential school system. Imagine today if the First Nations people I talked to, the Dene, would be made to apologize for using their word “Denendeh,” which means “The Land of the People,” for describing where they live. To whom, exactly, was the CBC apologizing for using the word “Palestine”? If anything, this storm over a proper noun brings into relief a similar way the adherents of colonial-settler projects seek to suppress native peoples and

then laud their dominance. I’m sure none of this is lost on either Canada’s indigenous people or Canadian-Palestinians.”²¹

CBC/Radio-Canada is Canada’s national public broadcaster and one of the country’s largest cultural institutions. CBC/Radio-Canada’s mandate is to inform, enlighten, and entertain, including to contribute to the sharing of national consciousness and identity, and to reflect Canada’s regional and cultural diversity.

At the time, several thousand letters were sent to the CBC, a number of articles appeared in the media, and complaints were made to the CBC Ombudsman.²² In the end the CBC Ombudsman ruled that the word Palestine could be deleted as it was counter to CBC language standards.²³

CBC (and other media outlets) have not only continued censoring the word “Palestine,” but the word genocide, the stories of Palestinians, and the reality of what is happening across Palestine (both in Gaza and the West Bank).²⁴ For example, a former CBC producer and news anchor was told to verify the death of someone close to a guest – something that was never expected in the past and is not a journalists standard producers were expected to uphold.²⁵ Even more recently, in January 2025, a CBC anchor told a guest, Ms. Alsaafin – who had just shared how her brother was killed in the genocide – that “‘war’ is more appropriate” and CBC reporters “cannot use that word to describe what is happening.”²⁶

While CBC has since issued a formal correction on January 21, 2025, clarifying that “CBC News does not prohibit specific words in our reporting, but instead requires precise attribution and reporting on the debates that shape public policy, including debates about language”, they have failed to take accountability for their censorship. Despite Israel’s genocide having killed more journalists than any other conflict documented by the Committee to Protect Journalists.

27

DELETE

¹⁷ “CBC Owes the People of Palestine an Apology”, *Just Peace Advocates* (14 September 2020), online: <[Link](#)>.

¹⁸ “The Current for Aug. 18, 2020”, *CBC* (18 August 2020), online: <[Link](#)>.

¹⁹ “Aug. 18, 2020 Episode Transcript”, *CBC* (18 August 2020), online: <[Link](#)>.

²⁰ “An Awkward Apology”, *CBC Radio-Canada* (4 March 2021), online: <[Link](#)>.

²¹ David Kattenburg, “Palestine Deleted”, *Mondoweiss* (24 August 2020), online: <[Link](#)>.

²² “Canadian Heritage Minister Receives Letters – CBC Owes the People of Palestine an Apology”, *Just Peace Advocates* (24 September 2020), online: <[Link](#)>.

²³ *CBC Radio-Canada*, *supra* note 20.

²⁴ Emma Paling, “CTV Forbids Use of ‘Palestine,’ Suppresses Critical Stories About Israel”, *The Breach* (22 November 2023), online: <[Link](#)>.

²⁵ Molly Schumann, CBC has Whitewashed Israel’s Crimes in Gaza. I Saw it Firsthand”, *The Breach* (16 May 2024), online: <[Link](#)>.

²⁶ “CBC’s Natasha Fatah Speaks to a Palestinian Canadian with Family Still in Gaza on the Ceasefire”, *CBC* (19 January 2025), online: <[Link](#)>.

²⁷ “Israel-Gaza War”, *CPJ* (n.d.), online: <[Link](#)>.

REASONABLE LIMITS CLAUSE (*CHARTER* S. 1)

Charter rights are not absolute and can be infringed if the courts determine that the infringement is reasonably justified. Section 1 of the *Charter* is often referred to as the “reasonable limits clause” because it allows for “reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.”²⁸ Once a *Charter* infringement has been found, the court will apply a balancing test to assess whether the government interests outweigh those of the individual claiming their *Charter* right has been violated. The test is referred to as the *Oakes* test after the case of *R v Oakes* (1986), in which the SCC interpreted the wording of s. 1 and established the basic legal framework for how s. 1 would apply to a case.²⁹ The *Oakes* Test proceeds as follows:

- (a) There must be a *pressing and substantial objective* for the law or government action, which must be of sufficient importance to warrant overriding a constitutionally protected right or freedom.
- (b) The means chosen to achieve the objective must be *proportional* to the burden on the rights of the claimant.
 - i. The objective must be *rationaly connected* to the limit on the *Charter* right.
 - ii. The limit must impair the *Charter* right as little as possible.
 - iii. There should be an overall balance or *proportionality* between the benefits of the limit and its deleterious effects.

Because of the wide breadth of s. 2(b), infringements of freedom of expression are often found at the section 1 stage of the legal analysis where the court must consider if a law is a reasonable limit on one’s freedom of speech.

HATE PROPAGANDA AND HATE SPEECH

Hate propaganda is material that promotes hatred against minority groups. Hate speech is a term used to describe speech aimed at an individual or group that is offensive or even hateful and may have no value other than to disparage the person or group based on their identity, such as race, national origin, religion, etc. Even such speech that is offensive and hurtful cannot be prohibited or punished unless it amounts to incitement, defamation, obscenity, or harassment.

Various federal and provincial legal frameworks have developed in Canada to regulate hate speech, and these laws often interact with the *Charter* right to freedom of expression under s. 2(b). Some examples in the criminal and human rights contexts are provided below.

(A) Criminal Law

The *Criminal Code* at ss. 318 to 320 prohibits hate propaganda, including:

- (a) **Advocating genocide**, meaning “killing members of the group or deliberately inflicting on the group conditions of life calculated to bring about its physical destruction” with the intent to destroy in whole or part any identifiable group (punishable by up to five years in prison);³⁰
- (b) **Public incitement of hatred** against an identifiable group in a way that is likely to lead to breach of the peace (punishable by up to 2 years in prison);³¹
- (c) **Publicly communicating statements** willfully promoting hatred against an identifiable group (subject to defences of good faith, truth, and others)³² (punishable by up to 2 years in prison).³³

An “identifiable group” is defined as “any section of the public distinguished by colour, race, religion, national or ethnic origin, age, sex, sexual orientation, gender identity or expression, or mental or physical disability.”³⁴ The threshold is very high for a speech to amount a criminal offence under one of the provisions outlined above.

(B) Human Rights Law

Each provincial and territorial legislature in Canada has passed human rights laws prohibiting discrimination based on certain prohibited grounds such as race, sex, age, religion, ability, gender identity and expression, ethnicity, creed, etc., in certain social areas, including employment, tenancy, memberships, and accessing public goods and services. In the federal context, the main human rights legislation is the *Canadian Human Rights Act*, which generally applies to the federal government departments and agencies, Crown corporations, and federally regulated businesses.

All human rights laws, except the Yukon, prohibit in some way the public display, broadcast or publication of messages that announce an intention to discriminate or that incite others to discriminate, based on the prohibited grounds.³⁵ While these provisions do place limits on free speech, they have not been challenged, most likely because their original purpose was to guard against discriminatory actions by businesses or landlords who would use signs to indicate that certain racial or ethnic groups would not be served.³⁶ In addition, human rights laws in Alberta, British Columbia, Saskatchewan, and the Northwest Territories contain a prohibition against the promotion of hatred or contempt in some form.³⁷

Not all offensive publications will count as discriminatory under human rights codes. Publications will typically only be found to be discriminatory when they have a very harmful impact on the person or group affected, based on a specific

²⁸ *Charter*, *supra* note 1, s. 1.

²⁹ *R v Oakes*, 1986 CanLII 46 (SCC).

³⁰ *Criminal Code*, *supra* note 4, s 318(1).

³¹ *Ibid*, s 319(1).

³² *Ibid*, s 319(3).

³³ *Ibid*, s 319(2).

³⁴ *Ibid*, s 319(4).

³⁵ Julien Walker, “Hate Speech and Freedom of Expression: Legal Boundaries in Canada” (29 June 2018) Library of Parliament, Legal and Social Affairs Division,

Parliamentary Information and Research Service, Publication No 2018-25-E. See also Canadian Centre for Diversity and Inclusion, “Overview of Human Rights Codes by Province and Territory in Canada”, (January 2018), online: <Link>. See Chapter 7, “Provincial, Territorial, and Federal Human Rights Information.”

³⁶ *Ibid* at 8.

³⁷ *Ibid*; See *Alberta Human Rights Act*, RSA 2000, c A-25.5, s. 3; British Columbia: *Human Rights Code*, RSBC 1996, c 210, s 7; Northwest Territories: *Human Rights Act*, SNWT 2002, c 18, s 13; *The Saskatchewan Human Rights Code*, 2018, SS 2018, c S-24.2, s 14.

protected ground in the legislation. This will need to be determined on a case-by-case basis in the relevant jurisdiction.

It is important to note that Hate Crimes Units may be used against people advocating for Palestine. In 2024, The Breach investigated the use of a “heavily-resourced Hate Crime Unit” that was “engaged in surveillance, night raids, and ‘trumped up charges’ against the Palestinian solidarity movement” in Toronto.³⁸ Additionally, the “Hate Crime Working Group” within the Ontario Ministry of the Attorney General has supported “the targeting of Palestine activism and expressed ‘commitment to the state of Israel.’”³⁹

ANTI-PALESTINIAN RACISM

The Arab Canadian Lawyers Association (ACLA) describes anti-Palestinian racism (APR) as follows:

"Anti-Palestinian racism is a form of anti-Arab racism that silences, excludes, erases, stereotypes, defames or dehumanizes Palestinians or their narratives. Anti-Palestinian racism takes various forms including: denying the Nakba and justifying violence against Palestinians; failing to acknowledge Palestinians as an Indigenous people with a collective identity, belonging and rights in relation to occupied and historic Palestine; erasing the human rights and equal dignity and worth of Palestinians; excluding or pressuring others to exclude Palestinian perspectives, Palestinians and their allies; defaming Palestinians and their allies with slander such as being inherently antisemitic, a terrorist threat/sympathizer or opposed to democratic values."⁴⁰

ACLA describes various aspects of APR and why it is important to name it:

- Palestinians experience a distinct form of racism⁴¹
- APR impacts Palestinians and non-Palestinians⁴²
- Naming APR addresses the erasure and exclusion of Palestinians⁴³
- Naming and framing APR is an anti-oppression tool⁴⁴

Notably, the Palestinian Canadian Congress has reported critical findings related to APR. In their survey of individuals who have experienced APR, they found that:⁴⁵

- 21.22% of people who experienced APR were Palestinian, 31.0% were white.
- Approximately 50% of participants were born in Canada.
- About 50% identify as Muslim, 30% with no religion, 12.78% as Christian, and 2.94% as Jewish.
- The most common locations for APR were social media, workplace, and other online settings (e.g., forums, blog posts).

³⁸ Martin Lukacs, “Inside the ‘Shocking’ Police Operation Targeting pro-Palestine Activists in Toronto”, *The Breach* (17 June 2024), online: <Link>.

³⁹ Owen Schalk, “The Repression of Palestine Solidarity in Canada”, *Cosmonaut* (8 January 2025), online: <Link>.

⁴⁰ Dania Majid, *Anti-Palestinian Racism: Naming, Framing and Manifestations* (Arab Canadian Lawyers Association, 2022) at 2, online: <Link>.

⁴¹ *Ibid* at 14.

⁴² *Ibid* at 15.

⁴³ *Ibid* at 17.

⁴⁴ *Ibid* at 20.

- 94.67% of respondents did not report incidents to police.
- 54.68% of people who did not report to police indicated they are unlikely or very unlikely to report an APR incident to the police in the future.

While APR occurs in various settings, it is extremely prevalent on campus and in employment settings.

(A) Employment and APR

The impact of APR on individuals is not new, rather it has become explicit and widespread since October 2023.

Among the individuals who lost their positions because of support for Palestine were:

- Zahraa Al-Akhrass [Journalist, Global News] lost her job due to “unspecified” social media posts.⁴⁶
- Aarij Answer [Muslim Chaplain, Western University] was fired for responding to a social media post, stating, “Stop spreading lies of beheading babies or rape of little girls. It’s been debunked. No one is celebrating the murder of Israeli babies. Palestinians are mourning the death of their babies. It’s incredible how Israel sympathizers simultaneously are the oppressor and the victim.”⁴⁷
- Amy Blanding [Director of DEIA, Northern Health] was dismissed after expressing support for Palestinians and their human rights in her personal time.⁴⁸

This only represents a fraction of individuals impacted between October 7 and November 10 2023 alone. In 2016, Nadia Shoufani – a teacher with the Dufferin-Peel Catholic District School Board – was suspended after giving a speech at a Toronto Al-Quds Day event.⁴⁹ The Board cited concerns from “the community and public at large”.⁵⁰ This seems to include notorious pro-Israel advocacy groups Centre for Israel and Jewish Affairs (CIJA) and B’nai Brith Canada.

Workers may or may not explicitly know the reason(s) for being fired. Employers may let people go overtly or covertly. Prior to October 2023, employment consequences were largely more covert. In comparison, since then, consequences have been much more overt, despite strong public support for Palestine. ACLA has provided a list of employment lawyers who are willing to support people facing consequences for their Palestine advocacy.

It is important to recognize that your employment related risks will depend on various factors, including whether you are i) an employee vs independent contractor; ii) a unionized vs non-unionized worker; iii) employed in the federal sector; and/or iv) a

⁴⁵ Bascima Mosse & Sumara Sibery, *Anti-Palestinian Racism in Canada 2024 Survey Report: Findings from a Survey* (Palestinian Canadian Congress, 2025) at 5-6, online: <Link>.

⁴⁶ *Ibid*.

⁴⁷ *Ibid*.

⁴⁸ Darin Bain, “Northern Health Facing Lawsuit After Former Employee Claims She Was Removed for pro-Palestinian Comments”, *My Prince George Now* (9 October 2024), online: <Link>.

⁴⁹ The Canadian Press, “Mississauga Teacher Suspended After Public Raised Concerns About Conduct: Board”, *The Canadian Press* (10 August 2016), online: <Link>.

⁵⁰ *Ibid*.

permanent employee vs working on a fixed-term contract.⁵¹ For more details, check out [ACLA's full guide to employee rights and job consequences for Palestine support activities](#).

(B) Education and APR

APR has always been present in the Canadian education system but is expanding. For example, in an April 2025 Ottawa Carleton District School Board meeting, "Trustee Nili Kaplan-Myrth stated that the mere sight of the Keffiyeh, worn by a presenter, was "an act of aggression."⁵² In another instance, the Toronto District School Board (TDSB), despite voting to adopt the *Combating Hate and Racism Strategy* which includes a commitment to addressing APR, failed to take meaningful action.⁵³ Instead, *Toronto Palestinian Families* created their own resource, "Navigating the TDSB" guide to "help Palestinian families address the lack of adequate protection and reporting mechanisms" related to APR.⁵⁴

For more information on the intersection of education and APR, check out Canadian Foreign Policy Institute's webinar, "[Silencing Palestine in the Education System](#)."⁵⁵

CHECK IT OUT!

[\[islamophobia-is\].com](https://islamophobia-is.com)

The *Islamophobia is* video series is an educational resource that addresses systemic Islamophobia, and sparks a conversation about all forms of racism and injustice. The five-video series is free, available online, and includes an educator's guide for grades 6-12. Check it out!

The **videos** include:

- *Islamophobia is...more than hate crimes* – Narrated by Naheed Mustafa (3:45)
- *Islamophobia is...perpetuated by mainstream media* – Narrated by Desmond Cole (3:38)
- *Islamophobia is...the myth of the Muslim 'terrorist'* – Narrated by Hayden King (4:21)
- *Islamophobia is...gendered* – Narrated by Noura Erakat (3:55)
- *Islamophobia is...the myth of shariah takeover* – Narrated by Safiyyah Ally (5:03)

⁵¹ Arab Canadian Lawyers Association, *Job Consequences for Palestine Support Activities: What are My Employee Rights?* (ACLA, 2023) at 2-3, online: <[Link](#)>.

⁵² "Wearing a Keffiyeh is NOT an act of aggression!! No place for racism in the Ottawa Carleton District School Board", *Just Peace Advocates* (April 2025), online: <[Link](#)>.

⁵³ "Toronto Palestinian Families And Toronto Jewish Families Welcome The Adoption Of The Combating Hate And Racism Strategy", *Toronto Palestinian Families* (20 June 2024), online: <[Link](#)>.

(C) Actions to Address APR

In the Palestinian Canadian Congress report, Mosse & Sibery identified five recommendations:⁵⁶

- (1) Public and private institutions should adopt ACLA's working definition of APR and incorporate this into existing anti-racism frameworks (recognizing it as distinct from anti-Arab and Anti-Muslim hate/Islamophobia).
- (2) Governments must take measures to address APR.
- (3) Governments must reject the conflation of criticism of Israel and antisemitism.
- (4) Canada must formally recognize the Nakba, its ongoing impacts, and the central role of settler-colonialism to the establishment of Israel.
- (5) Canada must uphold its international legal obligations.

PROVINCIAL, TERRITORIAL, AND FEDERAL HUMAN RIGHTS INFORMATION

The following includes links to provincial, territorial, and federal human rights commissions or tribunals, which provide information about human rights legislation, protected areas and grounds of discrimination, and the complaint processes.

[ALBERTA](#)

[BRITISH COLUMBIA](#)

[MANITOBA](#)

[NEWFOUNDLAND AND LABRADOR](#)

[NEW BRUNSWICK](#)

[NOVA SCOTIA](#)

[NORTHWEST TERRITORIES](#)

[NUNAVUT](#)

[ONTARIO](#)

[QUEBEC](#)

[PRINCE EDWARD ISLAND](#)

[SASKATCHEWAN](#)

[YUKON](#)

[FEDERAL](#)

CONCLUSION

Expression critical of Israeli policies is neither hate propaganda nor hate speech aimed at disparaging a religious or ethnic group's identity, as many detractors claim. Rather, criticism of Israel is constitutionally protected speech addressing an issue of domestic and international importance. Expression that condemns Israel as an apartheid state is not anti-Semitic. Criticism of Jewish people as a whole because of Israel's actions is, on the other hand, anti-Semitic. Disparagement of an individual based on stereotypes of Jewish people may also be anti-Semitic "hate speech" in violation of hate propagation laws or human rights protections. Similarly, a generalized denunciation of Palestinians or Muslims as "terrorists" may be Islamophobic hate speech or discrimination.

Generally speaking, however, criticism of Israeli policies is not hateful towards Jewish people and would be considered protected speech for the purposes of the *Charter*.

⁵⁴ "TDSB Fails Palestinian Families; Parents Create Guide To Address Anti-Palestinian Racism in Schools", *Toronto Palestinian Families* (16 October 2024), online: <[Link](#)>.

⁵⁵ In another instance of APR, families of some TDSB students were outraged after their children went on a field trip to the Grassy Narrows River Run – demanding action against mercury contamination – and witnessed pro-Palestinian supporters at the rally. See Patrick Case, "Final Report on the Review of the Toronto District School Board's Excursions Policy and Procedure" (Ontario, 2024), online: <[Link](#)>; "Media Coverage, Social Media Increased Tension Around TDSB Field Trip, Report Says", *CBC News* (23 April 2025), online: <[Link](#)>.

⁵⁶ Mosse & Sibery, *supra* note 45 at 27.

IHRA

1 | CAMPAIGN TO OPPOSE THE IHRA DEFINITION OF ANTISEMITISM

The International Holocaust Remembrance Alliance (IHRA) is a 34-country, intergovernmental organization. In May 2016, the IHRA adopted a working definition of antisemitism which went beyond defining antisemitism as hatred of, discrimination against, or prejudice towards Jews, and expanded the definition to include criticism of Israel and Zionism.⁵⁷

In 2019, Canada adopted the IHRA working definition in its Anti-Racism Strategy.⁵⁸ In Ontario, Justice Policy Committee hearings for the Private Member's Bill 168, *An Act to combat antisemitism*,⁵⁹ which supports the IHRA definition, were cancelled on October 27, 2020. The day before, on October 26, 2020, the IHRA was controversially passed through Order-in-Council 1450/2020.⁶⁰ This was seen as bypassing the standard hearing and submission process to the Justice Policy Committee. A number of individuals and organizations have condemned the government's declaration made by royal prerogative, without democratic process, and called for a withdrawal of the Bill.⁶¹ However, it remains at the Social Justice Committee, so technically could still move to Third Reading and into legislation.

A November 13, 2020 letter from Ontario's Deputy Attorney General David Corbett to Just Peace Advocates confirmed what the Order-in-Council actually means:

"It reflects the decision of the government of Ontario to adopt that definition for matters within the discretion of a Ministry of the Crown. It does not otherwise alter any legal definition of antisemitism that may be set out in existing or future laws of Ontario, nor does it direct or require that entities that operate independent of the government adopt that same definition."⁶²

A number of Canadian provinces and municipalities have also adopted the IHRA working definition.

Public bodies, local authorities, universities, and student unions are being lobbied to adopt the IHRA definition of antisemitism, however a number of them have raised concerns that it is designed to silence criticism of Israel and Zionism by equating this criticism with antisemitism. For example, the British Columbia Civil Liberties Association issued a statement in June 2019 which noted that "the legal adoption of the IHRA definition in Canada is inconsistent with the values underlying the Charter of Rights and Freedom and would greatly narrow the scope of political expression in Canada."⁶³

Similarly, the Canadian Federation of Students, which is the largest student organization in the country, stated the IHRA definition infringes on both freedom of expression and academic freedom in post-secondary education campuses, noting that "the IHRA definition conflates antisemitism with valid criticism of Israel and its promotion and/or adoption into law threatens to criminalize activists fighting for Palestinian rights as well as critical analysis on Israel and Zionism."⁶⁴

Following a 2019 conflict between pro-Israel and pro-Palestinian groups on York University campus, former Supreme Court of Canada justice Thomas Cromwell was retained by the university to investigate and report on the incident. Among his recommendations to York's Administration was that it "monitor the progress of the draft legislation and also consider the IHRA's Working Definition as it develops its own statement on racism and discrimination."⁶⁵ In response, the York University Faculty Association (YUFA) issued a statement, noting:

"Justice Cromwell makes the controversial suggestion that York should consider adopting the International Holocaust Remembrance Alliance's (IHRA) "working definition of anti-Semitism." The IHRA working definition has been linked to a vigorous lobbying effort calling on governments and other institutions like universities to condemn and even to prohibit criticisms of the state of Israel as dangerous expressions of anti-Semitism. While the YUFA Executive opposes anti-Semitism and all forms of racism and hatred, we see the adoption of the IHRA definition as a potential threat to academic freedom at our university as it can be used to restrict the academic freedom of teachers and scholars who have developed critical perspectives on the policies and practices of the state of Israel."⁶⁶

The Academic Alliance Against Antisemitism, Racism, Colonialism & Censorship in Canada (ARC), a group of Canadian professors and independent scholars, issued a report entitled The IHRA Definition of Antisemitism & Canadian Universities and Colleges: What You Need to Know, which notes that the IHRA is not grounded in a contemporary anti-racist and decolonial framework nor deployed within the frames of international law and human rights. It also treats antisemitism as if it occurs in isolation from other forms of racism, including Islamophobia, anti-Arab, and anti-Palestinian racism."⁶⁷ Antisemitism is best addressed, according to ARC, through an intersectional framework of anti-oppression. Combating antisemitism should not supersede or erase other struggles but rather be understood and addressed

⁵⁷ "Working Definition of Antisemitism", IHRA (n.d.), online: <[Link](#)>.

⁵⁸ Government of Canada, "Building a Foundation for Change: Canada's Anti-Racism Strategy 2019-2022" at 21 (fn 2), online: <[Link](#)>.

⁵⁹ Bill 168, *An Act to Combat Antisemitism*, 1st Sess, 42nd Parl, Ontario.

⁶⁰ Order in Council 1450/2020 (2020) online: <[Link](#)>.

⁶¹ "Legal & Civil Organizations to Say No to IHRA", Just Peace Advocates (30 October 2020), online: <[Link](#)>. See also Karen Rodman, "Ontario government denies public scrutiny of IHRA and Bill 168", Spring (23 December 2020), online: <[Link](#)>.

⁶² "Ontario Attorney General Deputy Confirms Order-in-Council relates to IHRA matters within the discretion of Ministry of the Crown", Just Peace Advocates (13 November 2020), online: <[Link](#)>.

⁶³ "The BCCLA Opposes the International Campaign to Adopt the International Holocaust Remembrance Association (IHRA) Definition of Antisemitism", BCCLA (18 June 2019), online: <[Link](#)>.

⁶⁴ "CFS Supports IJF's Definition of Antisemitism", Canadian Federation of Students (26 February 2020), online: <[Link](#)>.

⁶⁵ The Honourable Thomas A Cromwell CC, "York University Independent Review", York University (30 April 2020), at 47 online: <[Link](#)>.

⁶⁶ YUFA Staff, "YUFA flags academic freedom concerns in Cromwell Report", York University Faculty Association (29 June 2020), online: <[Link](#)>.

⁶⁷ "The IHRA Definition of Antisemitism & Canadian Universities and Colleges: What You Need to Know", Academic Alliance Against Antisemitism, Racism, Colonialism & Censorship in Canada (27 February 2020), online: <[Link](#)>.

alongside them.⁶⁸ The report observes that influential academic texts by some of the world's leading scholars contain statements that are critical of Israel and the Israeli occupation of Palestine and could therefore easily be censored as antisemitic according to the IHRA definition.⁶⁹

In June 2020, Osgoode Hall Law School Professor Faisal Bhabha participated in an online debate regarding the IHRA organized by the Canadian Civil Liberties Association and TMU's Centre for Free Expression, and subsequently came under attack from B'nai Brith, which accused him of antisemitism and initiated an online petition to bar him from teaching international human rights law.⁷⁰ He was also the subject of a vexatious Law Society of Ontario complaint made by B'nai

2 | IHRA: AN ONGOING WEAPON OF ANTI-PALESTINIAN RACISM

Throughout 2023 and 2024, the IHRA definition of antisemitism has continued to be used as a weapon against Palestinians and supporters. In October 2024, the Government of Canada released the "[Canadian Handbook on the IHRA Working Definition of Antisemitism](#)."⁷⁴ While the handbook explicitly states it is not binding and does not "supersede, modify, or direct an interpretation of any existing federal, provincial, or municipal statute or regulation," it re-entrenches [the norm / the acceptableness] anti-Palestinian racism and provides fuel for increased crackdown on pro-Palestine speech.

International human rights organizations like [HRW](#) and [Amnesty International](#) have opposed the adoption of the IHRA definition, for example, urging the UN not to endorse the definition.⁷⁵

Not only does the IHRA definition breed the flames of anti-Palestinian racism, it also 'punishes' anti-Zionist Jews. For example, [Anna Lippman explains](#) how the IHRA definition implies that every member of "Jews Say No to Genocide" is guilty of antisemitism. Further, they say that "[t]hese claims of antisemitism against anti-Zionist Jews helps de-legitimize their Jewish identity in public discourse to preserve the façade of monolithic Jewish opinion."⁷⁶

Advocates, academics, and activists have continued to oppose the adoption of the IHRA working definition. Jewish Faculty Network (JFN), a collective of Jewish faculty from Canadian post-secondary institutions with aligned social justice values that launched in 2021, have

Brith. Professor Bhabha observes, "I fell victim to the very worry I was addressing – that the definition would be deployed to chill criticism of Israel and punish those who dare speak openly."⁷¹

Over 450 Canadian academics have signed an [open letter](#) opposing the IHRA definition of antisemitism on the basis that it is worded in such a way as to intentionally equate legitimate criticism of Israel and advocacy for Palestinian rights with antisemitism, and that such conflation undermines both the Palestinian struggle for freedom, justice, and equality as well as the global struggle against antisemitism.⁷² In addition, a number of faculty associations and unions have taken public positions against the IHRA definition.⁷³

consistently opposed the IHRA. In their statement, [Jewish Faculty Against IHRA](#), they wrote:

"Not only does it essentialize Jewish identity, culture, and theology, it also equates Jewishness and Judaism with the State of Israel – effectively erasing generations of debate within Jewish communities...The IHRA working definition distracts from experiences of anti-Jewish racism, and threatens to silence legitimate criticism of Israel's grave violations of international law and denial of Palestinian human and political rights. On campuses where this definition has been adopted it has been used to intimidate and silence the work of unions, student groups, academic departments and faculty associations that are committed to freedom, equality and justice for Palestinians."⁷⁷

More recently in May 2024, JFN submitted a [statement to the Standing Committee on Justice and Human Rights](#) calling out the "clear bias in support of Israel's war on Gaza."⁷⁸

The issue with the IHRA definition goes far beyond semantics and theory. The IHRA is a tool of the government and institutions to target, criminalize, and silence Palestinians and those supporting Palestine. This is seen clearly in Canada's new 'IHRA handbook' which [says it can be used in many contexts](#), including: "(a) law enforcement, (b) the legal system, (c) education and educational institutions, (d) government programming, (e) workplaces, and (f) civil society."⁷⁹ The continued use of and expansion of the IHRA definition will continue to promote and enable anti-Palestinian racism.

⁶⁸ *Ibid* at 10.

⁶⁹ *Ibid* at 6.

⁷⁰ See Faisal Bhabha, "Smearing, Silencing and Antisemitism" *Obiter Dicta* (20 January 2021), online: <[Link](#)>; Shree Pardkar, "Controversies at U of T Law, York University highlight escalating suppression of moderate voices criticizing Israel", *The Toronto Star* (25 October 2020), online: <[Link](#)>.

⁷¹ Bhabha, *supra* note 70 at 2.

⁷² "Open Letter from Canadian Academics Opposing the IHRA Definition of Antisemitism", *IUV Canada* (27 February 2020), online: <[Link](#)>.

⁷³ "Academic Campaign", No IHRA (n.d.), online: <[Link](#)>.

⁷⁴ Government of Canada, *Canadian Handbook on the IHRA Working Definition of Antisemitism* (Canadian Heritage, 2024), online: <[Link](#)> ["IHRA Handbook"].

⁷⁵ "Global: UN Must Respect Human Rights While Combatting Antisemitism", *Amnesty International* (20 April 2023), online: <[Link](#)>; "Human Rights and other Civil Society Groups Urge United Nations to Respect Human Rights in the Fight Against Antisemitism", *Human Rights Watch* (20 April 2023), online: <[Link](#)>.

⁷⁶ Anna Lippman, "Canada's IHRA handbook Won't End Antisemitism, Only Harm Jews", *Rabble* (12 November 2024), online: <[Link](#)>.

⁷⁷ "Jewish Faculty Against IHRA", *Jewish Faculty Network* (Spring 2021), online: <[Link](#)>.

⁷⁸ "Submission to the Standing Committee on Justice and Human Rights from the Jewish Faculty Network Steering Committee. May 2024.", *Jewish Faculty Network* (May 2024), online: <[Link](#)>.

⁷⁹ "IHRA Handbook", *supra* note 74.

ABOUT

Just Peace Advocates is a Canadian, independent organization promoting the human rights of the Palestinian people and those who stand in solidarity for the human rights of the Palestinian people. Its vision is to provide a civil society voice focused on governmental, institutional, and societal accountability to the rule of law, and the standards of international human rights and humanitarian law for the rights of Palestinian people.

The work of Just Peace Advocates is accomplished through research, monitoring, education, communications, advocacy, programs, and service provision.

DISCLAIMER

This guide is meant to provide basic information on legal issues that Palestinian rights activists may face, and tips on how to navigate them. It provides some generally applicable information and some campus-specific information for student activists.

Any legal information in this resource is intended for general educational purposes and is NOT a substitute for legal advice – federal and provincial laws differ, laws may change, and the application of all laws depends on the specific facts of a case. Make sure to consult with a lawyer before relying on any information you find here.

For legal advice on your campaign or about a specific issue you are facing, or to report incidents of repression of your activism, please email info@justpeaceadvocates.ca.

We are also glad to provide workshops or schedule meetings to discuss your particular needs, whenever possible.

AUTHORS Andrea Sobko, Karen Rodman, and Rebecca Steckle

EDITORS Lisa Loader

DESIGN Laura Di Pede and Rebecca Steckle

Just Peace Advocates thanks Palestine Legal for allowing us to have access to their existing resources and giving us permission to update them to the applicable Canadian legal context. For more information about Palestine Legal, see palestinelegal.org.

Suggested Citation

Andrea Sobko, Karen Rodman & Rebecca Steckle, *Palestinian Human Rights Issues in Canada: A Legal & Tactical Guide*, Lisa Loader, ed, v2, (Just Peace Advocates, 2025).

Please send questions and corrections to info@justpeaceadvocates.ca.

JUST PEACE ADVOCATES

Email info@justpeaceadvocates.ca

X [@AdvocatesJust](https://twitter.com/AdvocatesJust)

Facebook [Just Peace Advocates](https://www.facebook.com/JustPeaceAdvocates)

Instagram [@justpeaceadvocates](https://www.instagram.com/justpeaceadvocates)

Bluesky [@justpeaceadvocates.bsky.social](https://bsky.app/profile/justpeaceadvocates.bsky.social)

YouTube [@justpeaceadvocates](https://www.youtube.com/justpeaceadvocates)