



25 September 2024

Commissioner Arif Bulkan, *IACHR Rapporteur for Canada*
Commissioner José Luis Caballero Ochoa, *IACHR Rapporteur for Human Rights Defenders*
Mr. Pedro José Vaca Villarreal, *IACHR Special Rapporteur for Freedom of Expression*
Mr. Javier Palummo Lantes, *IACHR Special Rapporteur on Economic, Social, Cultural, and Environmental Rights*

Dear Commissioners and Rapporteurs,

On behalf of Canadian Lawyers for International Human Rights (CLAIHR),¹ we are writing to draw your urgent attention to the growing repression of fundamental freedoms of opinion, expression, assembly and association in Canada in relation to the current situation in Israel and Palestine.

In May 2024, the Inter-American Commission on Human Rights (IACHR) and its Special Rapporteurships for Freedom of Expression and on Economic, Social, Cultural and Environmental Rights [called on the United States](#)² to ensure respect for freedom of expression and peaceful assembly, and academic freedom, in the context of mass university encampments in support of Palestine. Following this precedent we respectfully request that you consider a similar response regarding the situation in Canada, where in the past eleven months we have witnessed a serious erosion of fundamental freedoms in relation to support for Palestine. This letter provides multiple examples of violations of the freedoms of opinion, expression, assembly and association, as well as of a failure by Canada to ensure a safe environment for the exercise of these rights. We conclude with a request that you use the full extent of your mandates to ensure Canada fulfils its international human rights obligations.

¹ Canadian Lawyers for International Human Rights (CLAIHR), federally incorporated in 1992, is a non-governmental charitable organization comprising lawyers, law students and legal academics, among others, working to promote international human rights within and in connection to Canada.

² The Organization of American States, *IACHR: United States must respect peaceful protest and academic freedom on campuses*, 9 May 2024.

Executive Summary

Since 7 October 2023, Canada has witnessed the rapid deterioration of the fundamental freedoms of opinion, expression, assembly and association. The repression of these freedoms has specifically targeted, and disproportionately impacted, individuals expressing pro-Palestinian views and groups advocating for Palestinian human rights and liberation.

Over the last eleven months, we at CLAIHR have observed with increasing concern a widespread pattern of repression and censorship of pro-Palestinian opinion, expression, assembly and association across Canada. This has included the criminalization of political speech and the dangerous conflation of anti-Zionism with anti-Semitism and support for terrorism, leading to the repression of legitimate criticism of Israeli government policies, Israeli military action and the Zionist political movement. Repression of pro-Palestinian protests, demonstrations and other forms of assemblies has been similarly widespread, and marked by discriminatory law enforcement, including against those engaging in civil disobedience, and violence against peaceful protestors. Significantly, pro-Israel assemblies and protests have not been met with the same repression and violence.

Finally, pro-Palestinian views in Canada are increasingly met with discriminatory and unjust censorship and restriction in public institutions, including government agencies and universities, with individuals being punished or threatened with punishment for expressions of solidarity with Palestine. A dangerous pattern has emerged whereby legitimate criticism of Israeli government policies, Israeli military action and the Zionist political movement, and expressions of support for the struggle for liberation of the Palestinian people, are conflated with anti-Semitism and support for terrorism, which in turn has a chilling effect on the rights of Canadians to freely express their opinions and mobilize accordingly.

We are deeply troubled by this pattern of repression, discrimination and censorship impacting the fundamental freedoms of Canadians, and call your urgent attention to this matter.

Overview

While such issues predate October 2023,³ Canada has witnessed a rapid deterioration of fundamental freedoms over the past eleven months in relation to pro-Palestinian opinions and expressions of support. Canadian governments at the federal, provincial and local levels have been infringing the rights to free expression, opinion, assembly and association in a range of ways, including:

³ See for example, the 2022 report by the Arab Canadian Lawyers Association “[Anti-Palestinian Racism: Naming, Framing and Manifestations](#)” and the 2022 report by Independent Jewish Voices “[Unveiling the Chilly Climate: The Suppression of Speech on Palestine in Canada](#)”.

- Criminalizing political speech;
- Repressing protest;
- Discriminatory law enforcement;
- Discrimination and censorship in public institutions; and,
- Failing to facilitate a rights-enabling environment that ensures the safety of those exercising their rights to free expression, opinion, and assembly.

The above-noted infringements have disproportionately targeted and impacted pro-Palestinian opinions and expressions of support, creating a chilling effect on the rights of Canadians to freely engage in open discourse regarding the situation in Israel and Palestine, to freely express support for and solidarity with the Palestinian people, and to freely criticize Israeli government policies, Israeli military action and the Zionist political movement. These infringements have increasingly created an atmosphere in which pro-Palestinian sentiment in Canada is stifled, suppressed, censored, restricted, penalized or met with the threat of punishment.

Having closely observed this issue since October 2023, we at CLAIHR are not aware of evidence of similar trends of State repression of pro-Israel protest and expression. In fact, pro-Israel groups and organizations advocating against anti-Semitism receive markedly different treatment than pro-Palestinian groups, and have been able to freely exercise the full extent of their rights to free expression, opinion, assembly and association. Critics of the State of Israel and supporters of Palestinian liberation are entitled to exactly the same rights, and the Canadian government has an obligation to guarantee these rights and adhere to the principles of non-discrimination and equality.

The ability of Canadians to exercise these freedoms is critical, given the historic atrocities being carried out. As [UN experts warned](#)⁴ following the ruling of the International Court of Justice (ICJ) on the situation in Gaza in February 2024: “Given the urgency to step up collective efforts to prevent genocidal acts, war crimes and crimes against humanity against Palestinians in Gaza, the full and unobstructed enjoyment of these fundamental freedoms is ever more crucial.” Canadian civil society, protest movements and individuals must be able to contribute to global efforts to achieve a permanent ceasefire and pursue justice for atrocities.

We also note and unequivocally object to efforts to impede the rights of Canadians on the basis that pro-Palestinian expressions and advocacy are in any way inherently dangerous, violent or anti-Semitic. While the government must fulfil its obligation to protect individuals from any and all violence or incitement to violence, including any violence targeting the Jewish community, law enforcement must be carried out in a non-discriminatory, proportionate and lawful way. The

⁴ United Nations Office of the High Commissioner for Human Rights (UN OHCHR), *Israel/oPt: Respecting and enabling civil society, human rights defenders and peaceful protests is vital for achieving sustainable ceasefire and just peace*, say UN experts, 13 February 2024.

Canadian government must ensure that any specific instances do not lead to the broad criminalization of human rights defenders, abuses of State power or the repression of pro-Palestinian expression and advocacy, and must fulfill its obligation to guarantee and protect the rights to freedom of expression and peaceful protest of all Canadians.

The examples that follow are by no means an exhaustive survey of the situation but rather aim to provide some illustration of this dangerous repression of freedoms of expression, opinion, assembly and association in Canada, all of which contravene Canada's international human rights obligations.

Criminalization of Political Speech and Discriminatory Law Enforcement

Since October 2023, there has been a concerning trend towards criminalization of pro-Palestinian expression in Canada, including the misuse of 'hate-motivated' criminal charges.

Canadian criminal law provides for increased sanctions for offences that are "motivated by bias, prejudice or hate based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, or gender identity or expression, or on any other similar factor."⁵ As a result, law enforcement has the power to designate offences as being motivated by hate.

On multiple occasions Canadian police have wrongly applied these designations to speech that expressed support for Palestinians or criticized individuals and corporations for their support of Israel's actions in Gaza and the West Bank.

A prominent example of this was when a group of activists in Toronto were [criminally charged](#)⁶ in November 2023 for putting posters on the windows of a major bookstore chain and splashing paint on the sidewalk. The posters included a photo of the company's CEO with the text "Funding Genocide." Police added a hate designation to the charges, with a police spokesperson saying the vandalism was being [treated as a suspected hate-motivated offence](#)⁷ "because the victim was specifically targeted because they are [or are perceived to be] Jewish, which meets the criteria of an identifiable group." In fact, the company [CEO is the head](#)⁸ of the HESEG Foundation for Lone Soldiers, an organization that gives free tuition to people who serve in the Israeli military, which is [criticized as a means to recruit](#)⁹ non-Israeli Jewish people to volunteer to

⁵ *Criminal Code*, RSC 1985, c C-46, s 718.2(a)(i).

⁶ CTV News, *11 people now charged in hate-motivated mischief investigation at Toronto Indigo store*, 23 November 2023.

⁷ CBC, *Indigo bookstore vandalism sparks debate over definition of antisemitism*, 4 December 2023.

⁸ CTV News, *11 people now charged in hate-motivated mischief investigation at Toronto Indigo store*, 23 November 2023.

⁹ *Ibid.*

serve in the Israeli military and why the bookstore has been the [subject of a boycott](#)¹⁰ for several years. The speech on the posters targeted the CEO not because of her identity or religion but because of her explicit support for the Israeli military.

The content of this speech is political expression and should therefore be legally protected, not criminalized under the false pretence that it is motivated by hate. Conflating legitimate criticism of corporate supporters of the Israeli military with identity-based hate is a worrying trend that is having a chilling effect on political expression in Canada.

In Alberta, the Calgary Police Service similarly applied a “hate motivation” designation when charging a protest leader in Calgary with the criminal offence of Causing a Disturbance. [According to police](#),¹¹ the activist was addressing a crowd over a public address system and “proceeded to repeatedly use an anti-Semitic phrase while encouraging the crowd to follow along.” Police would not disclose the phrase in question but organizers of the protest [said the chant](#)¹² was “From the River to the Sea, Palestine will be free.” A group of Canadian legal scholars have written a detailed legal analysis of this phrase in the context of the Canadian legal system and [concluded](#)¹³ that “it is clear that a criminal law response in terms of charging those chanting ‘from the River to the Sea, Palestine will be free’ with hate speech or hate motivated offences under the [Criminal] Code is or would be a gross overreach of the criminal law and one which erodes the [Canadian Charter of Rights and Freedoms] protected fundamental right to freedom of speech.” We also note that courts in a number of countries, including in [the Netherlands](#)¹⁴ and [Germany](#),¹⁵ have determined that the phrase in question is legally protected speech.

This analysis aligns with international human rights law obligations, which include the requirement to ensure that any criminal sanctions against organizers of and participants in a peaceful assembly are [not the result of offences that are overly broad or ambiguous](#).¹⁶ We also note the high threshold set out for defining restrictions on freedom of expression and incitement to hatred, and the need to consider the context and intent of the expression as set out in the [Rabat Plan of Action](#).¹⁷ Bringing “hate motivation” criminal charges against protest leaders and

¹⁰ CBC, *Indigo bookstore vandalism sparks debate over definition of antisemitism*, 4 December 2023.

¹¹ The City of Calgary Newsroom, *One man charged after weekend protest*, 7 November 2023.

¹² CBC, *Questions raised after arrest of Calgary protester on hate-motivated disturbance charge*, 10 November 2023.

¹³ University of Toronto, *“From the River to the Sea: Palestine will be Free:” A Primer on History, Context, and Legalities in Canada*, 18 December 2023.

¹⁴ Novara Media, *Dutch Court Rules ‘From the River to the Sea’ Protected Speech and Not Antisemitic*, 18 October 2023.

¹⁵ Legal Tribunal Online, *District Court on “From the River to the Sea”: When in doubt, freedom of expression*, 7 June 2024.

¹⁶ UN Human Rights Committee, *General comment No. 37 (2020) on the right of peaceful assembly (article 21)*, UN Doc CCPR/C/GC/37, para 67.

¹⁷ UN Human Rights Council, *Report of the United Nations High Commissioner for Human Rights on the expert workshops on the prohibition of incitement to national, racial or religious hatred*, UN Doc A/HRC/22/17/Add.4.

organizers on the basis of a commonly used phrase open to subjective interpretation is overly broad and ambiguous, and constitutes an unjust infringement of the right to peaceful assembly in support of the Palestinian people.

The IACHR has warned about the serious [potential fall-out from the criminalization of protest](#): “The application of criminal law to the acts of participants in a demonstration constitutes a serious restriction with far-reaching consequences for freedom of expression, as well as the rights of assembly, association, and political participation, which ... can only be used on a very exceptional basis and is subject to a heightened level of scrutiny.”¹⁸

International human rights law also requires that criminal and administrative sanctions for unlawful conduct related to peaceful assembly must be [proportionate and non-discriminatory in nature](#),¹⁹ and law enforcement’s response to civil disobedience in support of Palestine in Canada has been neither.²⁰ For example, the [arrests of the Toronto activists](#)²¹ charged with gluing posters and splashing paint at the previously mentioned bookstore took the form of unannounced home raids in the middle of the night that involved arresting people still in bed, handcuffing family members and knocking doors off their hinges, the type of operation usually reserved for serious criminal offences such as “gun or drug busts.” A policing expert [estimated](#)²² that these operations generally cost “hundreds of thousands of dollars, if not millions,” further demonstrating a disproportionate response against pro-Palestinian activists and supporters engaging in civil disobedience. Academics have [raised alarm](#)²³ about the anti-Palestinian bias demonstrated by police: “It’s driven by pervasive anti-Palestinian sentiment among government officials. And it undermines the very idea of hate speech law when police apply the charges so selectively to serve political interests.”

The IACHR has denounced [the criminalization of social protest as a misuse of criminal law](#) and its use of the State’s punitive power to deter, punish and prevent the exercise of the right to protest, and social and political participation more broadly.²⁴ This includes the disproportionate, arbitrary and repeated use of the criminal law against activists, demonstrators and social and

¹⁸ Office of the Special Rapporteur for Freedom of Expression of the IACHR, *Protest and Human Rights: Standards on the rights involved in social protest and the obligations to guide the response of the State*, OEA/SER.L/V/II, September 2019, para 185.

¹⁹ UN Human Rights Committee, *General comment No. 37 (2020) on the right of peaceful assembly (article 21)*, UN Doc CCPR/C/GC/37, para 67.

²⁰ Collective civil disobedience and direct action is covered by the freedom of assembly provided it is “non-violent”, a criterion the UN Human Rights Committee has indicated includes damage to property that is not “serious.” See [UN Human Rights Committee, General comment No. 37 \(2020\) on the right of peaceful assembly \(article 21\)](#), UN Doc CCPR/C/GC/37, paras 15, 16.

²¹ The Breach, *Inside the ‘shocking’ police operation targeting pro-Palestine activists in Toronto*, 17 June 2024.

²² The Breach, *In stunning pre-dawn raids, Toronto police ‘terrorize’ Palestine activists*, 24 November 2023.

²³ The Breach, *Inside the ‘shocking’ police operation targeting pro-Palestine activists in Toronto*, 17 June 2024.

²⁴ IACHR, *Criminalization of the Work of Human Rights Defenders*, OEA/Ser.L/V/II. Doc. 49/15, December 31, 2015, para. 12

political leaders.²⁵ This criminalization also risks creating [a chilling and intimidating effect on human rights defenders](#), who for fear of retaliation may refrain from working to promote and protect human rights,²⁶ as well as [on freedom of expression in society as a whole](#).²⁷

Repression of Protest

Furthermore, there is a clear pattern of discriminatory behaviour on the part of Canadian law enforcement at protests and demonstrations in support of the Palestinian people. Discriminatory and disproportionate policing of pro-Palestine assemblies has included the use of excessive force against protestors, with documented instances such as Toronto police [kneeling on a protestor's neck](#)²⁸ and inflicting violent treatment [during pro-Palestine protests](#)²⁹ and against activists [participating in civil disobedience](#).³⁰

In British Columbia, various Indigenous and human rights organizations have called for accountability for the [violence and excessive force](#)³¹ used by police against pro-Palestinian activists engaged in peaceful civil disobedience at a railway blockade. In Montreal, riot police [used tear gas](#)³² against a crowd of demonstrators at McGill University. In Edmonton, police used tear gas and hit students with batons, and an activist was hospitalized during a [violent dismantling of a pro-Palestinian encampment](#)³³ at the University of Alberta.

These actions are contrary to the views of the IACHR that [the use of force is to be exceptional](#) and only as a last resort, and must satisfy the principles of legality, absolute necessity and proportionality.³⁴

²⁵ IACHR, *Criminalization of the Work of Human Rights Defenders*, OEA/Ser.L/V/II. Doc. 49/15, December 31, 2015, para. 12.

²⁶ IACHR, *Criminalization of the Work of Human Rights Defenders*, OEA/Ser.L/V/II. Doc. 49/15, December 31, 2015, para. 178.

²⁷ Office of the Special Rapporteur for Freedom of Expression of the IACHR, *Protest and Human Rights: Standards on the rights involved in social protest and the obligations to guide the response of the State*, OEA/SER.L/V/II, September 2019, para 191.

²⁸ CBC, *Video appears to show officer with knee on protestor's neck, police say it didn't happen*, 12 December 2023.

²⁹ The Grind, *Violent Crackdown at Land Day March*, 31 March 2024.

³⁰ Toronto Star, *Pro-Palestinian protesters and police clash at Scotiabank HQ*, November 18, 2023.

³¹ British Columbia Civil Liberties Association (BCCLA), *Pro-Palestine community members detail police brutality and suppression; continue calls for arms embargo with Israel*, 18 June 2024.

³² Montreal Gazette, *Police spray tear gas, break up pro-Palestinian occupation of McGill building*, 7 June 2024.

³³ The Canadian Press, *Police crackdown on Gaza protest encampments on campus sparks outcry*, 11 May 2024.

³⁴ Office of the Special Rapporteur for Freedom of Expression of the IACHR, *Protest and Human Rights: Standards on the rights involved in social protest and the obligations to guide the response of the State*, OEA/SER.L/V/II, September 2019, para 102.

Police in Ottawa have also repeatedly [issued significant fines](#)³⁵ to activists who use megaphones at protests calling for a ceasefire in Gaza, [contrary to the views expressed by the UN Human Rights Committee](#) that participants in peaceful assemblies should be allowed to use equipment such as megaphones and sound systems to reach their audience.³⁶

There have also been attempts to prohibit expressions of pro-Palestine solidarity in several Canadian municipalities. For example, the mayor of the city of Vaughan [proposed a bylaw](#)³⁷ that would ban protests outside schools, places of worship, hospitals and childcare facilities, which has been [criticized by civil liberties experts](#)³⁸ because it risks leading to a crackdown on “lawful, constitutionally protected expression, peaceful assembly and protest rights.” In Toronto, police have [banned protests and congregations of individuals](#)³⁹ on a highway overpass that was the site of various protests, and police have arrested those in breach of the ban. The [police justification](#)⁴⁰ for the ban was that the protest “has left many in the surrounding Jewish community feeling intimidated.” However, the Canadian Civil Liberties Association has [argued](#)⁴¹ that police should not be the ones making such decisions and that a complete ban is disproportionate: “The feelings and the concerns and fears that people might have don’t necessarily amount to a real safety issue and a prohibition [...] that can lead to arrest is a very serious restriction on freedom of expression.”

International human rights law requires that any restrictions on freedoms of expression and assembly be [necessary and strictly proportionate](#) and interfere as little as possible with the ability to exercise the right.⁴² The IACHR has stated that [the right to protest must be considered the general rule](#) and limitations must be the exception.⁴³ Furthermore, the Commission has emphasized that the general principle of non-discrimination applies especially to demonstration and protest, and [restrictions to the right to protest “must not perpetuate prejudice or promote intolerance.”](#)⁴⁴

³⁵ CTV News, *Ottawa Bylaw hands out noise fines to Palestine protesters, organizers vow legal action*, 25 December 2023.

³⁶ UN Human Rights Committee, *General comment No. 37 (2020) on the right of peaceful assembly (article 21)*, UN Doc CCPR/C/GC/37, para 58.

³⁷ CBC, *Vaughan mayor proposes banning protests near places of worship, schools and hospitals*, 18 March 2024.

³⁸ *Ibid.*

³⁹ CTV News, *3 arrested at Avenue Road bridge following ban on demonstrations*, 13 January 2024.

⁴⁰ *Ibid.*

⁴¹ CityNews, *CCLA speaks on the rights of protestors following Avenue Rd bridge arrests*, 15 January 2024.

⁴² Office of the Special Rapporteur for Freedom of Expression of the IACHR, *Protest and Human Rights: Standards on the rights involved in social protest and the obligations to guide the response of the State*, OEA/SER.L/V/II, September 2019, para 38-42

⁴³ Office of the Special Rapporteur for Freedom of Expression of the IACHR, *Protest and Human Rights: Standards on the rights involved in social protest and the obligations to guide the response of the State*, OEA/SER.L/V/II, September 2019, para 32.

⁴⁴ Office of the Special Rapporteur for Freedom of Expression of the IACHR, *Protest and Human Rights: Standards on the rights involved in social protest and the obligations to guide the response of the State*, OEA/SER.L/V/II, September 2019, para 46.

This environment of repression of protest should be seen in light of the [Concluding observations on Canada](#)'s most recent periodic report of the UN Human Rights Committee, which in 2015 had already expressed concerns about the increased repression of mass protest and excessive use of force by law enforcement at protests. The Committee stated that Canada "should renew its traditional commitment to the promotion and protection of the exercise of freedom of assembly, association and expression....The State party should effectively protect the exercise of the freedom of peaceful assembly and avoid restrictions that are not proportionate."⁴⁵

Discrimination and Censorship in Public Institutions

The past eleven months have also seen a rise in censorship and suppression of pro-Palestine expression in Canadian public institutions.

Canada's human rights commissioner Birju Dattani resigned in August 2024 after [widespread attacks falsely accused him of being anti-Semitic](#), including from the Deputy Leader of Canada's Official Opposition party. A fact-finding report commissioned by the government and conducted by an independent law firm concluded there was no evidence of anti-Semitism: "We cannot find that Mr. Dattani harboured or harbours any beliefs that would be characterized as anti-Semitic or that he has demonstrated any biases (conscious or unconscious) towards Jews or Israelis."⁴⁶

Another prominent example has been the banning of the keffiyeh in the Legislative Assembly of Ontario. When Member of Provincial Parliament (MPP) Sarah Jama refused to remove her keffiyeh, [she was "named"](#),⁴⁷ which resulted in the denial of her ability to vote on matters before the Assembly, participate in committee proceedings and perform other duties as an elected official, such as table notices of motions and petitions. This same elected representative has also been [censured and effectively silenced](#)⁴⁸ for her pro-Palestinian activism and statements when she was expelled from her political party's caucus and censured by the Legislature, which prevents her from participating in debates, a key duty of her role as an elected official. Other members [have also been removed](#)⁴⁹ from the Ontario legislature for wearing the keffiyeh and the ban has resulted in [people being denied access](#)⁵⁰ to the legislature to meet with their elected officials, such as a group that had been scheduled to speak with the Leader of the Official Opposition about anti-Palestinian racism.

⁴⁵ UN Human Rights Committee, *Concluding observations on the sixth periodic report of Canada*, CCPR/C/CAN/CO/6.

⁴⁶ CBC, *New human rights commissioner resigns before starting role*, 12 August 2024.

⁴⁷ CBC, *MPP Sarah Jama defies order to remove keffiyeh at Queen's Park*, 25 April 2024.

⁴⁸ The Canadian Press, *Hamilton MPP kicked out of NDP caucus, censured by legislature*, 23 October 2023.

⁴⁹ Now Toronto, *'Jill stands for what's right,' Some Ontarians are defending MPP Jill Andrew after she was kicked out of the legislature for wearing a keffiyeh*, 9 May 2024.

⁵⁰ CTV News, *'It's discriminatory': Individuals refused entry to Ontario legislature for wearing keffiyeh*, 23 April 2024.

One of the public spaces that has seen some of the most significant repression of freedoms of opinion, expression, assembly and association is academic institutions and university campuses. The Academic Alliance Against Antisemitism, Racism, Colonialism and Censorship in Canada (ARC) issued a [statement](#)⁵¹ in February 2024 expressing grave concern “that our university administrations are ill-equipped to address the pressures being placed on them by various third parties (including governments, the media, and organizations) to suppress academic freedom”, and warned that “threats of funding cuts, personal intimidation tactics, doxing, harassment, and defamation will become severe in the following weeks, possibly months.”

Suppression of pro-Palestine speech and threats to academic freedom and scholarship predates the most recent round of atrocities in Gaza. In its 2022 Report entitled [Unveiling the Chilly Climate – The Suppression of Speech on Palestine in Canada](#),⁵² Independent Jewish Voices Canada warned that “the suppression of speech on Palestine has significant consequences in academia where it threatens principles of academic freedom and encourages surveillance of critical intellectuals and activists and of the oppositional knowledge that they produce.”

A few of the more prominent examples over the past months include:

- York University issued a [statement](#)⁵³ condemning a “[Statement of Solidarity with Palestine](#)”⁵⁴ released by three student unions, calling their statement “inflammatory.” The University [demanded](#)⁵⁵ a full retraction, a public statement that the unions “not endorse or support antisemitism” and the immediate resignation of all student union executives involved, in addition to threatening sanctions.
- Toronto Metropolitan University [condemned](#)⁵⁶ a letter signed by law students calling on the Law Faculty to take action in response to the attack on Gaza. The University characterized the letter as expressing “sentiments of Antisemitism and intolerance” and hired a retired judge to conduct an external review and determine whether the students’ words breached the student code of conduct, which he [concluded they did not](#)⁵⁷. Some of the letter’s signatories accused the administration [of defaming them](#)⁵⁸ by wrongly characterizing their petition as antisemitic and of ignoring their pleas for help as they endured Islamophobia and racism from students, staff and the public, while many [faced](#)

⁵¹ Academic Alliance Against Antisemitism, Racism, Colonialism and Censorship in Canada (ARC), *Academic Freedoms in Canada and Critical Speech on Palestine and Israel*, 6 February 2024.

⁵² Independent Jewish Voices Canada, *Unveiling the Chilly Climate: the Suppression of Speech on Palestine in Canada*, October 2022.

⁵³ York University, *A statement on behalf of York University*, 13 October 2023.

⁵⁴ YFS, YUGSA & GCSU/AÉCG, *Statement of Solidarity with Palestine*, 12 October 2023.

⁵⁵ York University, *Community update: York’s response to three student unions’ harmful statement*, 20 October 2023.

⁵⁶ Toronto Metropolitan University, *Lincoln Alexander School of Law’s statement in response to the Open Letter*, 23 October 2023.

⁵⁷ Law Times, *TMU external review report criticizes legal community, chides students for ineffective advocacy*, 3 June 2024

⁵⁸ Toronto Star, *Inside the crisis at TMU’s law school: It started with a letter of support for Palestinians. Now students and staff feel betrayed and donors are pulling out*, 15 January 2024.

[reprisals](#),⁵⁹ including the rescinding of job offers and calls to be blacklisted in the legal community.

- McGill University [sought an injunction](#)⁶⁰ to halt the ratification of a student union Policy Against Genocide in Palestine that, among other demands, called on the university to condemn the bombing of Gaza and cut ties with corporations “complicit in genocide, settler-colonialism, apartheid or ethnic cleansing against Palestinians.” In 2022, the university had also [threatened to sanction](#)⁶¹ its student union because of its adoption in a student referendum of a Palestine Solidarity Policy that said the union shall join an international campaign to boycott all companies and institutions that are “complicit in settler-colonial apartheid against Palestinians.”
- The University of Manitoba [suspended](#)⁶² the president of the Nursing Students’ Association after university officials deemed her social media posts criticising the Israeli military’s actions in Gaza to be “antisemitic.” The [decision was overturned](#)⁶³ by a disciplinary panel that rejected the discriminatory claims underpinning her suspension.
- The University of Ottawa [suspended](#)⁶⁴ a resident physician over pro-Palestinian social media posts after he was the target of online harassment and his posts were called antisemitic by an associate professor of family medicine at the University. He was later reinstated but declined to return.
- Queen’s University [removed doctors](#)⁶⁵ from their positions in deciding medical school residency placements “based on concerns that were brought about the perception of potential bias, based on the petition circulated by the Health Workers Alliance for Palestine.” The petition called for a ceasefire, an end to the destruction of Gaza’s health-care system and an end to the “ongoing occupation of Palestine and the apartheid system.”
- A government cabinet minister responsible for post-secondary education in British Columbia attempted to interfere with the operations of higher education institutions, a [move criticized](#)⁶⁶ by leading academic freedom organizations. The minister met with the

⁵⁹ Toronto Star, *Legal community calls out the backlash against TMU law students behind pro-Palestinian letter*, 6 November 2023.

⁶⁰ Montreal Gazette, *Judge suspends adoption of pro-Palestinian policy by McGill student union*, 22 November 2023.

⁶¹ The Canadian Press, *McGill threatens to sanction student union over pro-Palestine policy*, 5 April 2022.

⁶² Penticton Herald, *University of Manitoba nursing student suspended, accused of antisemitic posts*, 30 November 2023.

⁶³ Penticton Herald, *Suspension lifted for nursing student accused of antisemitic posts*, 30 January 2024.

⁶⁴ CBC, *U of O doctor suspended for pro-Palestinian posts says he's been reinstated, won't go back*, 20 January 2024.

⁶⁵ The Breach, *'Abuse of power': Hospitals, med schools crack down on Palestine advocacy*, 29 February 2024.

⁶⁶ Vancouver Sun, *Selina Robinson criticized for comments about Langara instructor who praised Hamas attack*, 1 February 2024.

leadership of a community college, resulting in a teacher's termination, despite an investigation that found that his speech on Palestine was "not clearly outside the bounds of protected expression." This same government minister resigned from the provincial cabinet after [making anti-Palestinian racist comments](#)⁶⁷, saying that before the existence of the State of Israel there was just a "crappy piece of land with nothing on it."

As [UN human rights experts warned](#)⁶⁸ in February 2024: "It is further concerning that freedom of expression and peaceful assembly is being limited in academic settings where it often takes the form of unjustified expulsions or dismissals, arrests and persecution of academics and students for expressing support for Palestinians' rights in Gaza. Universities, natural incubators of free thought, must not devolve into havens of obscurantism." This is unfortunately what is now happening in Canada.

Places of employment have also seen considerable repression of pro-Palestine expression. Two of the most alarming examples in the public sector are related to the aforementioned letter written by law students at Toronto Metropolitan University (TMU). The Public Prosecution Service of Canada - responsible for all federal criminal prosecutions in Canada - [threatened investigation and disciplinary action](#)⁶⁹ against employees who signed the letter or were among the more than 600 legal professionals who signed another letter in support of the student signatories.

In a similar move, the Ontario Ministry of the Attorney General (MAG) [adopted a policy](#)⁷⁰ that TMU students would have to sign an attestation that they were not among the signatories to the letter before being considered eligible for employment. The policy states that the signatories of the letter used their platform as law students to "express antisemitic views, display intolerance, and excuse terrorism." The British Columbia Civil Liberties Association [condemned](#)⁷¹ the chilling impact of this policy on constitutionally-protected freedom of expression and highlighted the fact that MAG's responsibility for the judiciary raised concerns "with impacts to public confidence in the impartiality and fairness of the Court." As stated by [a TMU law professor](#)⁷²: "For public bodies – bodies with express mandates related to racial justice – to institutionalize racist hiring practices and punish the few brave enough to speak out against the humanitarian catastrophe in Gaza, this reaches a whole new level of legal and moral turpitude."

International human rights law provides strong guarantees for the right to denounce human rights

⁶⁷ City News, *Calls grow for B.C. MLA Selina Robinson to resign after days of controversial Israel comments*, 2 February 2024.

⁶⁸ UN OHCHR, *Israel/oPt: Enabling human rights defenders and peaceful protests vital for achieving ceasefire and lasting peace, say UN experts*, 13 February 2024.

⁶⁹ The Orchard, *Canada's director of public prosecutions threatens to discipline employees, including students, who signed pro-Palestine letters*, 23 May 2024.

⁷⁰ The Breach, *Ontario government screened law students who signed pro-Palestine letter*, 21 December 2023.

⁷¹ BCCLA, *Letter to the Ontario Ministry of the Attorney General RE: Policy violating employee freedom of expression is discriminatory and not in the public interest*, 19 December 2023.

⁷² The Breach, *Ontario government screened law students who signed pro-Palestine letter*, 21 December 2023.

violations. The IACHR has stated that “the right of free expression also includes the right to analyze critically and to oppose. This protection is broader, however, when the statements made by a person deal with alleged violations of human rights. In such a case, not only is a person’s individual right to transmit or disseminate information being violated, [the right of the entire community to receive information is also being undermined](#).”⁷³

Failure to Facilitate a Rights-Enabling Environment

In addition to the above-described repression and failure to protect Canadians from human rights violations, there have been a significant number of alarming comments made by public officials and political leaders that demean and disparage human rights defenders. These comments are highly concerning, given the repression of the fundamental rights to freedom of opinion, expression, assembly and association in Canada, in express violation of State obligations to protect those rights. They also tend to legitimize violence, intolerance, discrimination and disinformation, and create an environment of impunity for State actors who engage in abuse or repression of human rights defenders.

We acknowledge the [high level of protection afforded by international human rights law](#) to political speech, including speech that some “may find unduly critical or even offensive.”⁷⁴ However, we highlight the importance of politicians refraining from statements that may hinder the full realization of the freedoms of opinion, expression, assembly and association in Canada. Similarly, in an environment where, as shown in this letter, repression has become the norm, we are alarmed by the spread of misinformation and disparaging remarks against human rights defenders and others for exercising their right to freedom of expression, especially in cases where these individuals are facing abuse by State officials - such as via criminalization and censorship.

As [noted by UN experts](#)⁷⁵ in their February 2024 statement, State officials have an obligation to respect and enable civil society, human rights defenders and peaceful protests, particularly in light of the International Court of Justice’s ruling ordering Israel to prevent and not to commit acts of genocide against Palestinians in Gaza.

⁷³ IACHR, Report No. 20/99. Case 11.317. Merits. Rodolfo Robles Espinoza and Sons. Peru. February 23, 1999, para 148.

⁷⁴ UN OHCHR, *2021 Joint Declaration on Politicians and Public Officials and Freedom of Expression*, 20 October 2021.

⁷⁵ UN OHCHR, *Israel/oPt: Enabling human rights defenders and peaceful protests vital for achieving ceasefire and lasting peace, say UN experts*, 13 February 2024.

Similarly, the IACHR and its Special Rapporteurships on Freedom of Expression and on Economic, Social, Cultural and Environmental Rights [recently called on the United States](#)⁷⁶ to ensure respect for the rights to freedom of expression and peaceful assembly, and academic freedom, in the context of mass university encampments in support of Palestine. For the reasons stated in this letter, such a call should equally be addressed to Canada, where encampments across the country have faced [various forms of repression](#)⁷⁷, including universities that have called in police to dismantle peaceful encampments or have applied for court orders that would compel police to remove or restrain them.

As expressed in the [2021 Joint Declaration on Politicians and Public Officials and Freedom of Expression](#),⁷⁸ this is part of a State's positive obligation to "create an enabling environment for freedom of expression and the right to information." The joint declaration recommends that politicians and public officials refrain from making statements "likely to promote intolerance, discrimination or dis/misinformation" and "not intentionally make false statements attacking the integrity of [...] human rights defenders."

As [highlighted by UN experts](#)⁷⁹ in February 2024, some countries have imposed undue restrictions against pro-Palestinian expression: "States have sought to justify these restrictions by referring to risks related to incitement to hatred and 'glorification' or 'support of terrorism,' and potential risks to national security or public order. This approach is not only arbitrary, but it also dehumanizes Palestinians by unjustly linking them as a whole to criminal endeavours and terrorism. Moreover, it discredits their legitimate quest for freedom and rights by portraying it as an unlawful undertaking."

The IACHR Office of the Special Rapporteur for Freedom of Expression [has also affirmed that the State](#) has a "primary duty of content-neutrality" that requires it "to guarantee that, in principle, there are no persons, groups, ideas or means of expression excluded *a priori* from public debate."⁸⁰

We have repeatedly witnessed Canadian politicians and public officials making statements that have maligned and disparaged human rights defenders, engaging in discriminatory anti-Palestinian expression and exacerbating the already alarming situation regarding freedom of expression when it comes to violations of human rights in Palestine. The following are a few salient examples of such actions and statements:

⁷⁶ The Organization of American States, *IACHR: United States must respect peaceful protest and academic freedom on campuses*, 9 May 2024.

⁷⁷ The Conversation, *By clearing protest encampments, universities put property over people*, 19 June 2024.

⁷⁸ UN OHCHR, *2021 Joint Declaration on Politicians and Public Officials and Freedom of Expression*, 20 October 2021.

⁷⁹ UN OHCHR, *Israel/oPt: Enabling human rights defenders and peaceful protests vital for achieving ceasefire and lasting peace, say UN experts*, 13 February 2024.

⁸⁰ Office of the SR for Freedom of Expression of the IACHR, *The Inter-American Legal Framework regarding the Right to Freedom of Expression*, OEA Ser.L/V/II, December 30, 2009, para 30.

- Politicians and public officials have engaged in widespread demonization of protests in support of Palestinian human rights and conflated them with support for or celebration of the 7 October 2023 Hamas-led attacks and terrorism:
 - Ontario Premier Doug Ford [referred to pro-Palestine protests](#)⁸¹ as “hate rallies”;
 - Vancouver Mayor Ken Sim [denounced protests](#)⁸² and equated a rally in support of Gaza with the “glorifying of the indiscriminate violence (...), including the murder, kidnapping, and rape of innocent Israeli civilians”;
 - Toronto Mayor Olivia Chow “unequivocally” denounced protestors and [referred to protests](#)⁸³ as a “rally to support Hamas,” which she claimed was unsanctioned and called on police to investigate. Ontario law [does not require a permit](#)⁸⁴ to carry out peaceful protests;
 - Members of the federal Conservative Party [demanded police charge](#)⁸⁵ anyone in Canada who is “cheerleading the recent killing of more than 1,300 in Israel”;
 - Member of the Ontario Legislature Lisa MacLeod characterized pro-Palestinian protestors as pro-Hamas and pro-terror on social media and posted an epithet for a chokehold [along with language suggesting that violence](#)⁸⁶ be used against them;
 - The elected representative in the Ontario Legislature who was expelled for wearing a keffiyeh and [censured](#)⁸⁷ for her pro-Palestinian activism and statements was [disparaged by the Ontario Premier](#)⁸⁸, who stated that she had a “well-documented history of antisemitism” and supports the “rape and murder of innocent Jewish people.”

Such actions and statements run contrary to the clearly expressed views of the IACHR, which has stated that [public officials must refrain from making statements that stigmatize human rights defenders](#) or that suggest that human rights organizations act improperly or illegally, merely

⁸¹ Doug Ford on X, “*The hate rallies celebrating the kidnapping and slaughtering of innocent Israeli people by terrorists are reprehensible and disgusting. They have no place in Ontario. Now more than ever, we stand with Israel and affirm its right to defend itself and its people.*” 8 October 2023.

⁸² CTV News, *Police needed to keep peace at pro-Palestinian rally in Vancouver*, 9 October 2023.

⁸³ Yahoo News Canada, *'This is irresponsible from Olivia Chow': Toronto mayor criticized, 'admits mistake' in confusion over Palestine rally*, 11 October 2023.

⁸⁴ Steps to Justice: Your guide to law in Ontario, *I'm going to a protest. What do I need to know?*, 31 July 2020.

⁸⁵ The Globe and Mail, *Rallies raise question of whether Canada should have a law against public cheering of terrorism*, 15 October 2023.

⁸⁶ Lisa McLeod on X, “*I think it's time we bring out Canada's secret deterrence weapon from retirement and remind everyone that the Shawinigan Handshake can and will restore order. Cc @kinsellawarren*” 3 March 2024.

⁸⁷ The Canadian Press, *Hamilton MPP kicked out of NDP caucus, censured by legislature*, 23 October 2023.

⁸⁸ *Ibid.*

because of engaging in their work to promote and protect human rights.⁸⁹

Furthermore, the IACHR has expressed that “States must refrain from public incrimination of a defender whose alleged crimes have not been legally proven. The governments should not tolerate any effort on the part of State authorities to cast in doubt the legitimacy of the work of human rights defenders and their organizations.”⁹⁰

In April 2024, the Canadian House of Commons [passed a unanimous motion](#)⁹¹ that it “unequivocally condemn[s] antisemitism, and in particular reject[s] the idea that Jewish Canadians are responsible for the actions of the State of Israel.” In contrast, public officials have largely failed to condemn numerous examples of [acts of violence](#)⁹² and discrimination against Palestine supporters, such as an incident where a man was arrested after threatening such supporters [with a nail gun](#)⁹³.

In this context, statements and actions by politicians and public officials such as the examples given above further exacerbate the chilling climate activists and peaceful protesters face. They can serve to legitimize racist and intolerant speech within broader society, making it even more unsafe for advocates, while reinforcing State impunity for human rights violations through censorship and criminalization. Such double standards risk creating a deleterious environment where freedom of expression and peaceful protest are condemned by the State, while violence, harm and threats against those protesting are met with silence.

We acknowledge the rise in anti-Semitism, islamophobia and racism (specifically anti-Arab and anti-Palestinian racism) and the obligation of States, including Canada, to take appropriate actions to curtail this. We are, however, deeply concerned by the pattern of criminalization and repression of freedom of opinion, expression, assembly and association. As [highlighted](#)⁹⁴ by UN experts, “[c]oncerns related to risks of potential anti-Semitism have also been used as a justification by some States to ban and criminalize peaceful assemblies and expressions in support of Palestinians’ rights.”

We are aware of the serious risks and violence faced by the Canadian Jewish community, both historically and today, and we recognize that the Canadian government is obliged to create conditions where all communities can live free of discrimination and to curtail hate speech. That said, international human rights law requires the State to strike a careful balance between the principle of equality and non-discrimination for all people, and the rights to freedom of opinion and expression, which protect the right to hold opinions and to seek, receive and impart

⁸⁹ IACHR, *Second Report on the Situation of Human Rights Defenders in the Americas*, 2011. OEA/Ser.L/V/II. Doc.66, para. 124

⁹⁰ *Ibid.*

⁹¹ Toronto Star, *Jewish Canadians can't be responsible for Israeli government's actions, MPs unanimously vote*, 19 April 2024.

⁹² The Maple, *A Timeline Of Anti-Palestinian Violence And Threats In Canada*, 14 March 2024.

⁹³ CTV News, *Man who allegedly fired nail gun at protest in Thornhill, Ont. was motivated by hate: police*, 8 March 2024.

⁹⁴ UN OHCHR, *Israel/oPt: Enabling human rights defenders and peaceful protests vital for achieving ceasefire and lasting peace, say UN experts*, 13 February 2024.

information and ideas. The current environment in Canada is one in which the State has not only failed to enable freedom of expression in support of Palestine, but statements and actions by politicians and public officials have seriously exacerbated an already dangerous situation, resulting in precisely the kind of “rhetoric against and scapegoating of human rights defenders and groups at risk of discrimination, including by politicians and public officials, which chills freedom of expression, thereby reducing the diversity of information and ideas in society and misleading citizens” that was warned against by the [Joint Declaration on Politicians and Public Officials and Freedom of Expression](#)⁹⁵.

The extent and severity of these attacks on the freedom of pro-Palestinian speech are dramatic and have significantly worsened since October 2023. Only weeks after the Hamas-led attacks, the British Columbia Civil Liberties Association released a [statement](#)⁹⁶ on attempts to suppress support for the people of Palestine and warned of “the chilling effect that irresponsible statements and actions from government officials will have on the free exercise of Charter-protected rights in Canada.”

Conclusion

CLAIHR submits this report on systematic violations in Canada of freedom of opinion, expression, assembly and association in relation to the situation in Israel and Palestine, particularly regarding State actions that have resulted in the suppression of freedom of speech, the criminalization of human rights defenders and the erosion of the environment within which activists, civil society and human rights defenders can exercise their rights to freedom of expression and peaceful assembly.

This report focuses in particular on the role of State officials, institutions and political leaders and the impact their actions have had on the right to freedom of opinion, expression, assembly and association. It provides factual information and representative examples of the following:

- Dangerous trends regarding the actions and failures to act of Canada in this context;
- Violations of the rights to freedom of opinion, expression, assembly and association in Canada, particularly as they have been created, perpetuated and/or sanctioned by State actions;
- The failure of the State to properly act and protect the human rights of groups at significant risk of discrimination, violence and incitement of violence, in particular Muslim, Arab and pro-Palestinian groups and individuals, and Jewish people showing support for Palestinians;

⁹⁵ UN OHCHR, *2021 Joint Declaration on Politicians and Public Officials and Freedom of Expression*, 20 October 2021.

⁹⁶ BCCLA, *BCCLA statement on attempts to suppress support for the people of Palestine*, 25 October 2023.

- The lack of measures from the State to properly protect freedom of opinion, expression, assembly and association;
- The actions of State officials and political leaders that have resulted in criminalization of political speech, repression of protest, discriminatory law enforcement, discrimination and misinformation, censorship in public institutions, and erosion of an enabling environment for freedom of speech.

The facts outlined in this report reveal a pattern of Canada consistently failing to meet its international human rights obligations with respect to the fundamental freedoms of opinion, expression, assembly and association in support of Palestine and Palestinians.

In June 2024, CLAIHR wrote a similar letter to the United Nations Special Rapporteurs on Freedom of Expression and on Freedom of Peaceful Assembly and of Association as part of a call for submissions to a thematic report of *Freedom of Expression in Challenging Times*.

Given the urgency of the situation, we request that you issue a declaration, either on behalf of the IACHR or jointly with the UN Special Rapporteurs, calling on Canada to do the following:

1. Immediately end all State and State-sanctioned violations of the rights to freedom of opinion, expression, assembly and association, and to live free from discrimination;
2. Provide appropriate remedies for such violations;
3. Take immediate measures to protect the rights to freedom of opinion, expression, assembly and association;
4. Take immediate measures to protect all individuals and groups from discrimination, violence and incitement to violence, in accordance with international human rights law, and to refrain from weaponizing this obligation against human rights defenders;
5. Uphold its commitment to the rights to freedom of opinion, expression, assembly and association, and take immediate measures to counter disinformation and discrimination, particularly as a result of the expressions of politicians and public officials, in accordance with international human rights law;
6. Promote an environment where these fundamental freedoms are respected and the rights they confer freely exercised.

We also ask you to carefully consider how you might use your mandates to address this issue in one or more of the following ways:

- An official visit to Canada;
- Seminars and workshops with strategic actors in Canada, including civil society organizations and human rights defenders and activists, particularly those who have been subject of criminalization and repression;
- Request that Canada's national and provincial human rights institutions provide information regarding steps, if any, taken to ensure the protection of freedom of opinion, expression, assembly and association, and monitor and follow up on the conditions involving the exercise of those freedoms in relation to the current situation in Israel and Palestine within Canada. To our knowledge, no such steps have been taken; and
- A specific report on freedom of opinion, expression, assembly and association in Canada in relation to the current situation in Israel and Palestine.

Respectfully,

Canadian Lawyers for International Human Rights