613-819 Black Hub's submission to the thematic report of the Special Rapporteur on Freedom of Expression in Challenging Times

Trends, challenges and problems

Trends, threats or challenges to freedom of expression related to supporting Palestians affected human rights in Canada prior to the Gaza conflict and intensified after it started.

For example, before the Gaza conflict, in September 2021, journalist Desmond Cole was accused of antisemitism following an online address he gave to Toronto District School Board teachers and administrators. Cole spoke of the case of Javier Davila as an example of an educator being unfairly targeted for providing antiracist, anti-colonial materials to teachers. Davila had been providing anti-oppression material for over a decade but came under scrutiny when he released two packages of student resources on the conflict between Israelis and Palestinians. During his remarks, Cole said "Free Palestine."

After the Gaza conflict began, in January 2023, Black activist and Mount Saint Vincent University professor El Jones, who was part of a group invited to speak to Supreme Court of Canada law clerks about anti-Black racism, had their speaking engagement abruptly cancelled allegedly due to pro-Palestinian social media comments members of the group made…that some of the court's law clerks said made them feel "unsafe".

Laws, policies and practices of States and companies

On June 25, 2023, the Government of Canada officially adopted the International Holocaust Remembrance Alliance (IHRA) working definition of antisemitism despite the IHRA definition being a clear infringement of Canadians' freedom of expression protected by the Canadian Charter of Rights and Freedoms. The IHRA definition says: "Antisemitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities." It further notes that, "However, criticism of Israel ***similar to that leveled against any other country*** cannot be regarded as antisemitic." This qualified statement has allowed for the continued labeling of critiques of the Israeli government as antisemitic with some people facing harsh consequences for simply expressing their opinion.

In June 2024, the Government of Canada announced Canada's Anti-Racism Strategy 2024-2028 which calls for the government to develop a handbook on the IHRA definition - but doesn't mention anti-Palestinian racism. The Strategy includes tasks for Canada's Special Envoy on Preserving Holocaust Remembrance and Combatting Antisemitism and the Special Representative on Combatting Islamophobia but no task for Canada's Special Representative on Combatting Anti-Black Racism - because Canada doesn't have one. The government announced permanent funding for the representatives on antisemitism and Islamophobia in its 2022 budget but haven't created a similar position to address systemic anti-Black racism despite the Canadian Senate Committee on Human Rights recommending the government

appoint a Black Equity Commissioner. This is another example of how the Government of Canada vigilantly addresses - and resources - the fight against antisemitism while not doing the same to address systemic anti-Black racism.

Some organizations, from media outlets to universities, have used their own policies to justify sanctioning people who have expressed pro-Palestinian views. A Dec. 22, 2023 CBC story, "'Chilling effect': People expressing pro-Palestinian views censured, suspended from work and school" cited the cases of a Palestinian Canadian journalist fired for her social media posts calling for a #freepalestine and a University of Ottawa medical resident who was suspended following pro-Palestinian social media posts.

The "War on Hate"

Prior to the Gaza conflict, initiatives to "combat hate" were providing justification for continued police budget increases to fund hate crime units and further demonizing criticism of Israel. However, the initiatives did little to actually stop hate - especially state-led, systemic anti-Black hate that continues to lead to disproportionate numbers of Black Canadians being incarcerated and led to disproportionate numbers of Black Canadians getting sick and dying during the COVID 19 pandemic.

In Jan. 2023 in Ottawa, where the 613-819 Black Hub is based, the Ottawa police took the extraordinary step of charging two high school students with hate crimes for "creating and displaying a hate symbol" in the school and another student for using antisemitic language and gestures. The charges included Public Incitement of Hatred, Mischief, and Criminal Harassment. However, one year earlier, the Ottawa police didn't charge a single Freedom Convoy protester with hate crimes despite multiple reports (pg. 18 of the Ottawa's People's Commission Part 1 - What We Heard report) of protesters engaging in sexual, gender and racial harassment of Ottawa residents during the protesters' three week occupation of Ottawa's Parliament Hill.

Canada's Anti-Racism Strategy 2019-2022 was "designed to lay a foundation to tackle systemic racism". In addition to developing a new anti-racism strategy, the Government signalled its commitment to tackle hate by calling for the first ever Action Plan on Combatting Hate in Budget 2022. The Action Plan was intended "to address hate as it relates to racialized and religious minority communities in Canada and their intersections." The government said the anti-racism strategy focused on the broader systemic level while the Action Plan on Combatting Hate was more narrowly focused on hate incidents and hate crimes and violent extremism.

From October 2018 to March 2019, the government held engagement sessions across the country to "gather input from Canadians, especially those with lived experiences of racism and discrimination, to inform the development of a new federal anti-racism strategy."

On November 25, 2020, Prime Minister Justin Trudeau named Irwin Cotler as Canada's Special Envoy on Preserving Holocaust Remembrance and Combatting Antisemitism.

On July 21 and 22, 2021, the Government of Canada held a national Summit on antisemitism and Islamophobia respectively. It has yet to hold one on anti-Black racism.

On January 28, 2022, the government announced its intention to appoint a special representative on combatting Islamophobia and appointed Amira Elghawaby to the position January 26, 2023, for a four-year term. On March 29, 2022, the government launched consultations to build Canada's first Action Plan on Combatting Hate.

As already cited, the Government of Canada officially adopted the International Holocaust Remembrance Alliance (IHRA) working definition of antisemitism a little over a year later on June 25, 2023.

If the Action Plan on Combatting Hate is like other hate initiatives, it will do little to address hate crimes of any kind, especially state-led, systemic anti-Black hate, but will increase the demonization of criticism of Israel and continue to help justify increased police budgets.

Need for effective human rights protections

To protect people from attacks on their freedom of expression, including expressing solidarity with Palestinians, Canada and the provinces need effective human rights organizations. The Canadian Human Rights Commission has failed to provide this. On June 11, 2024 the Black Class Action Secretariat announced that the international body that hands out human rights accreditations had concluded that there is enough evidence, based on the complaint submitted Feb. 26, 2024 by a coalition of groups, to review Canada's "A" status – an unprecedented move that puts it among the ranks of countries like Russia, Iraq, and Venezuela.

The Global Alliance of National Human Rights Institutions (GANHRI) — a United Nations partner — has launched a "Special Review" of the accreditation of the Canadian Human Rights Commission (CHRC). The Coalition complaint cited federal findings of anti-Black discrimination at the Canadian Human Rights Commission. The coalition has also called on Canada's Justice Minister Arif Virani to implement the Canadian government's own recommendations for a direct access model to the Canadian Human Rights Tribunal similar to the Human Rights Tribunal of Ontario.

However, direct access models must be adequately resourced to ensure their effectiveness.

Recommendations

1. Include state-led, systemic anti-Black hate in anti-hate efforts.
2. Implement the Canadian government's recommendation for a direct access model to the Canadian Human Rights Tribunal similar to the Human Rights Tribunal of Ontario.
3. Adequately resource the Canadian Human Rights Tribunal to ensure timely resolution of complaints.
4. Appoint a Black Equity Commissioner