

PALESTINIAN HUMAN RIGHTS ISSUES IN CANADA: A LEGAL & TACTICAL GUIDE



MAY 2025



Just Peace Advocates
Mouvement Pour Une Paix Juste

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.

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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).

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PREPARE THINK RECORD FOCUS GET SUPPORT

PRACTICAL TIPS FOR

ACTIVISM

1 | PREPARE

Plan your activities in advance to ensure that you have the necessary permits and authorizations from local and/or campus authorities, that you understand what regulations may apply, and that you're prepared for possible backlash, with supporters lined up to back you, a media strategy, and any necessary legal advice in advance, when possible.

2 | THINK

Consider the potential legal implications of your activities, including possible civil or criminal sanctions. Review this guide for information about issues that might arise in your activism and contact us with questions.

3 | RECORD

Create a record of incidents that you believe target your speech activities, such as attempts to repress your speech by government, university officials, private groups, etc. Record details, such as date, time, location, witness names and contact information, law enforcement names and badge numbers, what was said/done, pictures, and other evidence. Confirm in writing any understanding reached at in-person meetings by emailing and asking for a response. Make notes while the event is fresh in your mind. Record all incidents, including those big and small.

4 | FOCUS

Focus on your activism! Media work, public actions, advocacy campaigns, and legislative work are most effective in getting your message out. Legal action is a last resort in most cases.

5 | GET SUPPORT

Contact us when you or your group needs legal or advocacy support, and to report incidents. We may be able to provide you with additional resources and connect you with organizational support or other lawyers in your area who understand the political and legal issues. If necessary, email info@justpeaceadvocates.ca.



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.

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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.

2 PROTEST RIGHTS

A QUICK GLANCE

CONSTITUTIONAL RIGHT TO PROTEST

Protesting is a democratic right and is legal in itself. Protests are allowed on any public property so long as they remain peaceful. Public property includes government-owned spaces such as parks, government buildings, and public squares. While protesting is legal, this does not mean the police will not intervene (even in peaceful protests). Be prepared.



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

Protesting on public property is a legal right in Canada. However, the police may still choose to disrupt and target protesters. Be prepared, protest with another person, have an emergency plan, gather necessary supplies / information, and leave unnecessary items at home.

IN-DEPTH: Protest Rights



CONSTITUTIONAL RIGHT TO PROTEST⁸⁰

In Canada, the right to protest is protected under ss. 2(b), (c), and (d) of the *Canadian Charter of Rights and Freedoms*, which encompass the rights to freedom of expression, peaceful assembly, and association, respectively:

(2) Everyone has the following fundamental freedoms:

- b) freedom of thought, belief, opinion, and expression, including freedom of the press and other media of communication;
- c) freedom of peaceful assembly; and
- d) freedom of association.

Protesting is a democratic right and is legal in itself.⁸¹ Protests are allowed on any public property so long as they remain peaceful. Public property includes government-owned spaces such as parks, government buildings, and public squares.

Private property is any property owned by one or more individuals. You can attempt to protest on private property but may be asked to leave by the owner(s). Even if you move to a surrounding area that is designated as public property, the police may be called if the protest or demonstration is causing a disturbance to the nearby private property owner(s).

Take note that some spaces such as malls and schools often appear as public spaces but are usually privately owned. Accordingly, you should always research the venue and its potential owner, as well as any relevant municipal laws, before organizing or staging a protest.⁸² It is important to remember that police may target lawful protests (e.g., peaceful protests on public property). Therefore, be prepared when you engage in your right to protest.

IF YOU ENCOUNTER THE POLICE⁸²

- You have the right to photograph, record, or videotape police officers who are on duty, and they cannot ask you to delete the content or seize the equipment used to take it. You cannot, however, interfere with or obstruct officers in the course of their duties.
- The police, including the provincial police and/or the RCMP, are allowed to approach you and ask you questions. You are not required to respond, but it is recommended that you remain polite to avoid a confrontation. Do not lie or provide false documents.
- If the police approach you, you should first ask if you are free to go, and if the answer is “yes,” leave.

Check out [Section 3: Criminal Issues You May Face](#) for more details on your rights and what to do if the police say “no.”

COMMON PROTEST CHARGES⁸⁴

Even though protesting is legal in Canada, you can run into encounters with the police if you break other laws in the act of demonstrating. The charges outlined below are the most common ones that arise in a protest context; however, you can be arrested for

⁸⁰ Sources consulted, relied upon, and used in the development of this section, in addition to the relevant jurisprudence, include “Legal Information for People Attending Wet’suwet’en Solidarity Actions”, *Pivot Legal Society (PLS)* (23 March 2020), online: <[Link](#)>; Harsha Walia, “Movement Defense: Legal Information for Cross-Country Wet’suwet’en Strong Actions”, *Yinoh Access* (2020), online: <[Link](#)>; PEN Canada, “A Guide to Protest and Demonstrations in Canada” (2016); Leo McGrady and Sonya Sabet-Rasekh, “The Law of Protest Workshop” (2017), *Canadian Association of Labour Lawyers* 2017

Annual Conference, online: <[Link](#)>; “Know Your Rights Guide to Protesting”, *Canadian Civil Liberties Association (CCLA)* (2020), online: <[Link](#)>.

⁸¹ For more information, see Lawyers’ Rights Watch Canada, *The Right to Dissent* (Vancouver: Creative Commons, 2017), online: <[Link](#)>.

⁸² PEN Canada, *supra* note 80.

⁸³ Walia, *supra* note 80 at 2-4; PLS, *supra* note 80 at 6, 8-10; CCLA, *supra* note 80; McGrady & Sabet-Rasekh, *supra* note 80 at 37-44

⁸⁴ Walia, *supra* note 80 at 4-6; McGrady & Sabet-Rasekh, *supra* note 80 at 44-49; PEN Canada, *supra* note 80.

breaking any law at a protest. This list is not exhaustive. The section numbers (e.g. s. 175(1)) below refer to the relevant provision in the *Criminal Code*, which outlines the criminal laws across Canada.

(A) Breach of the Peace – s. 31

Police have the right to arrest you to prevent or stop a breach of the peace. However, it is not a charge in and of itself, nor is there a record of the charge. They will usually release you soon after the action unless they are going to charge you for breaking some other law, and in any case within 24 hours. It is a commonly used police tactic to use breaching charges so the police can round people up, put them in police vehicles, drive them far from their original location, and release them there.

(B) Causing a Disturbance – s. 175(1)

If you cause a disturbance in or near a public place by fighting, screaming, shouting, swearing, singing, using insulting or obscene language, being drunk, impeding or molesting other persons, loitering or obstructing people, you may be charged with this offence, which is punishable with up to six months in prison or a \$5,000 fine.

(C) Common Nuisance – s. 180

This involves stopping people from exercising/enjoying their rights, or endangering the lives, safety, or health of the public. Common nuisance is punishable by up to two years in prison.

(D) Mischief – s. 430(1)

This includes willfully destroying or damaging property, rendering property dangerous, useless, inoperative, or ineffective, or obstructing, interrupting or interfering with the lawful use, enjoyment or operation of property. This would include spray-painting, chaining doors shut, smashing windows, slashing tires, or blockading entrances. Mischief can be punished by a life sentence if you endanger someone's life. Mischief that damages property, the value of which exceeds \$5,000, can be punished by up to 10 years in prison or a \$5,000 fine.

(E) Unlawful assembly – s. 63

This involves an assembly of three or more people who gather with the intent to carry out any common purpose, in a manner that causes others around them to reasonably fear they will "disturb the peace tumultuously" or will provoke others to do so. "Tumultuous" involves an element of actual or threatened violence.⁸⁵ This charge is most common when protests involve violent clashes with the police. Although the police will usually announce that an assembly has become unlawful (usually by ordering you to disperse), it is not essential. This law gives significant discretion to police but has typically only been used in mass protests such as the 2012 Quebec student protests.⁸⁶ Unlawful assembly can be punished by six months in prison or a

\$5,000 fine (s. 66(1)). If you are wearing a disguise, the prison sentence could increase to five years (s. 66(2)).

(F) Rioting – s. 64

This is when a group of three or more people actually do cause a violent disturbance. Rioting can be punished by up to two years in prison, but that sentence could increase to 10 years if you are wearing a disguise (s. 65(2)).

(G) Resisting or Obstructing a Peace Officer – s. 129

You can be charged with this if you resist or willfully obstruct a public officer or peace officer in the execution of his duty or any person lawfully acting in aid of such an officer. This includes if you resist being arrested or try to prevent a police officer from arresting someone else. Holding onto a pole or struggling against arrest is resisting, however going limp or refusing to unlock is not resisting.

(H) Assaulting a Peace Officer – s. 270

This involves an assault of a peace officer engaged in the execution of their duties or a person acting in aid of such an officer. This offense includes resisting or preventing the lawful arrest or detention of you or another person. This offense may be punishable by up to five years in prison.

RECENT EVENTS

- After a year and a half legal battle, all protestors labelled as the "Indigo 11" were vindicated. Despite millions of dollars, pre-dawn raids, and 11 arrests, prosecutors failed to secure any convictions.⁸⁷ The Indigo 11 were accused of vandalism, allegedly plastering an Indigo store with posters and red paint, due to CEO, Heather Reisman's, charity work supporting former IOF soldiers with taxpayers money.⁸⁸
- As of 2025, multiple municipalities are attempting to squash the *Charter* protected right to protest. As of April 2025, the City of Toronto is considering a proposal which would make demonstrations directly outside places of worship, faith-based schools, and cultural institutions illegal.⁸⁹ The City is holding public consultations ahead of its May Council meeting, when staff are expected to provide a report on recommendations and a proposed by-law.⁹⁰ This comes after the City of Edmonton passed a similar by-law in February 2025.⁹¹ Other cities like Ottawa, are also considering these restrictive measures.⁹²

⁸⁵ *R v Cote*, 2011 ONCJ 778, citing *R v Bernitt*, 1997 CanLII 12528 (BC CA).

⁸⁶ In 2022, the government invoked the Emergencies Act in response to the ongoing mass protests commonly known as the "Freedom Convoy." In 2024, the Federal Court ruled that the invocation of the Act violated provisions of the Charter. See *Canadian Frontline Nurses v Canada (Attorney General)*, 2024 FC 42.

⁸⁷ Jennifer Pagliaro, "Last of Indigo 11 Receive Conditional Discharges with Probation for 12 Months", *The Toronto Star* (11 April 2025), online: <Link>.

⁸⁸ Nisha Toomey, "I'm One Of The 'Indigo 11.' Here's Why I Did It", *The Maple* (20 January 2025), online: <Link>.

⁸⁹ "Public Consultation for a Proposed Demonstrations Bylaw to Protect Vulnerable Institutions", *City of Toronto* (2025), online: <Link>.

⁹⁰ Muriel Draaisma & Dale Manuodoc, "Hundreds Gather in Downtown Toronto to Protest Against 'Bubble Zone' Bylaw Plan", *CBC News* (17 April 2025), online: <Link>.

⁹¹ "Public Spaces Bylaw", *City of Edmonton* (2025), online: <Link>.

⁹² David Fraser, "Ottawa to Mull Restricting Protests Outside 'Vulnerable Institutions'", *CBC News* (16 October 2024), online: <Link>.

DO this

DO attend with a friend. Stay together and leave together.

DO document any medical injuries and seek/request medical attention.

DO tell someone who is not attending the protest where you will be and what time you anticipate being home and have a plan to check-in. Put a support and/or emergency plan in place for child-care, eldercare, pets, etc.

DO bring a pen and paper to record detailed notes of any incidents that might occur during the demonstration, such as police interactions.

DO memorize or bring a phone number of a lawyer you can call in the event that you are arrested, as well as a family/friend's number. Write the number in permanent marker on your body.

DO bring photo identification in case you are arrested. Having this may mean you are processed faster if you are taken into custody.

DO wear suitable and comfortable clothing, including shoes that are appropriate for running.

DO consider bringing a digital camera as an alternate means to a cellphone for capturing photos and video.

DO bring a water bottle. This can be used to bathe eyes in the event that police use tear gas.

DO consider wearing glasses and not contact lenses.

DO bring enough prescription medication in the original bottle to last a few days (note that you may still face issues gaining actual access to your medications if you are taken into police custody and should have an emergency plan for this, including a number for a lawyer on hand, if you think you will be at risk of arrest).

DON'T do this

DON'T bring illegal drugs.

DON'T bring anything that might be considered a weapon.

DON'T bring an address book or any other document that contains sensitive personal information.

DON'T bring a cellphone, if you are planning to risk being arrested. If you must bring one, ensure that it is password protected, not activated with finger print or facial recognition, and location is turned off.



POTENTIAL LONG-TERM REPERCUSSIONS TO CONSIDER

Being arrested/charged at a protest could result in a criminal record, which could have severe negative repercussions on one's employment, housing, travel, and immigration status, as well as lead to social stigma. Having a criminal record could also jeopardize one's immigration or refugee application for individuals seeking permanent residency and/or citizenship status in Canada, and lead to deportation. **Even if the charges are dropped or dismissed, the incident may still appear on Criminal Record Checks.**

⁹³ Pivot Legal Society, *supra* note 80 at 4; McGrady & Sabet-Rasekh, *supra* note 80 at 20-24.

3 CRIMINAL

ISSUES YOU MAY FACE

A QUICK GLANCE

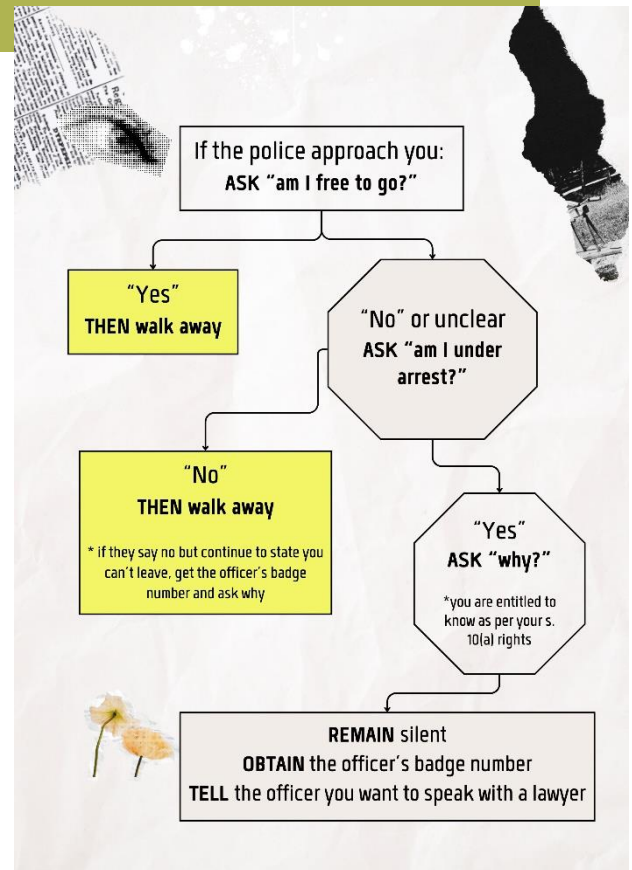
ENCOUNTERING THE POLICE

If the police attempt to interact with you, follow this flowchart.⁹⁴

If you are arrested, you must provide your **name and address** to the police if they request it. They have a right to conduct a search of your “immediate surroundings” (e.g., clothing, things you’re carrying such as a backpack, cellphone, and your vehicle). You have the right to remain silent and the right to speak with a lawyer.⁹⁵ If you do not have a lawyer, you have the right to speak with a legal aid lawyer for free and the police **must allow you** to contact them.

If the police attempt to conduct a search (or your person, home, computer, etc.), consider the following:⁹⁶

1. Police can only search if:
 - a. You consent to a search (**do not consent**)
 - b. They have a warrant to search you.
 - c. You have been detained (see above).
2. Police must give notice of presence (knock or ring doorbell), notice of authority (identify as law enforcement), and notice of purpose (lawful reason for entry)
3. Police can only enter without an announcement in exigent circumstances and the onus is on exigent and the onus is on the police to explain the necessity
4. *Criminal Code* s. 25(1) allows the police to use force, and the police cannot be expected to know the exact amount of force needed ahead of time
5. Police must have the warrant with them; it is sufficient if at least one person has a copy.
6. *Criminal Code* s. 488 requires warrants to be executed by day (6am-9pm); night searches are presumed unreasonable, and the state must have specific authorization



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

Ask the police if you are free to go, if yes, leave. If you are detained, remain silent, and ask for a lawyer. Do not consent to a search. If the police say they have a warrant, ask to see it, and look at what it allows them to search. Make notes on any interactions with police, in particular if there are any breaches of the rules above.

⁹⁴ This chart is adapted from Pivot Legal Society's "Street Stop Flowchart" and the original version of this guide. See PLS, *supra* note 80.

⁹⁵ *R v Manninen*, 1987 CanLII 67 (SCC); *R v Suberu*, 2009 SCC 33.

⁹⁶ *R v Cornell*, 2010 SCC 31.

IN-DEPTH: Criminal Issues You May Face

Charter s. 8

**EVERYONE HAS THE RIGHT TO BE
SECURE AGAINST UNREASONABLE
SEARCH OR SEIZURE.**



RIGHT TO PRIVACY

S. 8 acts as a limitation on the search and seizure powers of the government, including police and other government investigators. The purpose of s. 8 is the protection of a person's privacy interests, not the protection of property.

WHAT IS A "SEARCH"?

Police actions will only constitute a "search" where they intrude on an individual's **reasonable expectation of privacy**. A person's expectation of privacy varies depending on the environment, and there are some situations where the expectation of privacy is stronger. There are 3 zones:

(A) Bodily Privacy

People have high expectations of privacy in relation to searches of the body/person. While all body searches breach bodily integrity, the more invasive the search (e.g., DNA samples, strip searches), the higher the expectation of privacy.

(B) Informational Privacy

The greatest protection is given to information about biological attributes or that which reveals intimate details of a person's lifestyle, health information, and/or personal choices.

- Internet search history: There is a reasonable expectation of privacy in search history / IP address information.⁹⁷
- Text messages: It is reasonable to expect private communications to remain private. A person does not lose control over information under s. 8 just because another person can possess or access it.⁹⁸

(C) Territorial Privacy

The more a place shares the quality of being a home, the higher the expectation of privacy. Places like airports or public parks have much lower expectations of privacy.

- Shared space: The law is not resolved, but the concurring opinion is that police have a common law power under the ancillary power doctrine to enter a shared residence without a warrant. It is limited by some restraints, including: offering alternatives if available, the purpose is limited to taking a statement in connection with criminal investigation, no search/seizure without the necessary grounds, only enter common areas, must be invited in by a resident with the authority to consent – and must be voluntary and continuous – and a limited duration.⁹⁹
- Abandoned material: There is no reasonable expectation of privacy in abandoned material (i.e., garbage). "Abandonment" is an issue of fact: has the claimant acted in a way that would lead the reasonable and independent observer to conclude that the 'continued assertion of a privacy interest is unreasonable in the totality of the circumstances.'"¹⁰⁰
- If law enforcement asks to search you or your home, you can say explicitly "I do not consent to a search." You may be deemed to have consented to a search by your actions (e.g., by opening the door, letting them in, etc.) If they come to your home and you do not want to talk to them or let them in, you may talk through the door or step outside and tell them your lawyer will contact them.

A NOTE ON CONSENT

To waive their rights, an individual must have the "requisite informational foundation."¹⁰¹ The degree of awareness will be case-dependent, based on the facts.¹⁰² The individual must have the implications of what they are consenting to (i.e., know specific purposes for what/why the search is being conducted).¹⁰³ When police perform a vehicle check stop, if police do not have reasonable suspicion to perform a search and the

⁹⁷ *R v Spencer*, 2014 SCC 43.

⁹⁸ *R v Marakah*, 2017 SCC 59.

⁹⁹ *R v Reeves*, 2018 SCC 56.

¹⁰⁰ *R v Patrick*, 2009 SCC 17 at para 25.

¹⁰¹ *R v Borden*, 1994 CanLII 63 (SCC) at para 34.

¹⁰² *Ibid* at para 40.

¹⁰³ *Ibid*.

items they are looking for in plain view, they require informed consent.¹⁰⁴

WHAT IF THERE IS A “SEARCH”?

If there is a search, it must meet the following criteria:

- (a) Authorized by law (statute or common law);
- (b) Authorizing the law reasonable; and
- (c) Search carried out in a reasonable manner.

The onus is on the accused to prove the search contravened s. 8 rights.¹⁰⁵ In considering whether the search was carried out reasonably, consider that:

- (a) Police must give notice of presence (knock or ring doorbell), notice of authority (identify as law enforcement), and notice of purpose (lawful reason for entry).¹⁰⁶
- (b) Police may only enter without an announcement in exigent circumstances and the onus is on exigent circumstances¹⁰⁷ and the onus is on the police to explain the necessity.¹⁰⁸
- (c) s. 25(1) of the *Criminal Code* allows the police to use force, and the police cannot be expected to know the exact amount of force needed ahead of time.¹⁰⁹

(A) What is a Search Warrant?

A warrant is a document that police obtain from a justice of the peace or judge that gives them legal authority to search a particular place for a particular item or items. The general requirements for obtaining a warrant are set out in s. 487 of the *Criminal Code*. Other sections of the *Criminal Code* address special types of warrants, such as warrants for wiretaps (s. 186) and DNA (s. 487.05).

In order to obtain a warrant, a police officer must appear before a justice of the peace (or judge) and swear an information – that is, they must provide evidence to show why the police need to conduct the search. This can be done over the phone in special circumstances (s. 487.1). The evidence must specify where the police intend to search, what they intend to search for, and why the search is necessary for their investigation.

In order to issue a warrant, the justice of the peace must be satisfied that there are reasonable and probable grounds to believe that the items sought exist and will be found in the place police want to search. The justice of the peace must also be satisfied that there are grounds for believing a criminal offence has been committed, and that evidence of that offence will be found in the place to be searched. If the justice of the peace is satisfied by the police officer’s evidence, the warrant will be issued.

If law enforcement has a search warrant, you can demand to see it before letting them in. Police must have the warrant with them; it is sufficient if at least one person has a copy.¹¹⁰ To make sure it is a valid warrant, check for a judge’s or justice of the peace’s signature, specific language about where and what the search is for, and the correct name and/or address. You could

be charged with obstruction of justice if you try to stop an authorized search from taking place. If you believe a search is not authorized, tell law enforcement but do not try to stop them. You can say “I do not consent to this search” and can challenge the search later if anything they find is used against you, and/or make a complaint. Be sure to record the officers’ names and badge numbers and what they did during the search.

Criminal Code s. 488 requires warrants be executed by day (6am-9pm); night searches are presumed unreasonable, and the state must have specific authorization.

(B) Warrantless searches

Police can conduct a search without a warrant if urgent and compelling (exigent) circumstances exist and would make it impracticable to obtain a warrant.¹¹¹

Exigent circumstances may include: entry was compelled by urgency, calling for immediate police action to preserve evidence, and officer or public safety. Impracticable requires police to show that urgency existed whereby taking the time to obtain a warrant would post a serious risk.¹¹²

(C) Search incident to arrest

It is important to note that police have an additional search power, commonly called “search incident to arrest.” This power is an exception that allows for less stringent requirements. Search incident to arrest arises from the the assumption that the arrest itself is made on reasonable and probable grounds. However, if the arrest is found to be invalid (illegal), the search will also be ruled invalid.¹¹³ Notably, this power does not impose a duty.

Additionally, the search must be for a valid objective. The main purposes of a search incident to arrest are safety of the police/public, protecting evidence, or discovering evidence.¹¹⁴

Cell phones can be searched incident to arrest, if conducted reasonably and police believe it is practically necessary for investigation. Only recent files may be examined, and it is generally justified only for serious crimes. The search should only happen when an investigation would be stymied or significantly hampered, and police must take detailed notes of what they examine.¹¹⁵

(D) Surveillance and law enforcement issues

Law enforcement (local police, provincial police, RCMP) can use a number of methods to spy on you, some of which require permission from courts. Assume that your activities and communications may be monitored without your knowledge, in ways that don’t require a court order, or under a court order that you don’t know about, or even by private surveillance or intrusion. Be aware of the risks of different types of communication. Experts repeatedly warn that there is no such thing as “secure” electronic communication. Law enforcement and private

¹⁰⁴ *R v Mellenthin*, 1992 CanLII 50 (SCC).

¹⁰⁵ *Cornell*, *supra* note 96 at para 17.

¹⁰⁶ *Ibid*, citing *Eccles v Bourque et al*, 1974 CanLII 191 (SCC)

¹⁰⁷ *Ibid*.

¹⁰⁸ *Cornell*, *supra* note 96.

¹⁰⁹ *Ibid* at para 24.

¹¹⁰ *Cornell*, *supra* note 96.

¹¹¹ *Criminal Code*, *supra* note 4, s 487(11).

¹¹² *R v Paterson*, 2017 SCC 15 at para 37.

¹¹³ *R v Caslake*, 1998 CanLII 838 (SCC) at para 13.

¹¹⁴ *Ibid* at para 19.

¹¹⁵ *R v Fearon*, 2014 SCC 77 at para 83.

organizations often monitor activists' online activities and use the information against them in criminal cases or otherwise.

- Infiltration of organizations by undercover agents or informants is common. Be aware of people who suggest and encourage violent/unlawful action, whose background you don't know, who are divisive, or who appear suddenly and become actively engaged without prior known activism in the area. **Agents may perform illegal activities and lie to you without penalty.**
- If confronted by law enforcement, You are not required to say anything else, even if pressured to do so. If you decide to speak to law enforcement, be aware that anything you say can be used against you, your community, or group. If you decide not to talk to law enforcement, state clearly that you do not wish to talk (i.e., that you would like to remain silent, as is your right pursuant to s. 7 of the *Charter*) and would like to speak with a lawyer. Even if you want to speak with law enforcement, it is best to have a lawyer present, especially if you are under investigation or under arrest.
- Do not lie or provide false documents to the police. **Silence and a lawyer may be best in situations involving law enforcement potentially investigating you.**
- If you want to find out what information the government is collecting about you, consider using tools like the federal Access to Information and Privacy (ATIP) Online Request¹¹⁶ under the *Access to Information Act*¹¹⁷ and/or provincial, territorial, and municipal public records request laws to discover information/records that federal, state or municipal government agencies or officials have about you or your group. These requests can also be used in other contexts to expose communications and documents coming from government actors, government or public university contracts, investments, or other relationships with target companies, etc. Sustained follow-up may be needed to obtain requested documents if the public agency is resistant to your request and to follow up on delays, etc. Contact us for resources to help you with such requests.
- Despite all of these warnings, **be smart, rather than paranoid — do not let it hamper your activism!**

Charter s. 9

EVERYONE HAS THE RIGHT NOT TO BE ARBITRARILY DETAINED OR IMPRISONED.

ARREST AND DETENTION

A violation of s. 9 requires i) an arrest or detention and ii) that detention to be arbitrary. In practice, if you are detained/arrested, consider the following:

- Police have lawful power to arrest even in cases of good faith mistake of fact. Only the court can determine if the arrest is lawful.¹¹⁸ A charge for resisting arrest is valid even if the arrest was a good faith mistake of fact.¹¹⁹ Therefore, don't resist arrest even if you think it's arbitrary/unlawful.
- An arrest based on a mistake of law is unlawful and infringes s. 9.¹²⁰
- An arrest is arbitrary if it i) is based on a mistake of law; ii) exceeds the parameters of the warrant; iii) occurs in a dwelling home and done without a warrant or contravenes *Criminal Code* s. 529; and iv) is warrantless and unlawful per s. 495 (e.g., no reasonable grounds to believe).
- *Criminal Code* s. 25 authorizes police and/or ordinary citizens to use force in particular circumstances. ss. 1 justifies use of force by a police officer if they believe on reasonable and probable grounds that it is necessary, and they only use as much force as needed. ss. 3 establishes a presumption that force "intended or likely to cause death or grievous bodily harm" is prohibited unless the officer has an objectively reasonable belief that the amount of force used is necessary for self-protection or for protection of another person.¹²¹

Charter s. 10

EVERYONE HAS THE RIGHT ON ARREST OR DETENTION:

- a) To be informed promptly of the reasons therefor
- b) To retain and instruct counsel without delay and to be informed of that right

RIGHT TO COUNSEL

(A) What is the right to counsel?

- (1) Police must inform the individual of the existence and availability of legal aid and duty counsel.¹²²
- (2) Police must provide a reasonable opportunity to exercise the right to retain and instruct counsel.¹²³
 - What constitutes a reasonable opportunity depends on surrounding circumstances including availability of duty counsel services in jurisdiction, whether evidence may cease to be available as result delay;
 - Police must "hold off", meaning refrain from questioning or attempting to elicit evidence until they've had a reasonable opportunity;
 - Where only available during office hours, police must hold off until reasonable opportunity.¹²⁴

¹¹⁶ "Make and Access to Information or Personal Information Request" *Treasury Board of Canada Secretariat* (27 May 2024), online: <Link>.

¹¹⁷ RSC, 1985 c A-1.

¹¹⁸ *The Queen v Biron*, 1975 CanLII 13 (SCC).

¹¹⁹ *Ibid*; *Criminal Code*, *supra* note 4, s. 34(3);

¹²⁰ *R v Tim*, 2022 SCC 12.

¹²¹ *R v Nasogaluak*, 2010 SCC 6.

¹²² *R v Brydges*, 1990 CanLII 123.

¹²³ *Ibid*.

¹²⁴ *R v Prosper*, 1994 CanLII 65 (SCC).

- (3) The police are required to communicate the right to counsel and, where an accused states they do not understand, facilitate the understanding.¹²⁵
- (4) The standard for waiving this right is very high (clear and unequivocal, with full knowledge of rights and the effect the waiver will have on those rights).¹²⁶
- (5) Once this has been satisfied (inform, reasonable opportunity, hold off), the interrogation may continue. It does not require counsel to be present during the interrogation.¹²⁷
- (6) If there is a fundamental and discrete change in the purpose of the investigation (different, unrelated, or more serious), the police must reiterate right to counsel.¹²⁸
 - Factors could include new procedures involving the detainee (i.e., lineup or polygraph), change in the jeopardy facing the detainee (new or more serious turn), or reason to believe the first information provided was deficient (i.e., doesn't understand, police undermine).¹²⁹
- (7) If a detainee changes their mind about wanting counsel, police are required to tell the detainee of the right to reasonable opportunity to contact, and obligation of police to hold off.¹³⁰

(B) When is the right available?

The right is required at the point of detention; it does not require an arrest.¹³¹

- Without delay means immediately;
- The “immediacy of this obligation is only subject to concerns for officer or public safety, or to reasonable limitations” prescribed by law and justified under s 1.¹³²

If you are not a Citizen of Canada, and you are arrested, you should contact immigration counsel, not just criminal counsel. Criminal Convictions can have immigration consequences. If during arrest or after arrest you are contacted by or detained by immigration enforcement (Canada Border Services Agency) you must contact immigration counsel. **If you are detained, you can contact the Refugee Law Office at (416) 977-8111** for free and confidential assistance.

For more information go to the [Migrants Know Your Rights Guide](#)

ANTI-TERRORISM ACT, 2015¹³³

This Act (ATA) was adopted into Canadian law on June 18, 2015 despite strong opposition. The International Civil Liberties Monitoring Group (ICLMG) provides a breakdown of some of the Act's most problematic components:¹³⁴

- Alongside Bill C-44, the ATA significantly extends CSIS' powers, including allowing judges to grant warrants that violate *Charter* rights.
- It facilitates information sharing amongst 17 governmental agencies regarding "activities that undermine the security of Canada."¹³⁵

The ATA also led to a codified version of the "No Fly List" through the *Secure Air Travel Act*¹³⁶ and "allows the preventive arrest and detention of a person if it is 'likely' to prevent a terrorist activity that a 'peace officer' reasonably believes 'may' be carried out."¹³⁷ The use of "terrorism" to target Palestinian supporters is not limited to the ATA. For example, in October 2024, the Canadian Government listed Samidoun (Palestinian Prisoner Solidarity Network) onto Canada's terrorist entity list. As ICLMG stated, "The consequences of listing are severe. Assets are frozen, any use of property owned or controlled by the listed organization is a crime, as is providing any form of financial or in-kind support. Moreover, there is the stigmatization of being listed, tagging the organization, and anyone accused of being associated with it as being a "terrorist," regardless of their personal actions, without ever laying criminal charges or proving guilt in court... The terrorist entities list is a political instrument, often used in discretionary ways to further the geopolitical interests of Canada and its allies."¹³⁸

For more information, check out our webinar, "[Canada's Terror List Enables Israeli Terror](#)."

OTHER LEGAL RESOURCES

There are additional resources available online. For example, take a look at Pivot Legal Society's guide for People Attending Wet'suwet'en Solidarity Actions.¹³⁹ While some of this information may be specific to Wet'suwet'en solidarity actions and/or British Columbia, there is valuable information that applies nationally at various types of solidarity actions.

**Legal
Information
for People
Attending
Wet'suwet'en
Solidarity
Actions**

PIVOT
LEGAL SOCIETY

¹²⁵ *R v Evans*, 1991 CanLII 98 (SCC).

¹²⁶ *Brydges*, *supra* note 122, citing *Korponay v Attorney General of Canada*, 1982 CanLII 12 (SCC).

¹²⁷ *Brydges*, *supra* note 122.

¹²⁸ *Evans*, *supra* note 125.

¹²⁹ *R v Sinclair*, 2010 SCC 35.

¹³⁰ *R v Prosper*, 1994 CanLII 65 (SCC).

¹³¹ *Suberu*, *supra* note 95; *R v Lafrance*, 2022 SCC 32.

¹³² *Suberu*, *supra* note 95.

¹³³ SC 2015, c 20 [ATA].

¹³⁴ "C-51, The Anti-terrorism Act, 2015", ICLMG (n.d.), online: <[Link](#)>.

¹³⁵ ATA, *supra* note 133, s 5(1).

¹³⁶ SC 2015, c 20, s 11.

¹³⁷ "Understanding Bill C-51 in Canada: The Anti-Terrorism Act, 2015", *Canadian Civil Liberties Association* (19 May 2025), online: <[Link](#)>, citing ATA, *supra* note 133, s 17.

¹³⁸ "Canadian Civil Liberties Coalition Calls for an End to Terrorist Entities Listing Regime", ICLMG (17 October 2024), online: <[Link](#)>.

¹³⁹ PLS, *supra* note 80.

4CAMPUS

SPECIFIC ISSUES

A QUICK GLANCE

ENGAGING IN CAMPUS ACTIVISM

Palestine rights activism has been ongoing for decades across Canadian universities. However, since October 2023, student activism has exponentially increased – as has retaliation from postsecondary administrations. Here are some lessons learned over the years

DO this

DO build relationships with faculty, staff, and other student groups and community orgs.

DO document all communications with your postsecondary institution.

DO send a written note summarizing any in person communications and request a confirmation of your understanding.

DO connect with administrators before you need their assistance.

DO learn your school's policies.

DO prepare yourself for pushback on Palestinian rights activism.

DO consider exposing abusive, intolerant, unfair, or discriminatory administrative conduct.

DO look and see if criticism of Israel is considered a violation of any policies.

DON'T do this

DON'T assume you have the same rights in university disciplinary issues as criminal issues. Review your code or policy in detail.

DON'T assume you have no rights. Ask for all procedural safeguards that are reasonable for you, even if they're not officially enforceable.

DON'T rely on your official club/group certification. Consider that postsecondary institutions may attempt to decertify you.

If you are interested in starting campus activism in support of Palestinian rights, find other student groups (at your postsecondary institution or others) who have already started. If you have been engaging in on-campus activism and need additional resources, please reach out to us at info@justpeaceadvocates.ca.

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

Be prepared. While universities espouse support for student initiatives, social justice, and encouraging critical thinking, they often suppress and/or target Palestinian rights advocacy. Be sure to build relationships with faculty and other student groups, know your school's policies, and document all communications. Also consider exposing abusive, intolerant, unfair, or discriminatory administrative conduct.



IN-DEPTH: Campus Specific Issues

ENGAGING WITH POSTSECONDARY ADMINISTRATION

- Building relationships with faculty, staff, other student groups and community organizations is important in order to have a support network and connect your group's work with other social justice issues.
- Most administrators want to avoid exposing their institutions to public scrutiny and possible condemnation for intolerant reactions to student activism. In any case, it is important to document your communications with university or college officials to show your efforts to communicate in good faith. If you meet in person with a university or college official, send a written note summarizing your understanding of the conversation and ask for their confirmation of your understanding.
- Build relationships with university or college administrators before you need their assistance, so that a trusting relationship is forged before situations arise. It may help to minimize problems later if you establish your trustworthiness by getting necessary approvals from administrators for your events and making them familiar with your group's mission and goals.

POSTSECONDARY DISCIPLINE ISSUES

- Be familiar with your school's policies, regulations and codes of conduct before organizing events and engaging in activities and follow the applicable procedures to get approval before an event when necessary.
- Be prepared that Palestinian rights activism and related academic discourse on campuses are often targeted by claims that it discriminates against pro-Israel Jewish student groups on campuses.
- Universities and colleges typically enact by-laws, regulations and/or policies for the conduct of the school's affairs, including the discipline of students for academic and non-academic conduct.¹⁴⁰ Review these in detail and

familiarize yourself with processes in place at your institution. Note that university disciplinary procedures often include an appeals procedure, which involves some type of hearing, but you do NOT have the same rights as a criminal defendant (e.g., rights to counsel, to call and ask questions of adverse witnesses, to a formal hearing, to a high burden of proof, etc.). Accordingly, it is important that you review each institution's code or policy in detail, as the same process may not apply from one university to the next.

- Make sure that the school's disciplinary procedures are being properly followed. If the university or college does not follow its own rules and procedures, that may be a way to challenge them.
- Ask for all procedural safeguards that seem reasonable to you, even if they're not officially enforceable under student conduct codes or law. Safeguards to request include: a clear and reliable recording of the proceedings in question; your own unofficial recording of discussions, investigatory interviews, and hearings; being allowed to bring a trustworthy uninvolved third person (another student, faculty, staff member or lawyer) to all discussions, investigations, and hearings; more time to gather papers, witnesses, and other evidence that you think would help your side of the case. They may refuse these requests, but it's worth asking.
- There has been some movement by Canadian universities and colleges to update Codes of Conduct to reflect that criticism of Israeli policies could be considered problematic.¹⁴¹ As well, at least one university student union has included the Ottawa Protocol¹⁴² in their handbook. If you believe your university administration and/or student union have protocols or Codes of Conduct that are inherently discriminatory you are encouraged to obtain expertise and support.
- Consider exposing any abusive, intolerant, unfair or discriminatory administrative conduct to the media and public scrutiny and do so before there is a decision. Trying

¹⁴⁰ See for example [McGill University Code of Student Conduct and Disciplinary Procedures](#) or [University of Manitoba Student Discipline By-Law](#).

¹⁴¹ Universities Canada was lobbied by several Zionist groups to have their 97 university and college presidents update their institution's Code of Conduct to reflect place of origin as a grounds to protect criticism against the state of Israel.

¹⁴² The Ottawa Protocol was signed by the Canadian government in 2011 with the objective to silence criticism of Israel by equating that criticism with antisemitism. See Government of Canada, News Release, "Canada becomes first country to sign the Ottawa Protocol" (19 September 2011), online: <[Link](#)>.

to influence a fair outcome is usually easier than challenging the outcome after the fact, when the decision-maker is compelled to defend the decision. Also, consider if there has been discrimination based on one of the protected grounds in your provincial or territorial human rights legislation or a Charter violation, and if these types of claims should be raised.

- One tactic that has been used in several universities is to have student groups decertified. If this is a concern, you should take steps as soon as possible to consult the

relevant policy and procedures of your institution, and garner expertise and support from others who can assist your student group in challenging decertification.

- Students may take initiative to do work related to Palestine, such as arrange an internship or study abroad period, but be prevented from doing so by their university or college. In such instances, further investigation is required, and proactive steps are needed to understand if the denial is a result of an anti-Palestinian bias by the university decision makers.

SILENCING AND FIRING PRO-PALESTINE STUDENTS AND STAFF

1 | UNIVERSITY OF TORONTO AND SUPPRESSION OF SCHOLARSHIP ON PALESTINE

The University of Toronto's Faculty of Law came under widespread criticism in 2020 after being accused of caving to external pressure from a sitting federal judge and university donor not to hire Dr. Valentina Azarova as director for its renowned International Human Rights Program (IHRP) because of her scholarship on Israel's occupation of the Palestinian territories.¹⁴³

An [external review](#) was subsequently conducted by former Supreme Court of Canada justice Thomas Cromwell, which ultimately exonerated the university and its senior administrators of any wrongdoing.¹⁴⁴ The inquiry itself has been the subject of widespread criticism from the legal community.

In the meantime, Canadian Association of University Teachers (CAUT) censured UofT for its actions surrounding the hiring scandal; the IHRP has been without a Director for two academic years; and the university has ignored calls to reinstate Dr. Azarova in the IHRP Director position. The judge in question – Justice David Spiro – was the subject of a complaint to the Canadian Judicial Council (CJC) but remains on the bench.¹⁴⁵

THE SCANDAL

In August 2020, a three-person committee unanimously selected prominent international legal scholar Valentina Azarova to fill the Director position of the faculty of law's International Human Rights Program (IHRP). Of the 140 applicants for the position, Dr. Azarova was the "strong, unanimous and enthusiastic first choice of the selection committee", with "glowing" references.¹⁴⁶

On September 4, 2020 around the same time that Dr. Azarova was engaged in advanced negotiations about the details of her hiring with the Assistant Dean of the law school, a phone call occurred between Justice David Spiro, a Tax Court of Canada judge and major donor to the University of Toronto, and the Assistant Vice President (AVP) of the university in which the judge disclosed that he had learned of the potential appointment of Dr. Azarova to the IHRP.¹⁴⁷ Justice Spiro

disclosed that he learned of the confidential information from a staff member of an organization of which he had been a director of prior to his appointment to the bench (David Spiro was a previous director of the Centre for Israel and Jewish Affairs (CIJA)) that flagged the "pending appointment of [a] major anti- Israel activist" to UofT and was concerned "that a public protest campaign [would] do major damage to the university, including in fundraising".¹⁴⁸

According to the Cromwell Report, Justice Spiro asked the AVP about the appointment of a new IHRP Director, naming Dr. Azarova. He indicated that as a judge he could not become involved, but "wanted to alert the University that if the appointment were made it would be controversial and could cause reputational harm to the University and particularly to the Faculty of Law. He wanted to ensure that the University did the necessary due diligence."¹⁴⁹ It was ultimately communicated back to Justice Spiro through the AVP that Dr. Azarova was indeed the candidate but that no final hiring decision had been made, despite it being part of a confidential hiring process.¹⁵⁰

Also on September 4, the law school's then Dean, Edward Iacobucci, became involved in the hiring process for the first time. He was briefed about Justice Spiro's objections to Dr. Azarova by the Assistant Dean of Alumni and Advancement and also called Professor Audrey Macklin, the chair of the hiring committee, to inform her of the donor's call and discuss the candidate.

By September 6, the Dean made the decision to discontinue the hiring process with Dr. Azarova, overriding the decision of the selection committee. He called Professor Macklin to notify her of his intention to terminate the process. The Dean emailed the formal decision to terminate the hire on September 9.

IMMEDIATE FALLOUT

The events caused significant unrest within the UofT community as well as amongst academics, lawyers, and activists internationally. Following the announcement that Dr. Azarova would no longer be

¹⁴³ See Masha Gessen, "Did a University of Toronto Donor Block the Hiring of a Scholar for Her Writing on Palestine?", *The New Yorker* (8 May 2021), online: <Link>; Sean Fine, "U of T Law school under fire for opting not to hire human-rights scholar after pressure from sitting judge", *The Globe and Mail* (17 September 2020); Shree Paradkar, "Search for new director of U of T law faculty's International Human Rights Program leads to resignations, allegations of interference", *The Toronto Star* (17 September 2020), online: <Link>; Sean Fine, "U of T law dean denies offering scholar job, caving to Tax Court judge's pressure", *The Globe and Mail* (18 September 2020).

¹⁴⁴ The Honourable Thomas A. Cromwell C.C., "Independent Review of the Search Process for the Directorship of the International Human Rights Program at the University of Toronto, Faculty of Law" (March 15, 2021), online

¹⁴⁵ Canadian Judicial Council, Press Release, "Canadian Judicial Council completes its review of the matter involving the Honourable D.E. Spiro" (21 May 2021), online: <Link>.

¹⁴⁶ Cromwell, *supra* note 144 at 5 and 11.

¹⁴⁷ *Ibid* at 31.

¹⁴⁸ *Ibid* at 31-32.

¹⁴⁹ *Ibid* at 32.

¹⁵⁰ *Ibid* at 33.

hired, Professor Macklin resigned from her position in protest. Vincent Wong, a second member of the hiring committee, resigned from his paid position as a Research Associate with the IHRP, citing a lack of “objectivity, fairness, and transparency” in the director search process.¹⁵¹ The IHRP’s entire program advisory board, comprised of Professors Vincent Chiao, Trudo Lemmons, and Anna Su, also resigned *en masse* in Fall 2020. They, along with several other faculty professors, wrote to the university Vice President and Provost seeking to expose the “high-handed manner of governance” that allowed such an incident to occur.¹⁵²

Over 1400 lawyers and academics also signed an [open letter](#), noting that the treatment of Dr. Azarova in Canada is consistent with a broader and intensifying climate of suppression of Palestinian speech globally.¹⁵³

THE CONSEQUENCES

UofT conducted an “impartial review” which laid out detailed facts of the events, making no findings of credibility, and ultimately exonerated the university and the Dean.¹⁵⁴ It concluded that no offer and acceptance in the strict legal sense had occurred between the university and Dr. Azarova, but rather the parties were at an advanced negotiation stage.¹⁵⁵

The report faced extensive blowback, with many finding its conclusions disappointing and unconvincing, underlining the troubling relationships between external donors and universities.¹⁵⁶ It has been questioned why, if the technical and legal barriers no longer exist, Dr. Azarova can no longer be offered the Director position.¹⁵⁷

CAUT, a federation of independent associations and trade unions that represents 72,000 academic and general staff at 125 universities and colleges across Canada, also raised concerns and took action

against the UofT. In a 79-0 decision (with one abstention) delegates to the CAUT Council voted to censure UofT, finding on a balance of probabilities that the Dean’s decision to terminate the hiring process was influenced by Justice Spiro’s intervention such that fundamental principles of academic freedom, collegial governance, and institutional autonomy were violated.¹⁵⁸ The CAUT censure had immediate and powerful consequences on the UofT, with resignations and cancellations beginning just days after the censure was imposed.¹⁵⁹ UofT responded to the censure by stating that it was unwarranted and doubling down on the findings and recommendations of the Cromwell Report.¹⁶⁰

Justice David Spiro’s involvement also sparked a number of judicial complaints to the CJC body which has the authority to investigate and discipline judicial misconduct.¹⁶¹

Similar to the Cromwell Report, the Review Panel found that Justice Spiro was voicing his concerns about the potential impact of the appointment and associated controversy on the University and the Faculty, as opposed to actively campaigning or lobbying against the appointment. The Panel also concluded that there was no suggestion of perceived bias on his part against Palestinian, Arab or Muslim interests.¹⁶²

In response, National Council of Canadian Muslims,¹⁶³ Craig Scott, Leslie Green, Arab Canadian Lawyers Association, Independent Jewish Voices and Canadian Muslim Lawyers Association filed an [application for judicial review](#). They argued that the Panel’s decision was not reasonable, and their review process is procedurally unfair. The Federal Court dismissed the application, finding that the Panel’s decision was reasonable based on the evidence available to it, and that the CJC did not breach the duty of procedural fairness.



¹⁵¹ “CAUT Report on Academic Freedom at the Faculty of Law, *Canadian Association of University Teachers (CAUT)* (October 2020), at 8, online: <Link>.

¹⁵² President Meric Gertler, “Statement on Updates to the External Review of the Search Process for a Director of the International Human Rights Program at the Faculty of Law”, *University of Toronto*, Office of the President (7 December 2020), at 3, online: <Link>.

¹⁵³ Cromwell, *supra* note 144.

¹⁵⁴ President Meric Gertler, “President’s Response to the Independent Review of the Search Process for the Directorship of the International Human Rights Program at the University of Toronto, Faculty of Law, by the Honourable Thomas A. Cromwell, C.C.”, *University of Toronto*, Office of the President (29 March 2021), online: <Link>.

¹⁵⁵ Cromwell, *supra* note 144.

¹⁵⁶ Denise Réaume, “An Analysis of the Cromwell Report”, *Ultra Vies* (n.d.), at 4-6, online: <Link>; Anver E Emon, “On the Cromwell Report: Spiro and External Influence”, *Ultra Vies* (n.d.), online: <Link>.

¹⁵⁷ CAUT, *supra* note 151 at 6.

¹⁵⁸ “CAUT Council imposes rare censure against University of Toronto over Azarova hiring controversy”, *Canadian Association of University Teachers* (22 April 2021), online: <Link>.

¹⁵⁹ Harsha Walia, “I have turned down an event & cancelled another...” (30 April 2021), online (Twitter): <Link>; Celina Caesar-Chavannes, “I have cancelled this event in support of @CAUT_ACPPU’s decision...” (5 May 2021), online (Twitter): <Link>.

¹⁶⁰ Letter from President Meric S Gertler (23 April 2021), online: <Link>; Memorandum from Kelly Hannah-Mofat, Vice-President, Human Resources & Equity and Cheryl Regehr, Vice-President & Provost Re: CAUT Censure (27 May 2021).

¹⁶¹ Canadian Judicial Council, Press Release, “Canadian Judicial Council completes its review of the matter involving the Honourable D.E. Spiro” (21 May 2021), online: <Link>.

¹⁶² *Ibid.*

¹⁶³ *v Canada (Attorney General)*, 2022 FC 1087.

2 | PROTESTING THE IOF ON YORK UNIVERSITY CAMPUS

Controversy erupted at Toronto's York University campus after student group Herut Canada hosted an event called "Reservists on Duty: Hear from Former Israeli Defense Forces (IDF) Soldiers" on November 20, 2019. Hundreds of students joined Students Against Israeli Apartheid (SAIA) to denounce the presence of IDF personnel on campus.¹⁶⁴ The event was also attended by members of the Jewish Defense League (JDL), a far-right group classified as a terrorist organization in the U.S., that is external to the university and had been previously banned by York University. Tensions quickly escalated between attendees, leading to verbal and physical altercations.

THE MEDIA NARRATIVE

The event received domestic and international media attention, with SAIA protestors quickly being called out by prominent Canadian politicians for anti-Semitic violence.¹⁶⁵ Both Prime Minister Justin Trudeau and Doug Ford condemned the protests, labelling them as antisemitic and hate-filled.¹⁶⁶

These narratives failed to recognize that many of the SAIA protestors faced violence themselves, some of which were captured on video, including one student who was punched in the face, another who was choked with their own scarf, and another who was knocked unconscious.¹⁶⁷ In addition to the smear campaigns faced by SAIA, their

student club status – as well as that of Herut Canada's – was suspended following the November 2019 event.¹⁶⁸ Their status was not reinstated until the following January.

THE CONSEQUENCES

In December 2019, university officials directed that an external review of the incidents occur and retained Justice Cromwell to complete the independent inquiry. The final report was released publicly in June 2020. It included a series of recommendations, among them suggestions that the university clearly define acceptable speech, what constitutes discrimination and harassment, and the consequences for violating the university's codes. One of the more controversial recommendations was that the administration "consider the [IHRA's] working definition of anti-Semitism as it develops its own statement on racism and discrimination."¹⁶⁹ The York University Faculty Association (YUFA) issued a statement opposing this recommendation, noting that 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. They also observed that its adoption is a potential threat to academic freedom.¹⁷⁰

3 | OCCUPYING CANADIAN CAMPUSES IN PROTEST OF ISRAEL'S GENOCIDE

In the spring of 2024, protests surged across Canadian campuses in support of Palestine and against the ongoing Israeli genocide. Here is a brief summary of some of the encampments across Canada.

McGill University — Students set up the first Canadian university encampment at McGill on April 27, 2024, called "The People's University for Palestine." On April 29, McGill requested police support due to failed dialogue efforts. One day later, two students filed an injunction application to prevent protestors from being within 100 metres of school buildings due to "safety concerns." The Quebec Superior Court denied the injunction because the plaintiffs did not face harassment.¹⁷¹ Less than two weeks later, McGill requested an injunction to allow police to dismantle the encampment. On May 15, the Quebec Superior Court denied the injunction due to insufficient grounds. McGill doubled down by filing a second injunction on May 17. A few weeks later, protestors occupied a university building only to be dispersed by police with tear gas and pepper spray. Thirteen individuals were arrested, but the encampment remained until July 10, when McGill dismantled the camp using private security agents.¹⁷²

University of Toronto — Students began occupying the "King's College Circle" on May 2, 2024. University officials attempted to paint the encampment as antisemitic and unsafe. A week after UofT's VP of communications stated the university's goal "is a peaceful, sustainable resolution to the encampment...", UofT filed an injunction to remove the encampment and allow the arrest of protestors. Nonetheless, students at the People's Circle for Palestine received support from faculty members and labour unions. On June 6, the university stated it did not hold direct investments in armament companies but confirms it will not boycott Israeli universities. The Ontario Superior Court granted the injunction on July 2, despite a complete lack of evidence that protestors were antisemitic or violent.¹⁷³ The People's Circle for Palestine announced it would leave before the Court's deadline and did so.

Université du Québec à Montréal — Solidarité pour les droits Humain des Palestiniennes et Palestiniens set up an encampment, named Université Populaire Al-Aqsa, on May 12, 2024. After a conversation with UQAM President on May 17, protestors marched in downtown Montreal on May 20. Police used tear gas and violence to disperse the protest. On May 23, UQAM filed an injunction against Université Populaire Al-Aqsa. The Quebec Superior Court gave UQAM a

¹⁶⁴ Joel Roberts, "Protesting the Israel Defense Forces is not anti-Semitic", *Canadian Dimension* (23 November 2019), online: <Link>.

¹⁶⁵ Davide Mastracci, "Debunking Politicians' Falsities About the York University Protest", *Medium* (26 November 2019), online: <Link>.

¹⁶⁶ Justin Trudeau, "On Wednesday night, violence & racist chants broke out against an event organized by the Jewish community at York University..." (22 November 2019), online (Twitter): <Link>; Doug Ford, "I am disappointed that York University allowed for a hate-filled protest to take place last night at Vari Hall..." (21 November 2019), online (Twitter): <Link>.

¹⁶⁷ The Honourable Thomas A Cromwell CC, "York University Independent Review", *York University* (30 April 2020), at 14 online: <Link>.

¹⁶⁸ "Faculty for Palestine Denounces York University President's Suspension of Students Against Israeli Apartheid-York", *Faculty for Palestine Canada* (10 December 2019), online: <Link> [Cromwell, "York Report"].

¹⁶⁹ Cromwell, "York Report", *supra* note 167 at 47.

¹⁷⁰ YUFA Staff, "YUFA flags academic freedom concerns in Cromwell Report", *York University Faculty Association (YUFA)* (29 June 2020), online: <Link>.

¹⁷¹ *Medvedovsky c Solidarité for Palestinian Human Rights McGill (SPHR McGill)*, 2024 QCCS 1518

¹⁷² Hannah Liddle, "Timeline: Protest Encampments", *University Affairs* (31 May 2024), online: <Link>.

¹⁷³ *Ibid.*

partial win by ordering protestors to refrain from blocking building access, removing material blocking cameras, and allowing UQAM/Montréal fire representatives to complete safety checks. On May 30, UQAM and the Université Populaire Al-Aqsa reached an agreement – the university agreed to i) ensure the university foundation had no direct investments in weapons manufactures, ii) call for an immediate ceasefire, and iii) fund Palestinian academics and students.¹⁷⁴

University of Alberta — On May 9, 2024, the People’s University for Palestine set up an encampment on the university’s main quad. On May 11, Edmonton police gave a final notice to protestors and proceeded to dismantle the camp. Police arrested three individuals, none of whom were students.¹⁷⁵ This came after the University of Alberta fired Samantha Pearson, Direct of the Sexual Assault Centre, for signing an open letter calling on the Canadian government to end its complicity in the ongoing genocide.¹⁷⁶

University of British Columbia (UBC) Vancouver — Protestors set up an encampment on April 29, 2024. A couple of weeks later, protestors occupied the UBC bookstore – calling it Sidrah’s bookstore, in memory of martyr Sidrah Hassouna. The RCMP and campus security promptly cleared the bookstore. A few days later, on May 15, protestors occupied part of the Koerner Library. Students also protested outside the president’s office and provided a list of five demands. In response, President Bacon said in part that the university must remain neutral in regard to the situation in Gaza. The encampment was dismantled by demonstrators on July 8.¹⁷⁷

Encampments were set up at additional postsecondary institutions including the University of Calgary, Queen’s University, Ontario Tech University, Dalhousie University, University of Ottawa, Université Laval, University of Winnipeg, Vancouver Island University, Western University, University of Waterloo, University of Victoria, University of Manitoba, University of Windsor, UBC Okanagan, University of Guelph, Memorial University, York University, and McMaster University.

4 | SUSPENDING VANCOUVER ISLAND UNIVERSITY STUDENTS FOR MAINTAINING HUMANITY

Students at Victoria Island University (VIU) set up an encampment in May 2024, in protest of the genocide in Gaza. Like other universities, VIU filed an injunction to dismantle and prevent future encampments without university permission. The BC Supreme Court found for VIU and granted an interim injunction.¹⁷⁸ The judge refused to make a conclusive finding on whether the *Charter* applied in this case, but stated that “the *Charter* arguments [do not] detract from the strength of VIU’s serious case to be tried for an interim injunction or to be a factor in the defendants’ favour in the balance of convenience.”¹⁷⁹ While VIU received a partial injunction and dismantled the encampment, the Court did refuse several extreme measures sought by the university.¹⁸⁰

However, VIU did not stop its persecution with the dismantling of the encampment. Rather, in October 2024, VIU suspended two student participants despite VIU president having stated in May 2024 that members would not be punished for participating in the encampment.¹⁸¹ They not only suspended two students – VIU suspended two Muslim Palestinian women from Gaza.¹⁸² Sara Kishawi was given a two-year suspension, while another unnamed Palestinian-Canadian student was suspended for one year. Both students appealed their suspension.¹⁸³ After unjust delays, the appeal hearings finally took place in February 2025.¹⁸⁴

GUILTY

¹⁷⁴ *Ibid.*

¹⁷⁵ *Ibid.*

¹⁷⁶ Davide Mastracci, “A List of Some People in Canada Fired for Pro-Palestine Views”, *The Maple* (10 November 2023), online: <Link>.

¹⁷⁷ Liddle, *supra* note 172.

¹⁷⁸ *Vancouver Island University v Kishawi*, 2024 BCSC 1609.

¹⁷⁹ *Ibid* at para 71.

¹⁸⁰ “Statement Regarding the Unjust Suspension of Two Participants in the VIU Palestine Solidarity Encampment”, *VIU Faculty and Employees for Students for Palestine* (FESP) (9 February 2025), online: <Link>.

¹⁸¹ *Ibid.*

¹⁸² *Ibid.*

¹⁸³ Michael John Lo, “VIU Students Appeal Suspensions Over Pro-Palestinian Activism”, *Times Colonist* (15 February 2025), online: <Link>.

¹⁸⁴ FESP, *supra* note 180.

5 BOYCOTT,

DIVESTMENT, SANCTIONS (BDS)

A QUICK GLANCE

WHAT IS BDS?

BDS is a call from Palestinian Civil Society to use non-violent boycotts and divestment measures in an attempt to pressure the Israeli government to recognize Palestinians' human rights, including their rights to full equality, freedom from violence and forced displacement, and their right to return.¹⁸⁵

The three objectives are:

- (1) Ending Israel's occupation and colonization of all Arab lands and dismantling the Wall;
- (2) Recognizing the fundamental rights of the Arab-Palestinian citizens of Israel to full equality; and
- (3) Respecting, protecting and promoting the rights of Palestinian refugees to return to their homes and properties as stipulated in *UN Resolution 194*.

WHAT DO I DO?

- (1) **Boycott:** Refuse to purchase or otherwise support companies complicit in violations of Palestinians rights.
- (2) **Divest:** Remove resources or investments from companies supporting or profiting from the Israeli occupation.
- (3) **Sanctions:** Call for the government to impose sanctions on Israel (including restricting /prohibiting trade, financial transactions or other economic activity, and the seizure/ freezing of property in Canada).¹⁸⁶

You can find a list of companies that aid and abet Israel's violations of international law at the Canadian BDS Coalition & International Allies "[BDS Shame and Boycott Database](#)".

WHAT SHOULD I KNOW?

- BDS is not illegal in Canada. Boycotts, campaigns, and protests to draw attention to human rights violations are protected activity under the right to free speech (s. 2(b) of the *Charter*).
- BDS is not antisemitic. BDS is focused on the human rights of the Palestinian people and Israel's compliance with international human rights standards under international law.



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

BDS is not antisemitic or illegal. Rather, it is a method of resistance. It is a tool we can use to refuse support for companies who violate and/or disregard Palestinian rights. As individuals, we can boycott. Check out what companies to boycott from the [Canadian BDS Coalition & International Allies](#). Divest from any investments or funds that profit from the occupation (and call on your pension funds to do the same). Call on the Canadian government to impose sanctions on Israel.

¹⁸⁵ BDS Movement, "Palestinian Civil Society Call for BDS" (9 July 2005), online: <[Link](#)>.

¹⁸⁶ "Types of Sanctions", *Government of Canada* (10 September 2024), online: <[Link](#)>.

IN-DEPTH: Boycott, Divest, Sanction

The BDS movement for Palestine was inspired by the South African anti-apartheid movement and urges action to pressure Israel to comply with international law. BDS is now a global movement made up of unions, academic associations, churches, and grassroots movements across the world, including in Canada.

BOYCOTTS: BDS is a strategy that allows people of conscience around the world to play an effective role in the Palestinian struggle for justice. In July 2005, Palestinian civil society issued a call for a campaign of boycotts, divestment and sanctions (BDS) against Israel until it complies with international law and Palestinian rights. For decades, Israel has denied Palestinians their fundamental rights of freedom, equality, and self-determination through ethnic cleansing, colonization, racial discrimination, and military occupation. BDS is shaped by a rights-based approach and highlights the three broad sections of the Palestinian people: the refugees, those under occupation in the West Bank/East Jerusalem and Gaza Strip, and Palestinians in 1948.

Israeli cultural and academic institutions directly contribute to maintaining, defending or whitewashing the oppression of Palestinians, as Israel deliberately tries to boost its image internationally through academic and cultural collaborations. As part of the boycott, academics, artists, and consumers are campaigning against such collaboration and “rebranding.” For example, the #RaptorsDontGo campaign – calling on the Toronto Raptors not to visit Israel after their 2019 NBA championship – was successful.¹⁸⁷ A growing number of artists have refused to exhibit or play in Israel¹⁸⁸ and grassroots groups continue to protest complicit organizations, like Scotiabank.¹⁸⁹ Other efforts like *Kick Out Apartheid* call on FIFA to kick out Israeli apartheid.¹⁹⁰



DIVESTMENT means that a company or organization removes resources or investments and/or ensures that their investment portfolios and pension funds are not used to finance companies directly supporting or profiting from the Israeli occupation of Palestinian land. These efforts raise awareness about the reality of Israel’s policies and encourage companies to use their economic influence to pressure Israel to end its systematic denial of Palestinian rights.

Divestment can occur on personal and organizational levels. Individuals can ensure that their personal investments are free from companies complicit in Israeli apartheid and war crimes. Communities are also targeting institutions that invest funds into complicit companies. For example, in 2024, Just Peace Advocates identified 12 Canadian pension plans that are significantly invested in companies “instrumental in enabling Israel’s illegal activities in Occupied Palestine.”¹⁹¹ In addition, an analysis of the “big five” Canadian banks, along with Intact Insurance and Manulife, revealed substantial investments in complicit companies.¹⁹²

SANCTIONS are an essential part of demonstrating disapproval for a country’s actions. Israel’s membership of various diplomatic and economic forums provides both an unmerited veneer of respectability and material support for its crimes. By calling for sanctions against Israel, campaigners educate society about violations of international law and seek to end the complicity of other nations in these violations.



¹⁸⁷ “#RaptorsDontGo Campaign Has Been Successful”, *Canadian BDS Coalition* (22 October 2019), online: <[Link](#)>.

¹⁸⁸ “More than 600 Musicians Sign Letter Pledging to Boycott Israel”, *Middle East Eye* (28 May 2021), online: <[Link](#)>.

¹⁸⁹ The Canadian Press, “Giller Prize to Proceed Monday Under Shadow of Ongoing Boycotts and Protests”, *CBC* (18 November 2024), online: <[Link](#)>.

¹⁹⁰ “FIFA: Kick Out Apartheid”, *Kick Out Apartheid* (n.d.), online: <[Link](#)>.

¹⁹¹ Just Peace Advocates, *Canadian Pensions Complicity Related to Israel’s Unlawful Occupation* (JPA, 2024) 1 at 1, online: <[Link](#)>; “Canadian Financial Institutions Supporting Apartheid Israel”, *Canadian BDS Coalition & International Allies* (20 November 2023), online: <[Link](#)>.

¹⁹² “Insurance Companies Complicity in War Crimes”, *Just Peace Advocates* (28 November 2024), online: <[Link](#)>.

IS IT ILLEGAL TO SUPPORT BDS?

No. Boycotts, campaigns, and protests to draw attention to human rights violations are protected activity under the right to free speech, which is protected pursuant to s. 2(b) of the *Charter*. Unlike in the United States, Canada does not currently have any anti-boycott regulations that prohibit participating in a boycott against a “friendly country” if the boycott is called by a “foreign country.”

In February 2016, Canada’s Parliament did pass a motion asking the government to condemn groups and individuals who promote the BDS movement in Canada; however, it is not officially against the law to do so – no law or legislation was passed banning BDS activity.¹⁹³ The motion was put forward by then Conservative Member of Parliament for Parry Sound-Muskoka Tony Clement, and stated:

“That, given Canada and Israel share a long history of friendship as well as economic and diplomatic relations, the House rejects the Boycott, Divestment and Sanctions (BDS) movement, which promotes the demonization and delegitimization of the State of Israel, and call upon the government to condemn any and all attempts by Canadian organizations, groups or individuals to promote the BDS movement, both here at home and abroad.”

It passed easily, with a vote of 229 in favour (mostly conservatives and liberals) to 51 against (mostly NDP and Bloc Québécois). Beyond the federal motion, on May 19, 2016, the Ontario legislature voted down Private Members’ Bill 202, An Act respecting participation in boycotts and other antisemitic actions, which would have prevented the provincial government from entering into contracts with individuals or entities supporting the BDS movement.¹⁹⁴ The proposed legislation passed first reading before being defeated at second reading by a vote of 39 to 18. On December 1, 2016, Private Member’s Motion 36¹⁹⁵ passed in the Ontario legislature, which rejected the differential treatment of Israel, including the boycott, divestment and sanctions movement. It also endorsed the Ottawa Protocol on Combatting Antisemitism, which was signed by the Canadian government in 2011 with the objective to silence criticism of Israel by equating that criticism with antisemitism.¹⁹⁶ The motion was introduced by Thornhill Conservative MPP Gila Martow and was passed by a vote of 49 to 5, with almost half of the 107 members of the legislature absent. Only the NDP members in the legislature voted against the resolution.

WHAT ARE SOME IMPORTANT CONSIDERATIONS RELATED TO BUSINESS AND HUMAN RIGHTS?

Responsible business conduct means ensuring that global operations, including supply chains, are compliant with domestic

¹⁹³ House of Commons, Journals, 42nd Parl, 1st Sess, No 22 (22 February 2016) at 176.

¹⁹⁴ Bill 202, An Act respecting participation in boycotts and other anti-Semitic actions, 1st Sess, 41st Leg, Ontario, 2016 (1st Reading May 17, 2016).

¹⁹⁵ Ontario, Legislative Assembly, Orders and Notices Paper, 41st Parl, 2nd Sess, No 38 (1 December 2016) at 3, 11 at 17.

¹⁹⁶ Government of Canada, News Release, “Canada becomes first country to sign the Ottawa Protocol” (19 September 2011), online: <Link>.

BDS ON CANADIAN CAMPUSES

Canadian student groups are leaders in the BDS movement!

- On March 30, 2017, the **University of British Columbia chapter of Solidarity for Palestinian Human Rights** successfully won a case before BC’s Supreme Court in the case of *Presch v Alma Mater Society of the University of British Columbia*, 2017 BCSC 963, in which the Court ruled that its referendum on BDS could proceed.
- On November 29, 2018, the **Canadian Federation of Students**, Canada’s oldest and largest student organization, voted to endorse the BDS movement in solidarity with Palestinian human rights advocates.
- In March 2022, students at **McGill University** voted in favour of the Palestine Solidarity Policy. 71% of students voted “yes” to campaign McGill University to condemn surveillance against Palestinian students and boycott / divest from complicit institutions.
- On July 11, 2024, the University of Windsor announced an agreement with the **University of Windsor Students’ Alliance (UWSA) and the Liberation Zone student encampment**. In part, the university agreed not to pursue academic agreements with Israeli institutions.

Check out the 20+ student-led BDS victories on Canadian University campuses [HERE](#).

and international human rights laws. It also means doing business in a manner that is economically, socially, and environmentally sustainable. While there are very few binding legal obligations that are enforceable on corporations operating transnationally, a number of voluntary “soft law” mechanisms have emerged in the forms of international guidelines, ethical principles, and codes of conduct, which are based on the notion that multinational corporations have a quasi-moral/legal responsibility for the protection of rights that have a strong nexus with the operations of the company.¹⁹⁷ Despite lacking an enforcement mechanism, in the absence of “hard law”, these guidelines contribute to responsible business practices by solidifying the notion that corporations owe a duty to stakeholders and shareholders alike, and by providing a framework for internalizing human rights norms within a company.¹⁹⁸

One notable set of globally endorsed standards is the UN *Guiding Principles on Business and Human Rights* (UNGPs).¹⁹⁹ Unanimously endorsed in 2011 by the UN Human Rights Council, the UNGPs provided for the first time a global standard for preventing and addressing the risk of adverse impacts on

¹⁹⁷ Justine Nolan & Luke Taylor, “Corporate Responsibility for Economic, Social and Cultural Rights: Rights in Search of a Remedy?” (2009) 87 J of Business Ethics 433 at 437.

¹⁹⁸ *Ibid* at 439.

¹⁹⁹ United Nations Office of the High Commissioner for Human Rights, *Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework*, (New York and Geneva: OHCHR 2011) [UNOHCHR, “UNGP”].

human rights linked to business activity. The UNGPs consist of 31 principles that outline how States and businesses should implement the UN “Protect, Respect and Remedy” Framework in order to better manage business and human rights challenges.²⁰⁰ The policy framework consists of three core pillars:

- (1) States’ duty to protect against human rights abuses by third parties, including business, through appropriate policies, regulation, and adjudication;
- (2) the corporate responsibility to respect human rights, which means to act with due diligence to avoid infringing on the rights of others; and
- (3) the need for greater access by victims to effective remedies, judicial and non-judicial.

Human rights due diligence is fundamental to ensuring that businesses meet their responsibility to respect human rights. This refers to the steps that companies must take to identify, prevent, mitigate, remedy, and account for any negative human rights impacts that the company may cause or contribute to through its business activities, services, or relationships. The UNGPs apply to all States and businesses, both transnational and others, regardless of their size, location, ownership, or structure. They also give particular attention to the rights and needs of vulnerable groups, including women, children, migrants, persons with disabilities, and Indigenous communities.

In addition to the UNGPs, a variety of other frameworks have been developed as a means of identifying and promoting human rights obligations for businesses. Some guidelines focus on a broad range of human rights protections while others are geared towards specific sectors or issues, such as mining or security, or specific groups, such as women or children. Prior to the development of the UNGPs, one of the standards was the *Voluntary Principles of Security and Human Rights* (VPSHRs).²⁰¹

The *OECD Due Diligence Guidance for Responsible Business Conduct* applies to all sectors and includes recommendations for corporations to fulfill human rights due diligence obligations.²⁰² As a member of the Organization for Economic Cooperation and Development (OECD), Canada is expected to be directed by this Guidance in its engagement with companies and its promotion of Canadian business.²⁰³

UN Global Compact, a voluntary initiative launched in 2000, also addresses these issues through its *Ten Principles*, which

are aimed at getting business leaders to voluntarily promote and apply human rights and environmental principles, labour standards, and anti-corruption.²⁰⁴ Several thousand companies have signed onto the Global Compact. The Global Compact Network Canada (GCNC) is the Canadian network of the UNGC. Thematic human rights frameworks have also been developed for women and children, respectively, through the *Women’s Empowerment Principles* and the *Children’s Rights and Business Principles*.²⁰⁵

Companies are urged to take all necessary measures to ensure that their activities are in compliance with international humanitarian law, international human rights law, and international criminal law by ending all association with projects connected to unlawful Israeli settlements and the occupation of Palestinian territory. In Canada, pursuant to the *Crimes Against Humanity and War Crimes Act*,²⁰⁶ parties that are complicit in genocide, crimes against humanity, and/or war crimes, including individuals or corporations, are liable to criminal prosecution.

In January 2021, the Ontario government’s Capital Markets Modernization Task Force issued its *final report* containing proposals for policy reform to Ontario’s capital markets.²⁰⁷ In the report, the Task Force recommended that public issuers be required to disclose material environmental, social, and governance (ESG) information.²⁰⁸ If the Task Force’s recommendation is implemented, this means that public companies operating in the Occupied Palestinian Territories may be required by law to disclose information about the human rights risks associated with their activities there, if they are listed in Ontario.

Since the 2009 Quebec Superior Court decision in *Bil’in (Village Council) v. Green Park International Inc.*,²⁰⁹ it is possible for a corporation to be held liable in a civil lawsuit in Canadian courts for complicity in a war crime. Although the *Bil’in* case was dismissed on jurisdictional grounds, it helped lay the groundwork for the SCC’s precedent setting February 2020 decision in *Nevsun Resources Ltd. v. Araya*,²¹⁰ which confirmed definitively that violations of customary international law may directly give rise to civil liability under Canadian common law (discussed further below).

²⁰⁰ United Nations Office of the High Commissioner for Human Rights, *The Corporate Responsibility to Respect Human Rights: An Interpretive Guide*, (New York and Geneva: OHCHR 2012) at 2 [UNOHCHR, “Interpretive Guide”]

²⁰¹ “The Voluntary Principles on Security and Human Rights”, *Voluntary Principles Initiative* (2000), online: <Link>.

²⁰² “OECD, *OECD Due Diligence Guidance for Responsible Business Conduct* (Paris: OECD Publishing, 2018).

²⁰³ Amnesty International Canada, *Corporate Accountability Information Kit*, (2018) at 7, online: <Link>.

²⁰⁴ United Nations Global Compact, *The Ten Principles*, (2000), online: <Link>.

²⁰⁵ UN Women & the United Nations Global Compact, *Women’s Empowerment Principles*, 2 ed (UN Women & UNGC, 2011), online: <Link>; UNICEF, UN Global Compact & Save the Children, *Children’s Rights and Business Principles*,

(UNICEF, 2012), online: <Link>. See also UNICEF, UNICEF Canada, Government of Canada, & Barrick Gold, *Child Rights and Security Checklist*, (2016), online: <Link>; UNICEF Canada, Government of Canada, Barrick Gold, *Child Rights and Security Handbook: An Implementation Companion to the Child Rights and Security Checklist*, (2016), online: <Link>.

²⁰⁶ 2000, c 24.

²⁰⁷ Government of Ontario, *Capital Markets Modernization Taskforce: Final Report* (January 2021), online: <Link>.

²⁰⁸ Environmental, Social, and Governance (ESG) criteria are a set of factors that investors may consider in making risk and return assessment of their investments.

²⁰⁹ 2009 QCCS 4151.

²¹⁰ 2020 SCC 5.

COMPLICITY IN WAR CRIMES

Bil'in (Village Council) V Green Park International Inc

In Bil'in, the heirs of a Palestinian landowner and the council of a Palestinian town sued two Canadian companies in Québec, claiming that by carrying out Israeli construction orders to build condominiums in Israeli settlements in the West Bank, they were assisting Israel in war crimes in violation of international law, including the Fourth *Geneva Convention* and the *Crimes Against Humanity and War Crimes Act*. The Superior Court of Québec dismissed the claim, concluding that the Israeli High Court of Justice was the most appropriate forum to argue the case. However, it still set an important precedent for addressing war crimes in the West Bank because the Quebec court did recognise that a person committing a war crime could be liable under Quebec civil law. The complainants appealed to the Court of Appeal, but the Court affirmed the Superior Court's decision on

August 11, 2010.²¹¹ An application for leave to appeal was dismissed by the Supreme Court of Canada on March 3, 2011.²¹²

On 28 February 2013, the same claimants filed a Communication with the United Nations Human Rights Committee against Canada, claiming that Canada had breached its obligations under the *International Covenant on Civil and Political Rights* by failing to prevent Green Park and Green Mount from continuing its activities on the West Bank. In a Decision dated July 26, 2017, the Committee held that the Communication was inadmissible on the basis that there was not a sufficient nexus between Canada's obligations under the *Covenant*, the actions of Green Park International and Green Mount International, and the alleged violations of the claimants' rights.²¹³

In a concurring opinion of Committee members Olivier de Frouville and Yadh Ben Achour, it was noted that, in future cases, if a communication of this nature were sufficiently substantiated, the Committee could consider it admissible.²¹⁴ On the issue of jurisdiction, the Committee members concluded that a jurisdictional link could be established if (1) there existed the effective capacity of the State party to regulate the activities of the businesses concerned, and (2) the State had actual knowledge of those activities and their necessary and foreseeable consequences in terms of violations of human rights recognized in the *Covenant*.²¹⁵ If jurisdiction was established, it would still need to then be determined whether any rights violations under the *Covenant* had occurred.

WHAT ARE SOME CONSIDERATIONS REGARDING DIVESTMENT?

Environmental, Social, and Governance (ESG) criteria are a guide for investors to evaluate and screen investments based on corporate policies for the purpose of encouraging companies to act responsibly. Although there are no standard definitions, environmental factors may take into consideration a company's impact on environmental matters. The social criteria may consider issues such as how a company manages its relationships with employees, clients, customers, suppliers, and the communities where it operates, among other things. The governance factor may consider issues such as a company's board structure, leadership, audits, shareholder rights, executive compensation, and internal controls. In considering divestment strategies it is useful to check out a company's ESG commitments, and if it is a member of an organization for responsible investment such as the [Responsible Investment Association](#).

A divestment resolution is a stated commitment from a company or organization to divest monies and investments from companies directly supporting or profiting from the Israeli occupation of Palestinian land. The trustees or managers of a fund often have a fiduciary duty to manage assets entrusted to them for the benefit of the assets' owners and without injuring

owners' interests. The ability to take non-financial criteria, such as ESG factors, into account in making an investment decision by a fiduciary depends significantly on the type of fund (i.e., whether it is an endowment fund, pension fund, charitable fund, or other type of fund). If a fund's trust instrument permits non-financial criteria to be considered, and there is no other regulatory or statutory limitation that applies, then it can do so. One may even compel a fiduciary to consider non-financial criteria if it is clear in the trust instrument that it is permitted and there are no other legal constraints.

Divestment resolutions of investors must respect fiduciary duty, where the investor or the company has a fiduciary duty to invest monies, and where fiduciary rules are in place. Divestment may be allowed based on ESG criteria where alternative investments of equal value and risk-return profile to the properties to be divested are available, also accounting for the risk of investment, the rate of return, and other factors, such as diversification, matching the obligations of the fund, and others.

Pension funds are an important exception to the above statement regarding the ability of a trustee or fund manager to take non-financial criteria, such as ESG factors, into account in making an investment decision. In the case of pension funds, pension regulation restricts the criteria that can be considered by trustees to those that are material to financial risk-reward

²¹¹ *Yassin c Green Park International Inc*, 2010 QCCA 1455.

²¹² *Bil'in (Village Council)*, Late Ahmed Issa Abdallah Yassin, Basem Ahmed Issa Yassin, Maysaa Ahmed Issa Yassin v. Green Park International inc., Green

Mount International inc. and Annette Laroche, 2011 CanLII 10843 (SCC).

²¹³ *Decision adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 2285/2013* *, **, ***, CCPR/C/120/D/2285/2013, UNHRC, 2017.

²¹⁴ *Ibid*, Concurring opinion of Committee members Olivier de Frouville and Yadh Ben Achour, at para 1.

²¹⁵ *Ibid* at para 10.

considerations. That is, you can consider divestment in the context of a pension fund investment decision if there is a material risk- return factor that divestment is based on.

Also, with respect to pension funds, trustees have sole discretion to manage funds, so a resolution that usurps in any way this discretion is unenforceable. Pension fund trustees may therefore be asked to make decisions to sell entrusted funds based on ESG criteria as long as the divestment resolution does not intrude in any way on the trustees' discretion to implement the resolution how and when they decide, in their sole discretion.

The divestment resolution must also allow trustees to implement it without injuring the interests of fund owners in any way that owners have not authorized.

Divestment is an action on a spectrum of actions that investors can take, and ESG is a set of factors that investors can consider in determining what actions to take. Other steps can include engaging stakeholders, asking for policy changes, moving business units around, selling parts of a company, or ultimately, divesting entirely.

A WARNING FOR CANADIAN COMPANIES VIOLATING HUMAN RIGHTS ABROAD

Nevsun Resources Ltd v Araya, 2020 SCC 5

In a decision released on February 28, 2020, the Supreme Court of Canada (SCC) confirmed that violations of customary international law may directly give rise to civil liability under Canadian common law, permitting a group of Eritrean workers to pursue a legal claim in British Columbia against a Canadian mining company operating in Eritrea.

The claim arose after three Eritrean refugees sued Nevsun Resources Ltd., a publicly-held BC corporation, after alleging they were forced to work in the Bisha mine, in which Nevsun has a majority stake, for 12 hours a day, six days a week, in temperatures close to 50 degrees Celsius without cover. They sought monetary damages from Nevsun for breaches of customary international law prohibitions

against forced labour, slavery, cruel, inhuman or degrading treatment, and crimes against humanity. They also sought damages for breaches of domestic torts including conversion, battery, unlawful confinement, conspiracy, and negligence.

Nevsun brought a motion to strike the claim on the basis that the British Columbia courts did not have the authority to rule on the lawsuit. It argued that the 'act of state' doctrine precluded domestic courts from assessing the sovereign acts of a foreign government – in this case, those of Eritrea.

The majority of the SCC held that the act of state doctrine was not part of Canadian law, dismissing Nevsun's appeal. It went

on to declare that customary international law – including what are known as peremptory norms, or the most serious violations of rights – are part of Canadian law. The SCC's dismissal of Nevsun's appeal would have allowed the case to return to the Supreme Court of British Columbia to hear the merits of the workers' case and determine if there were breaches of customary international law, and if so, what remedy was warranted. However, the Eritrean workers did not have to wait that long – in October 2020, the parties reached an out-of-court settlement for an undisclosed amount of money, bringing a final resolution to the dispute.²¹⁶

WHAT ABOUT DIVESTMENT LANGUAGE?

Language to use for a "Therefore" clause. Divestment language may say, for example: *"We request the trustees to divest from Caterpillar, at such time and in such manner as they may determine."* Or: *"We ask the trustees to divest from companies directly supporting or profiting from the Israeli occupation of Palestinian land, as they may identify as appropriate for such action."*

Language to avoid: Divestment resolution language that orders trustees to divest (*"trustees shall divest..."*) or to divest immediately or by some other externally imposed deadline would likely not be enforceable, because it interferes with the trustees' discretion about when and how to divest.

WHAT ARE SANCTIONS?

Sanctions campaigns pressure governments to fulfil their legal obligations to end Israeli apartheid, and not aid or assist its maintenance, by banning business with illegal Israeli settlements, ending military trade and free-trade agreements, as well as suspending Israel's membership in international forums such as UN bodies.²¹⁷ Canadian sanctions laws implement United Nations Security Council (UNSC) sanctions regimes under the United Nations Act²¹⁸, as well as Canadian autonomous sanctions regimes under the Special Economic Measures Act.²¹⁹

Pursuant to the *Special Economic Measures Act*, sanctions may be ordered when gross and systematic human rights violations have been committed in a foreign state. In this regard, Canada's own domestic law could call for sanctions

²¹⁶ Yvette Brend, "Landmark settlement is a message to Canadian companies extracting resources overseas: Amnesty International", CBC News (23 October 2020), online: <Link>.

²¹⁷ BDS Movement, "What are Boycotts, Divestment and Sanctions?", online: <Link>.

²¹⁸ RSC 1985, c U-2.

²¹⁹ SC 1992, c 17.

based on Israel's systemic human rights violations and violations against humanitarian law, including the Geneva Conventions. Check out more on the Al-Haq [Gaza20/20](#) campaign which in Canada references the *Special Economic Measures Act*.

Just Peace Advocates calls on the Government of Canada to implement the following sanctions with regard to Israel and the Occupied Palestinian Territories (OPT):

- To take positive measures toward respecting international law, including banning illegal settlement products and services.

- To take all necessary measures to ensure full respect for and compliance with international law norms, including the *Geneva Conventions*, the relevant resolutions of the United Nations Security Council, the United Nations General Assembly, and the United Nations Human Rights Council regarding third state obligations toward the OPT; and
- To abide by Canada's obligations as a third state and as High Contracting Party to the *Geneva Conventions of 1949*, notably under Common Article 1, to respect and to ensure respect for international humanitarian law in the OPT in all circumstances.

ONGOING DIVESTMENT EFFORTS

In November 2024, Just Peace Advocates and dozens of volunteers made [several submissions](#) to the Special Rapporteur Albanese in regard to her call for input to the HRC 58th Session, specifically on the complicity of war crimes and racial discrimination of the apartheid Israeli regime.²²⁰ This included submissions regarding:

- Weapons Manufacturing and associated private sector companies' complicity related to Israel's Unlawful Occupation
- How the University of Alberta invests in human rights violations in Palestine
- Canadian Universities' Contributions to the Violation of International Law
- How EPCOR violates human rights in Palestine through Landis+Gyr and the Arad Group
- Entities involved in illegal military recruiting submitted to the United Nations
- Media Complicity in War Crimes
- Canadian Land & Real Estate Business Enterprises Involvement in the possible Commission of International Crimes Connected to Israel's Unlawful Occupation, Racial Segregation, and Apartheid Regime
- Canadian Charitable Enterprise Involvement in the Commission of International Crimes Connected to Israel's Unlawful Occupation, Racial Segregation, and Apartheid Regime in the Occupied Palestinian Territory (oPt)
- Canadian Financial Institutions (Banks) complicity related to Israel's Unlawful Occupation
- Canadian Pensions Complicit in War Crimes and Genocide

Just Peace Advocates also continues to analyze, report, and advocate against investments in companies' complicity in war crimes by several pensions, including the board for the Canada Pension Plan (CPPIB) and Quebec's Caisse de dépôt et placement du Québec (CDPQ). In April 2025, Just Peace Advocates and the Coalition du Québec URGENCE Palestine reported that CDPQ not only maintained its investments in complicit companies but increased its total investments [from \\$22.1 billion in 2023 to \\$27.4 billion in 2024](#).²²¹ This work is done using well-established databases including AFSC Investigate, the UN Database, Canada Stop Arming Israel (World Beyond War), and Don't Buy Into Occupation.

Advocacy efforts are ongoing to pressure the CDPQ to stop investing in complicit companies. For more information, check out the campaign: [Sortons la Caisse des Crimes en Palestine](#).²²²

Interested in supporting this work? Email info@justpeaceadvocates.ca

²²⁰ "Business and Human Rights, Canadian Institutions and Sectors Complicity, Submissions to the UN", *Just Peace Advocates* (19 January 2025), online: [<Link>](#).

²²¹ "Analyse rapport CDPQ 2024: 27,4 milliards de dollars dans 76 entreprises | CDPQ 2024 Report Analysis: \$27.4 billion invested in 76 companies", *Just*

Peace Advocates (30 April 2025), online: [<Link>](#); "CPPIB Investment in War Crimes and Potentially Genocide Increases to Over \$16 B in 2024", *Just Peace Advocates* (31 May 2024), online: [<Link>](#).

²²² "Israël criminel, CDPQ complice", *Sortons la Caisse des Crimes en Palestine* (n.d.), online: [<Link>](#).

6 LAWSUITS

TO KNOW ABOUT

A QUICK GLANCE

WHAT TYPES OF CIVIL LAWSUITS MIGHT BE USED?

Civil lawsuits may be brought by individuals or entities (i.e., the plaintiffs). They may seek either money (i.e., monetary damages) or a court order requiring the party being sued (i.e., the defendant) to take (or stop) certain actions to remedy wrongdoing.

(1) DEFAMATION

“Defamation consists of any written, printed or spoken words or of any audible or visible matters or acts which tend to lower a person in the estimation of others or cause a person to be shunned or avoided or exposed to hatred, contempt or ridicule.”²²³ The false statements can be spoken (slander) or written (libel). Like all lawsuits, defamation suits can be difficult. They target speech, are hard to prove, and often involve extensive discovery, meaning that parties have to provide the other side with personal records, which is very expensive and often intrusive into personal or organizational affairs.

(2) SLAPP LITIGATION

Strategic Lawsuits Against Public Participation (SLAPPs) are lawsuits which are typically brought without merit with the objective of intimidating and silencing individuals or organizations, who often have significantly less financial means than those bringing the lawsuit. SLAPPS often arise within the context of existing defamation suits but may also arise in other limited circumstances such as breach of contract or breach of confidentiality. While this type of legislation is important, it is also regularly used against activists who are speaking out against human rights abuses.

(3) ASSAULT AND BATTERY

If you were threatened and reasonably believed you were in immediate physical danger (assault), or if you were actually physically touched and the contact was uninvited (battery), there may be a civil claim for assault and/or battery. Even an action that doesn't physically harm the other person, such as spitting at someone, or grabbing something they're holding, can be a battery.

BENEFITS AND RISKS WITH LITIGATION

- Lawsuits for violations of constitutional rights can advance the law and protect movements for social change.
- However, they can be expensive, take years, and provide no guarantee of a just resolution.
- Litigation is usually best viewed as a last resort when your rights have been violated.

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

Lawsuits may be used by you or against you. Litigation is a long, expensive process and therefore it is worth considering the benefits and risks before bringing a suit. However, either way, it is helpful to know the types of lawsuits that are available to you because they could also be used against you. If you believe your rights were violated in order to repress your Palestine solidarity activism, contact info@justpeaceadvocates.ca.

²²³ CED 4th, *Defamation*, “Defamation Defined” at § 1 (November 2023).



IN-DEPTH: Lawsuits to know about

DEFAMATION

Defamation is a tort that provides a civil law remedy for a person whose reputation has been damaged by false statements made by a defendant. The false statements can be spoken or written. In the common law provinces, a case for defamation is made out and the defendant is presumptively liable in damages if the plaintiff can prove:

- (1) That the words in issue are defamatory in the sense that they lower the plaintiff's reputation in the eyes of a reasonable person;
- (2) The words in issue refer to the plaintiff; and
- (3) The words in issue were communicated/ published by the defendant to at least one third party.²²⁴

The court may also take into consideration "all the circumstances of the case, including any reasonable implications the words may bear, the context in which the words are used, the audience to whom they were published and the manner in which they were presented."²²⁵ When all three elements are made out, there is a presumption that the words in issue are false and that they caused the plaintiff harm. Proof of malice or fault is not necessary in order to establish defamation.

The legal threshold for establishing defamation is low. Most of the nuanced and complicated issues in defamation actions relate to whether one of a list of defences may apply.²²⁶ There are a number of recognized defences to a defamation action, including "truth" or "justification", "immunity" or "absolute privilege", "qualified privilege", "responsible communication in mass media" or "responsible journalism", "reportage" or "reporting on matters of public interest", "fair comment", "consent" and, those found in provincial and territorial legislation, such as "statutory limitations" found in Ontario's *Libel and Slander Act*.²²⁷

Like all lawsuits, defamation suits can be difficult. They target speech, are hard to prove, and often involve extensive

discovery, meaning that parties have to provide the other side with personal records, which is very expensive and often intrusive into personal or organizational affairs.

SLAPP LITIGATION

Strategic Lawsuits Against Public Participation (SLAPPS) are lawsuits which are typically brought without merit with the objective of intimidating and silencing individuals or organizations, who often have significantly less financial means than those bringing the lawsuit. SLAPPS often arise within the context of existing defamation suits but may also arise in other limited circumstances such as breach of contract or breach of confidentiality. In 2015, Ontario enacted the *Protection of Public Participation Act, 2015*,²²⁸ which in turn introduced ss. 137.1 to 137.5 to the *Courts of Justice Act* ("CJA")²²⁹ to provide an expedited, summary mechanism for defendants of SLAPP suits to seek to have those actions dismissed in a faster and less expensive manner.²³⁰

In Ontario, s. 137.1 of the CJA allows for the defendant to move for an order to dismiss the proceeding at any time after it has started. To do so, the defendant being sued for defamation must satisfy the judge that the matter arises from a statement/comment they made that relates to the public interest. The onus then shifts to the plaintiff to show that 1) the original defamation claim has substantial merit and 2) the defendant has no valid defence in the proceeding. Finally, the plaintiff must show that the harm (or likely harm) to their reputation is serious enough that it outweighs the public interest in protecting freedom of expression – otherwise the lawsuit cannot proceed pursuant to the anti-SLAPP legislation. The overall analysis involves a balancing exercise between freedom of expression, reputational harm, and the public interest.²³¹

Quebec was the first Canadian province to enact anti-SLAPP legislation, which was incorporated into its *Code of Civil*

²²⁴ *Grant v Torstar Corp.*, 2009 SCC 61 at para 28.

²²⁵ *Botiuk v Toronto Free Press Publications Ltd.*, 1995 CanLII 60 (SCC) at para 62.

²²⁶ Law Commission of Ontario, "Defamation Law in the Internet Age: Final Report" (Toronto: March 2020) at 18-19, citing *The Law of Defamation in Canada*, Erika Chamberlain, Karen Eltis & Raymond E Brown, eds, 2nd ed (Canada: Carswell, 1994).

²²⁷ RSO 1990, c L12.

²²⁸ SO 2015, c 23.

²²⁹ RSO 1990, c C43 [CJA].

²³⁰ *Courts of Justice Act*, RSO 1990, c C43

²³¹ 1704604 *Ontario Ltd v Pointes Protection Association*, 2020 SCC 22; *Bent v Platnick*, 2020 SCC 23.

Procedure.²³² British Columbia's anti-SLAPP legislation, which came into force in 2019, is called the *Protection of Public Participation Act*, and was modelled after the *Ontario Act*.²³³ This type of legislation is important because the fear of getting sued can cause "libel chill". Also, defamation suits are extremely expensive and time consuming. Under such legislation, a successful claimant usually has their legal costs covered by the other party and may be entitled to additional damages if the court finds the suit was brought in bad faith.²³⁴

Two major problems have arisen with this type of legislation in Ontario: costs and process length (time).²³⁵

(A) Costs

While this legislation was intended to support efficient and inexpensive litigation, they have done the opposite. Ironically, a procedure intended to avoid costly, unmeritorious, protracted defamation lawsuits has developed into a platform for

sometimes costly, unmeritorious, and protracted litigation. The *Park Lawn* decision suggests that a defendant who uses these motions for tactical reasons may have to pay costs if they do not succeed, despite the wording of the statute.²³⁶

(B) Time

Despite s. 137.2(2) stating that motions be heard no later than 60 days after the notice of motion is filed, this has not occurred. The Court of Appeal in *Park Lawn* suggested that parties should be compelled to comply with this timeline²³⁷ and that this time requirement should "act as a reminder that they are meant to be limited in scope."²³⁸

While this legislation was meant to avoid unmeritorious defamation lawsuits, case law shows that this seems to be another weapon in the hands of organizations with deep pockets.

ANTI-SLAPP MOTION CASE STUDIES

Lascaris v B'nai Brith Canada, 2019 ONCA 163

The appellant, Dimitri Lascaris, appealed from an order of a motion judge of the Ontario Superior Court of Justice that dismissed his action pursuant to s. 137.1 of the *Courts of Justice Act* on the basis that it was a Strategic Litigation Against Public Participation ("SLAPP") action.²³⁹

The appellant is a lawyer, human rights advocate, and the former Justice Critic in the Green Party of Canada's shadow cabinet who advanced a resolution calling on the Green Party to support the use of peaceful Boycott, Divestment and Sanctions ("BDS") to bring an end to Israel's occupation of Palestinian territories. The respondent, B'nai Brith Canada, is an independent, charitable organization involved in human rights and advocacy initiatives that describes itself as a voice for the Canadian Jewish community.

In June 2016, the respondent began a campaign against the appellant, the Green Party, and others related to the BDS resolution, stating that the resolution was anti-Semitic. In addition, in relation to prior Facebook postings of the appellant's, the respondent published an

article entitled "Green Party Justice Critic Advocates on Behalf of Terrorists". The appellant subsequently found a Twitter posting on the respondent's account stating: "[the appellant] resorts to supporting #terrorists in his desperation to delegitimize the State of #Israel". It contained a link to the previous article, which accused the appellant of being an "advocate on behalf of terrorists".

Following the Twitter posting, the appellant served a defamation claim on the respondent regarding the publications pursuant to Ontario's *Libel and Slander Act*. B'nai Brith did not retract, remove, correct, or edit its publications. Rather, it brought a motion to dismiss the action under s. 137.1 of the *CJA*. The motion judge granted the motion and dismissed the action.

The Court of Appeal held that the motion judge erred in this finding and overturned the decision, finding for Lascaris. The court considered the defences of fair comment and qualified privilege and concluded that the appellant had met his burden under the legislation.

Writing for the Court, Nordheimer J. also observed that this action had none of the recognized indicia of a SLAPP lawsuit because here, there was no history of the appellant using litigation or the threat of litigation to silence critics; any financial or power imbalance appeared to favour the respondent; there was no evidence that the appellant had a punitive or retributory purpose for bringing the defamation lawsuit; and the potential damages to the plaintiff were significant.

In assessing the balance of harm, the court held that it clearly favoured the appellant, holding that "accusing any person of supporting terrorists is about as serious and damaging an allegation as can be made in these times" (para 40). The Court went on to note that of added significance was the fact that Lascaris was a lawyer, and his reputation was central to his ability to carry on his profession. The matter was set aside and the appellant was awarded legal costs in the amount of \$15,000, and the ability to continue his defamation claim. In October 2020, the application for leave to appeal to the SCC was dismissed with costs.²⁴⁰

²³² See *Code of Civil Procedure*, CQLR c C-25.01, at Division II, ss 51-55; Bill 9, An Act to amend the Code of Civil Procedure to prevent improper use of the courts and promote freedom of expression and citizen participation in public debate, online: <Link>.

²³³ SBC 2019, c 3.

²³⁴ Isabel Ruitenbeek, "Could BC's New Anti-SLAPP Law Help #MeToo Survivors?", *The Tyee* (7 May 2019), online: <Link>.

²³⁵ *Park Lawn Corporation v Kahu Capital Partners Ltd*, 2023 ONCA 129 [*Park Lawn*].

²³⁶ Kevin O'Brien, "Ontario Court of Appeal Provides Corrective Guidance on Anti-SLAPP Motions", *Osler* (15 March 2023), online: <Link>.

²³⁷ *Park Lawn*, supra note 235 at para 41.

²³⁸ *Ibid*.

²³⁹ *Lascaris v B'nai Brith Canada*, 2018 ONSC 3068.

²⁴⁰ *B'nai Brith Canada v Alexander Dimitri Lascaris*, 2020 CanLII 76226 (SCC).

CUPW v B'nai Brith Canada et al, 2020 ONSC 323

The moving party, B'nai Brith Canada, brought a motion pursuant to s. 137.1 of the *Courts of Justice Act* to dismiss the respondent, the Canadian Union of Postal Workers' (CUPW), defamation claim as Strategic Litigation Against Public Participation (SLAPP), or in other words an anti-SLAPP motion. B'nai Brith contended that the defamation action brought against the defendants by CUPW was an illegitimate attempt to suppress freedom of expression on a matter of public interest and the action should be stayed or dismissed.

CUPW, as part of its ongoing work, regularly works with similar unions in foreign jurisdictions, including participating in an international capacity building project with the Palestinian Postal Service Workers Union (PPSWU). In addition, CUPW also takes positions on political and human rights issues from time to time and has for many years supported BDS through a boycott of Israeli products because of what the union believes is Israel's mistreatment of Palestinians in the occupied territories.

B'nai Brith recognizes that criticizing Israel is not in itself anti-Semitic, but it believes that much anti-Israel activity is anti-Semitic, and it regards the BDS as an anti-Semitic movement designed to delegitimize and demonize Israel. A worker and Jewish

CUPW member brought a complaint to B'nai Brith about the union's support of the BDS, which led to them looking into CUPW's 2018 activities and associations. In the course of this research, the

defendant discovered CUPW's support of PPSWU. When investigating social media accounts associated with the Palestinian union, B'nai Brith found a page maintained by a senior member of the union which included messages in Arabic praising individuals involved in terrorist activity as heroes. B'nai Brith sent this information to CUPW and called for a comment, advising that they intended to publish a story about CUPW and its association with PPSWU. Five days later, they published a press release under the heading "Canadian Postal Workers Align with Pro-Terrorism Palestinian Union" with statements that PPSWU glorifies terrorists and "rather than using the union movement to build peace between Israel and the Palestinians, the CUPW leadership has aligned itself with the path of violence and extremism." A second press release was published on August 2, 2018, which commented on the unfairness of the union compelling Jewish and Israeli members to pay union dues and using those dues to "pay fees, which may be used to support a foreign organization that wants to see them murdered".

CUPW subsequently sued for defamation. In turn, B'nai Brith brought the anti-SLAPP motion seeking to have the action dismissed. The Court dismissed the motion, allowing the defamation lawsuit to move forward. The Court held that "there is no doubt that there is a solid case for defamation" (para 25) and that the defences raised by B'nai Brith are not certain to be successful. It agreed that the issue of the conflict between Israel and Palestine was a matter of public interest,

and that legitimate criticism of the union's views was protected speech. However, it also found that it would be difficult for B'nai Brith to rely on 'truth' as a defence to its public claims about CUPW, noting that like CUPW, the Canadian government, the European Union, the United Nations and the State of Israel had all sponsored projects in the past in Gaza and the West Bank. The Court pointed out that this alone would not be enough to validate a claim of supporting terrorism.

The Court also found evidence to suggest that B'nai Brith had acted on assumptions without exercising due diligence, which may be fatal to a defence of "fair comment" in the defamation action. Its research into PPSWU consisted of a cursory internet search and review of a few social media pages, and it had ignored completely CUPW's publicly posted policies against terrorism, violence, and anti-Semitism.

The Court went as far as noting that there was also the possibility that B'nai Brith had acted with malice, stemming from its vast disagreement with CUPW's support of BDS, noting that "rather than attacking that directly without defaming the union, the defendants chose to focus on the relatively minor involvement with the PPSWU and to blow that out of proportion" (para 30). The Court held that based on the evidence before it, it was satisfied there was a legitimate defamation action and dismissed the motion. No order was made on costs.

ASSAULT AND BATTERY

If you were threatened and reasonably believed you were in immediate physical danger (assault), or if you were actually physically touched and the contact was unwanted (battery), there may be a civil claim for assault and/or battery. Even an action that does not physically harm the other person, such as spitting at someone, or grabbing something they are holding, can be a battery.

It is also possible that you may be sued for assault or battery. In this case, it is critical to seek legal help immediately as there will be a limited period of time to file a defence.

PRIVATE PROSECUTIONS

In September 2022, a Justice of the Peace found that there was sufficient evidence for a criminal charge to be laid against Sar-El Canada for allegedly recruiting or inducing individuals to accept non-combat engagements as volunteers with the Israeli armed forces, contrary to section 11 (1) of the *Foreign Enlistment Act*.

Section 11 of the *Foreign Enlistment Act* states that "Any person who, within Canada, recruits or otherwise induces any person or body of persons to enlist or to accept any commission or engagement [combatant or non-combatant] in the

armed forces of any foreign state or other armed forces operating in that state is guilty of an offence.

The case, commenced by Canadian Rabbi David Mivasair and Palestinian-Canadian artist Dr. Rehab Nazzal as a private prosecution, represented the first ever prosecution related to alleged Israeli military recruitment in Canada. However, the case never made it to trial. In December 2022 the Public Prosecution Service of Canada (PSSC) intervened, took over the case, and terminated the prosecution.

The appeal alleged that the PSSC committed an abuse of process in terminating the prosecution, and that the move was reflective of a larger pattern of Canada refusing to enforce the law where Israel's armed forces are concerned. The appeal sought, among other things, an order that the prosecution be allowed to continue.

In March 2025, the appeal was dismissed. The Court confirmed that individuals are able to institute private prosecutions, stating that it's "citizen's fundamental and historical right to inform under oath a justice of the peace of the commission of a crime."²⁴¹ However, this "right is not absolute and is always subject to the Crown's right to intervene and terminate the prosecution."²⁴²

In the two years since PPSC terminated of the prosecution, the impetus for hearing this case has only grown. In the International Court of Justice, Israel stands accused of committing genocide, with grave breaches of international humanitarian law apparent throughout its assault on Gaza. Additionally, it continues to attack Lebanon and Syria, and expand its violence in the West Bank, both by the IOF and illegal settlers.

LEGAL COMPLAINTS AGAINST THE FEDERAL GOVERNMENT

As of 2025, organizations like the Canadian Lawyers for International Human Rights (CLAHR) are "suing the Canadian government over illegal arms exports to Israel...The lawsuit is part of a growing trend of similar lawsuits filed in countries like the US, the UK, Denmark, Germany, France, and the Netherlands, where an appeals court found that "it is undeniable that there is a clear risk that the exported F-35 parts are used in serious violations of international humanitarian law." Other countries like Spain, Italy, and Belgium have also announced that they have suspended arms sales to Israel due to the ongoing atrocities."²⁴³

Previously, in 2023, lawyers filed a complaint on behalf of a Palestinian-Canadian and four Canadian organizations seeking to

have the government declare former Israeli Prime Minister Naftali Bennett inadmissible to Canada. Lawyers Shane Martínez and Nicholas Pope argued that Bennett should be denied entry to Canada pursuant to sections 35(1)(a) and (b) of the *Immigration and Refugee Protection Act*.

Earlier, in 2020, Just Peace Advocates, Canadian Foreign Policy Institute, and Palestinian and Jewish Unity filed a complaint with (at the time) Justice Minister David Lametti regarding foreign recruiting taking place within Canada to enlist individuals into the IOF. Former Minister Lametti responded saying, "It is necessary that the diplomats from another country, therefore the diplomats of Israel who are here, follow Canadian law", confirmed the minister. "Usually in Canada, it is up to the police investigators to decide whether there have been offenses and if there is one, for the prosecutor to proceed with formal charges. So I am going to leave the decision to the institutions we have in Canada to monitor the situation."²⁴⁴

Additionally, Just Peace Advocates and partners have filed complaints with the Canada Revenue Agency in relation to Canadian charities supporting IOF military and pro-Israel activities. You can find a [list of this work](#) on the Just Peace Advocates website.

PURSUING IOF WAR CRIMES SUSPECTS INTERNATIONALLY

In March 2025, the International Centre of Justice for Palestinians (ICJP) launched an international legal coalition, Global 195, to hold Israeli and dual national individuals accountable for alleged war crimes. "The scope of Global 195 includes individuals who have fought in the Israel Defense Forces (IDF), as well as figures spanning the entire Israeli military and political chain of command, from senior policymakers to operational personnel, who are directly or indirectly responsible for violations of international law."²⁴⁵

On March 25, 2025, ICJP submitted a complaint to Romanian authorities calling for the investigation into and arrest of a suspected IOF criminal. This work is complementary to the work of the Hind Rajab Foundation, which "focuses on offensive legal action against perpetrators, accomplices and inciters of war crimes and crimes against humanity in Palestine."²⁴⁶ In addition to country specific complaints, the Hind Rajab Foundation filed a complaint with the International Criminal Court (ICC) against 1,000 IOF soldiers, accusing them of participating in "systematic attacks against civilians during the ongoing genocide in Gaza."²⁴⁷

²⁴¹ *R v Mivasair*, 2025 ONCA 179 at para 46.

²⁴² Rochelle Direnfeld & Sayeh Hassan, *Case Comment*, "Viability of Private Prosecutions in Hate-Motivated Crimes", *Law360 Canada* (9 April 2025), online: <[Link](#)>.

²⁴³ "Arms Export to Israel Challenge", *CLAHR* (n.d.), online: <[Link](#)>.

²⁴⁴ "Complaint sent to the RCMP regarding Foreign Recruiting in Canada for the Israel Defense Forces", *Just Peace Advocates* (11 November 2020), online: <[Link](#)>.

²⁴⁵ "Global 195: International Legal Coalition Launched to Pursue Israeli War Crimes Suspects across the World", *ICJP* (18 March 2025), online: <[Link](#)>.

²⁴⁶ "Our Activities", *Hind Rajab Foundation* (n.d.), online: <[Link](#)>.

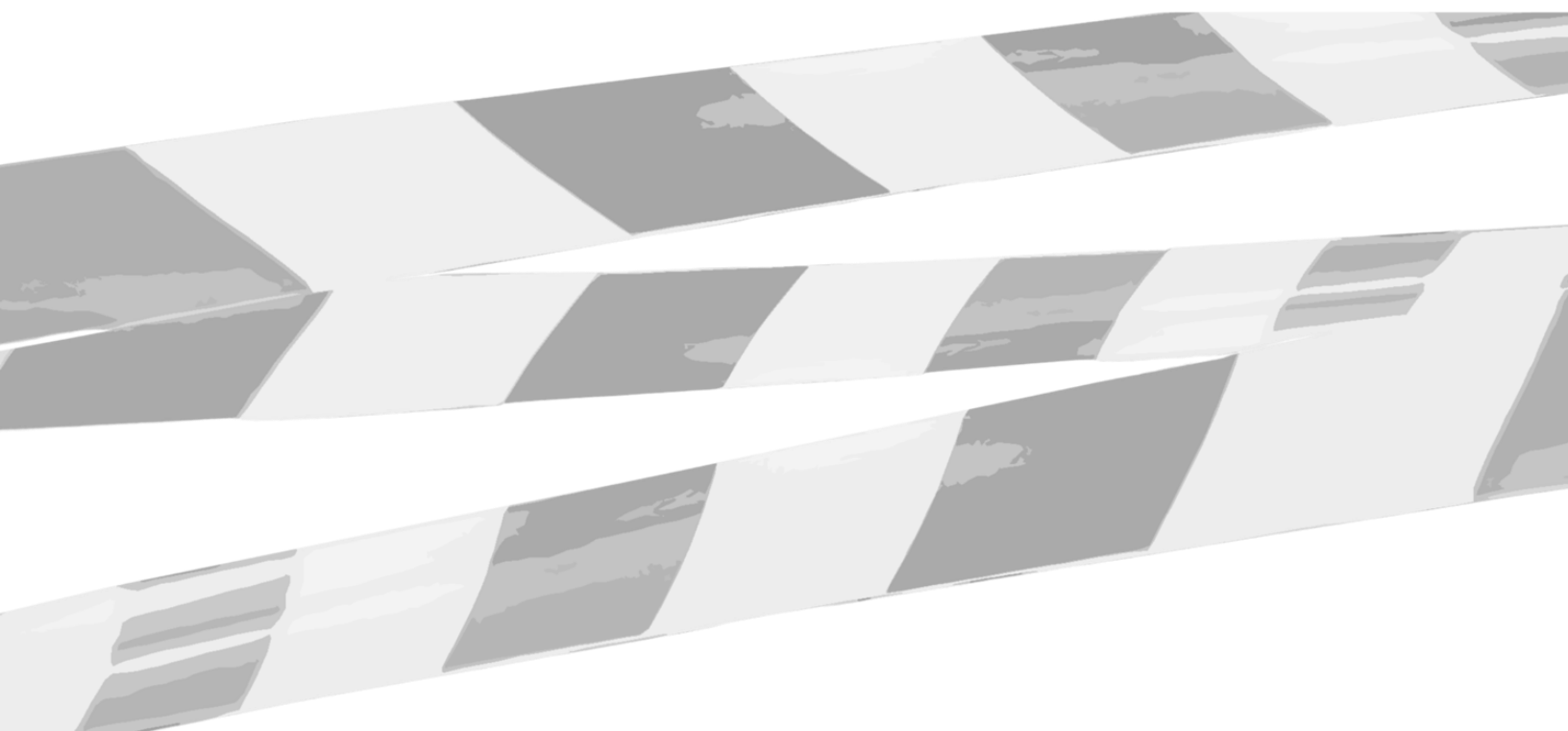
²⁴⁷ "Hind Rajab Foundation Files Complaint Against 1,000 Israeli Soldiers for War Crimes in Gaza", *Hind Rajab Foundation* (10 August 2024), online: <[Link](#)>.

BENEFITS AND PROBLEMS WITH LITIGATION

- Lawsuits for violations of constitutional rights may help to advance the law on social justice issues and protect movements for social change.
- Lawsuits can result in good precedent that advances social justice or can create bad precedent and present a legal setback. In either case, movements often continue to press for justice in other ways to create an environment that will be favourable to the changes they seek. The often-unfavourable legal climate for many social justice causes makes using the law more difficult. Lawsuits should therefore be thought of as one of many tactics to achieve a movement's goals, when undertaken at the direction of and in close coordination with that movement. But they should not be relied on or considered an end in themselves.
- Always consider the downsides of litigation. Lawsuits can be expensive and often take years with no guarantee of a just resolution. Even a victory can be subject to a lengthy appeal process that could take years.

Meanwhile, the movement may have moved on and your lawsuit may become irrelevant. Being a party to a lawsuit may cause anxiety and can distract you from your life and movement work. Also consider what may be exposed if the other party is allowed to see your documents and other private or group strategy communications as part of the discovery process in a lawsuit.

- If you challenge a lawsuit brought against you as a SLAPP (Strategic Lawsuit Against Public Participation) that aims to silence your legitimate speech or activities through expensive litigation, the other party could be forced to pay your legal fees and other penalties. If you are thinking of filing a lawsuit, bear in mind that it, too, may be subject to an anti-SLAPP motion. Currently, anti-SLAPP legislation only exists in British Columbia, Ontario, and Quebec.
- Litigation is usually best viewed as a last resort when your rights have been violated. While it's difficult to achieve social change through a lawsuit alone, many whose rights have been violated have been vindicated in court.



7 MORE RESOURCES

HOW TO MAKE A FREEDOM OF INFORMATION REQUEST

- 1 | **FEDERAL** [Access to Information and Privacy \(ATIP\) Online Request](#)
- 2 | **ALBERTA** [Freedom of Information and Protection of Privacy Act \(FOIP Act\)](#)
- 3 | **BRITISH COLUMBIA** [Freedom of Information and Protection of Privacy Act \(FOIPPA\)](#)
- 4 | **MANITOBA** [Freedom of Information and Protection of Privacy Act \(FIPPA\)](#)
- 5 | **NEWFOUNDLAND** [Access to Information and Protection of Privacy Act](#)
- 6 | **NEW BRUNSWICK** [Right to Information and Protection of Privacy Act \(RTIPPA\)](#)
- 7 | **NORTHWEST TERRITORIES** [Access to Information and Protection of Privacy \(ATIPP Act\)](#)
- 8 | **NOVA SCOTIA** [Freedom of Information and Protection of Privacy Act \(FOIPOP\)](#)
- 9 | **NUNAVUT** [Access to Information and Protection of Privacy Act \(ATIPP Act\)](#)
- 10 | **ONTARIO** [Freedom of Information and Protection of Privacy Act \(FIPPA\)](#)
- 11 | **PRINCE EDWARD ISLAND** [Freedom of Information and Protection of Privacy Act \(FOIPP\)](#)
- 12 | **QUEBEC** [Commission d'accès à l'information](#)
- 13 | **SASKATCHEWAN** [The Freedom of Information and Protection of Privacy Act](#)
- 14 | **YUKON** [Access to Information and Protection](#)

Note that municipalities have separate legislation, which will need to be researched separately. For example, in Ontario, the municipalities are covered under the [Municipal Freedom of Information and Protection of Privacy Act \(MFIPPA\)](#).

ORGANIZATIONS IN CANADA

- 1 | Just Peace Advocates: [Website](#)
- 2 | Canadian BDS Coalition & International Allies: [Website](#)
→ See [member organizations](#)
- 3 | Palestinian and Jewish Unity: [Website](#)
- 4 | Canadian Foreign Policy Institute: [Website](#)
- 5 | Canadian Federation of Students: [Website](#)
- 6 | Independent Jewish Voices Canada (IJV): [Website](#)
- 7 | Palestinian Canadian Congress: [Website](#)
- 8 | Canadian Arab Federation: [Website](#)
- 9 | International Centre of Justice for Palestinians, Canada: [Website](#), [Email](#)
- 10 | Canadian Lawyers for International Human Rights: [Website](#)
- 11 | Association of Palestinian Arab Canadians: [Website](#)

ORGANIZATIONS IN PALESTINE

- 1 | PASSIA (Palestinian Academic Society for the Study of International Affairs): [Website](#)
- 2 | Al-Haq: [Website](#)
- 3 | Institute of Palestine Studies (IPS): [Website](#)
- 4 | Defence for Children International Palestine: [Website](#)
- 5 | BADIL Resource Center for Palestinian Residency and Refugee Rights: [Website](#)
- 6 | Al Dameer Association for Human Rights: [Website](#)
- 7 | Palestinian Non-Government Organizations (PNGO): [Website](#)
- 8 | B'Tselem – The Israeli Information Center for Human Rights in the Occupied Territories: [Website](#)
- 9 | Adalah – The Legal Center for Arab Minority Rights in Israel: [Website](#)

OTHER INTERNATIONAL ORGANIZATIONS

- 1 | European Legal Support Center: [Website](#)
- 2 | Global Legal Action Network: [Website](#)
- 3 | International Centre for Justice Palestine: [Website](#)
- 4 | Global 195: [Website](#)
- 5 | The Hind Rajab Foundation: [Website](#)
- 6 | Internationalist Law Center: [Website](#)
- 7 | International Civil Liberties Monitoring Group: [Website](#)

LEGAL AID – PROVINCIAL AND TERRITORIAL

- 1 | Alberta: [Website](#)
- 2 | British Columbia: [Website](#)
- 3 | Manitoba: [Website](#)
- 4 | Newfoundland and Labrador: [Website](#)
- 5 | New Brunswick: [Website](#)
- 6 | Nova Scotia: [Website](#)
- 7 | Northwest Territories: [Website](#)
- 8 | Nunavut: [Website](#)
- 9 | Ontario: [Website](#)
- 10 | Prince Edward Island: [Website](#)
- 11 | Québec: [Website](#)
- 12 | Saskatchewan: [Website](#)
- 13 | Yukon: [Website](#)

PLAIN LANGUAGE LEGAL INFORMATION – PROVINCIAL AND TERRITORIAL

- 1 | Centre for Public Legal Education Alberta: [Website](#)
- 2 | Justice Education Society of British Columbia: [Website](#)
- 3 | People's Law School (British Columbia): [Website](#)
- 4 | Community Legal Education Association Manitoba (CLEA-Manitoba): [Website](#)
- 5 | Public Legal Education and Information Service of New Brunswick (PLEIS-NB): [Website](#)
- 6 | Public Legal Information Association of Newfoundland and Labrador: [Website](#)
- 7 | Legal Information Society of Nova Scotia (LISNS): [Website](#)
- 8 | Steps to Justice – Your Guide to Law in Ontario: [Website](#)
- 9 | Community Legal Education Ontario (CLEO): [Website](#)
- 10 | Community Legal Information Association of PEI (CLIA): [Website](#)
- 11 | Éducaloi: [Website](#)
- 12 | Public Legal Education Association of Saskatchewan: [Website](#)
- 13 | Yukon Public Legal Education Association: [Website](#)

LEGAL ORGANIZATIONS THAT MAY BE ABLE TO ASSIST

- 1 | Arab Canadian Lawyers Association: [Website](#)
- 2 | Canadian Association of Lawyers for International Human Rights: [Website](#)
- 3 | ICJP Canada: [Website](#), [Email](#)
- 4 | Movement Defense League: [Website](#)
- 5 | Pro Bono Canada (PBC): [Website](#)
- 6 | Probono Ontario (PBO): [Website](#)
- 7 | Public Legal Education Association of Canada: [Website](#)
- 8 | Muslim Legal Support Centre: [Website](#)
- 9 | Lawyers' Rights Watch: [Website](#)

INFORMATIONAL WEBINARS

- 1 | Boycott4Palestine: Strategies and Campaigns: [YouTube](#)
- 2 | Challenging Corporate Complicity in the Continued Colonization of Palestine: Means and Methods: [YouTube](#)

- 3 | Palestine Advocacy and the Law in Canada: 2021 in Review and Looking Forward: [YouTube](#)
- 4 | Resistance Until Return: Addressing the Root Causes within a Rights Based Decolonization Approach: [YouTube](#)
- 5 | Students Over Donor Money: The Suppression of Palestine Solidarity at McGill University And Beyond: [YouTube](#)
- 6 | Turning Point or More of the Same? The ICJ Advisory Opinion on Palestine and Its Global Impact: [YouTube](#)

ORGANIZATIONS THAT CAN PROVIDE SUPPORT RELATED TO DISCRIMINATION

- 1 | National Council of Canadian Muslims: [Website](#)
→ Report discrimination: [Website](#)
- 2 | Canadian Muslim Lawyers' Association: [Website](#)

CIVIL LIBERTIES ORGANIZATIONS

- 1 | Canadian Civil Liberties Association: [Website](#)
- 2 | British Columbia Civil Liberties Association: [Website](#)
- 3 | Ontario Civil Liberties Association: [Website](#)
- 4 | Alberta Civil Liberties Research Centre: [Website](#)
- 5 | Manitoba Association for Rights and Liberties: [Website](#)
- 6 | American Civil Liberties Union: [Website](#)

LAW UNIONS

- 1 | Law Union of British Columbia: [Website](#)
- 2 | Law Union of Ontario: [Website](#)

CANADIAN LABOUR IS A SUPPORTER OF BDS!

- Unifor
- Confédération des syndicats nationaux (CSN) / Confederation of National Trade Unions
- Canadian Federation of Students, Ontario Branch
- Centrale des syndicats du Québec (CSQ) / Quebec House of Labour
- Conseil central du Montréal métropolitain de la confédération des syndicats nationaux (CCMM-CSN)
- College and University Workers United (CUWU)
- Canadian Union of Postal Workers (CUPW) / Syndicat des travailleurs et travailleuses des Postes (STTP)
- Fédération nationale des enseignantes et des enseignants du Québec (FNEEQ-CSN) / Quebec Teachers Union
- Association pour une Solidarité Syndicale Étudiante (ASSÉ) / Association for Student Union Solidarity
- Ontario branch of the Canadian Union of Public Employees (CUPE-ON)

For a full list, see this updated [post](#) from the Canadian BDS Coalition & International Allies.

PROVINCIAL, TERRITORIAL, AND FEDERAL HUMAN RIGHTS INFORMATION

- 1 | Alberta: [Website](#)
- 2 | British Columbia: [Website](#)
- 3 | Manitoba: [Website](#)
- 4 | Newfoundland and Labrador: [Website](#)
- 5 | New Brunswick: [Website](#)
- 6 | Northwest Territories: [Website](#)
- 7 | Nova Scotia: [Website](#)
- 8 | Nunavut: [Website](#)
- 9 | Ontario: [Website](#)
- 10 | Prince Edward Island: [Website](#)
- 11 | Quebec: [Website](#)
- 12 | Saskatchewan: [Website](#)
- 13 | Yukon: [Website](#)
- 14 | Federal (Canadian Human Rights Commission): [Website](#)

8 CASE LAW APPENDIX

The cases included below are all related to Palestine in one way or another. The cases are organized first alphabetically and then by topic.

ALPHABETICAL

- 1 | *Bil'in (Village Council) v Green Park International Inc.*, 2009 QCCS 4151
- 2 | *Canadian Arab Federation v Canada (Minister of Citizenship and Immigration)*, 2015 CAF 168
- 3 | *Canadian National Railway Company v John Doe, Jane Doe, Persons Unknown*, 2023 NBKB 217
- 4 | *Canadian National Railway v. John Doe*, 2023 ONSC 6860
- 5 | *Canadian Union of Postal Workers v Quebecor Media Inc.*, 2024 ONSC 6484
- 6 | *CUPW v B'nai Brith Canada et al*, 2020 ONSC 323
- 7 | *DeLuca v Foodbenders*, 2023 ONSC 6465
- 8 | *Farah v Canada (Foreign Affairs)*, 2025 FC 679
- 9 | *Federation CJA v Independent Jewish Voices Canada Inc.*, 2025 QCCS 604
- 10 | *Fried c Students' Society of McGill University*, 2024 QCCS 1381
- 11 | *Hamza v Law Society of Ontario et al*, 2021 ONSC 4593
- 12 | *Indigo Books & Music Inc v John Doe 1 (Indigo Kills Kids)*, 2024 FC 1465
- 13 | *Jama v The Speaker*, 2024 ONSC 1264
- 14 | *Jazairi v Ontario (Human Rights Commission)*, 1999 CanLII 3744 (ON CA)
- 15 | *Kattenburg v Canada (Attorney General)*, 2019 FC 1003
- 16 | *Lascaris v B'nai Brith Canada*, 2019 ONCA 163
- 17 | *McGill University v Students for Palestine's Honour and Resistance McGill*, 2024 QCCS 3671
- 18 | *Medvedovsky v Solidarity for Palestinian Human Rights McGill (SPHR McGill)*, 2024 QCCS 1518
- 19 | *Memorial University (Re)*, 2025 CanLII 27184 (NL IPC)
- 20 | *National Council of Canadian Muslims v Canada (Attorney General)*, 2022 FC 1087
- 21 | *Noble v York University Foundation*, 2010 ONSC 399
- 22 | *Peterson v McNallie*, 2024 ABKB 127
- 23 | *R v Mivasair*, 2025 ONCA 2179
- 24 | *R v Nidal*, 2004 CanLII 58286 (QC CM)
- 25 | *Rodman v The United Church of Canada*, 2018 HRT0 538
- 26 | *University of Toronto (Governing Council) v Doe et al*, 2024 ONSC 3755
- 27 | *Vancouver Island University v Kishawi*, 2024 BCSC 1609
- 28 | *X v Students' Society of McGill University*, 2024 QCCS 1879
- 29 | *Zorchinsky c. SPHR Concordia*, 2024 QCCS 3646

BY TOPIC

(A) Administrative law

- 1 | *Canadian Arab Federation v Canada (Minister of Citizenship and Immigration)*, 2015 CAF 168
- 2 | *Farah v Canada (Foreign Affairs)*, 2025 FC 679
- 3 | *Jama v The Speaker*, 2024 ONSC 1264
- 4 | *Kattenburg v Canada (Attorney General)*, 2019 FC 1003
- 5 | *National Council of Canadian Muslims v Canada (Attorney General)*, 2022 FC 1087

(B) Campus activism

Student-initiated lawsuits

- 1 | *Fried v Students' Society of McGill University*, 2024 QCCS 1381
- 2 | *Medvedovsky v Solidarity for Palestinian Human Rights McGill (SPHR McGill)*, 2024 QCCS 1518
- 3 | *Memorial University (Re)*, 2025 CanLII 27184 (NL IPC)
- 4 | *X v Students' Society of McGill University*, 2024 QCCS 1879
- 5 | *Zorchinsky v SPHR Concordia*, 2024 QCCS 3646

University-initiated lawsuits

- 1 | *McGill University v Students for Palestine's Honour and Resistance McGill*, 2024 QCCS 3671
- 2 | *University of Toronto (Governing Council) v Doe et al*, 2024 ONSC 3755
- 3 | *Vancouver Island University v Kishawi*, 2024 BCSC 1609

(C) Civil lawsuits

- 1 | *Hamza v Law Society of Ontario et al*, 2021 ONSC 4593
- 2 | *Bil'in (Village Council) v Green Park International Inc*, 2009 QCCA 2414

(D) Constitutional rights

- 1 | *Canadian Arab Federation v Canada (Minister of Citizenship and Immigration)*, 2015 CAF 168

(E) Commercial law

- 2 | *Kattenburg v Canada (Attorney General)*, 2019 FC 1003

(F) Criminal law

- 1 | *R v Nidal*, 2004 CanLII 58286 (QC CM)
- 2 | *R v Mivasair*, 2025 ONCA 179

(G) Defamation

- 1 | *Canadian Union of Postal Workers v Quebecor Media Inc*, 2024 ONSC 6484
- 2 | *DeLuca v Foodbenders*, 2023 ONSC 6465
- 3 | *Noble v York University Foundation*, 2010 ONSC 399
- 4 | *Peterson v McNallie*, 2024 ABKB 127

(H) Discrimination

- 1 | *Jazairi v Ontario (Human Rights Commission)*, 1999 CanLII 3744 (ON CA)
- 2 | *Rodman v The United Church of Canada*, 2018 HRTO 538

(I) Injunction applications

- 1 | *Canadian National Railway Company v John Doe, Jane Doe, Persons Unknown*, 2023 NBKB 217
- 2 | *Federation CJA v Independent Jewish Voices Canada Inc*, 2025 QCCS 604
- 3 | *Indigo Books & Music Inc v John Doe 1 (Indigo Kills Kids)*, 2024 FC 1465
- 4 | *McGill University v Students for Palestine's Honour and Resistance McGill*, 2024 QCCS 3671
- 5 | *Peterson v McNallie*, 2024 ABKB 127
- 6 | *University of Toronto (Governing Council) v Doe et al*, 2024 ONSC 3755
- 7 | *Vancouver Island University v Kishawi*, 2024 BCSC 1609
- 8 | *Zorchinsky v SPHR Concordia*, 2024 QCCS 3646

(J) SLAPP litigation

- 1 | *Lascaris v B'nai Brith Canada*, 2019 ONCA 163
- 2 | *CUPW v B'nai Brith Canada et al*, 2020 ONSC 323

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