

Protecting Academic Freedom **on Israel-Palestine**

Submission to the Honorable Thomas Cromwell,
Leader of the University of Toronto External Review
into Alleged Interference in Decisions Regarding
the Hiring of a Director of the
International Human Rights Program

Developed by:

Canadians for Justice and Peace in the Middle East (CJPME)



CJPME

CANADIANS FOR JUSTICE AND
PEACE IN THE MIDDLE EAST

CANADIENS POUR LA JUSTICE
ET LA PAIX AU MOYEN-ORIENT

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Canadians for Justice and Peace in the Middle East (CJPME, www.cjpme.org) is a national non-profit organization concerned with issues of justice, development and peace in the Middle East. Our organization has been following the case involving the allegations of inappropriate conduct in the UofT's decision-making around the candidacy of Dr. Valentina Azarova for the position of Director of its International Human Rights Program. Like many Canadians, CJPME is following this case with great interest and wants to make sure that the External Review process led by the Hon. Thomas Cromwell was aware of its perspective on the matter.

It is our understanding that the focus of this review is not on the content of Dr. Azarova's scholarship, but whether University policies and procedures were followed in the hiring process, including academic freedom and confidentiality. Nonetheless, the specific content is of great significance to our organization and to Canadians across the country. In this brief submission, I would like to detail our concerns and to provide some much-needed context for the External Review team.

CJPME Letter to Dean Iacobucci

On September 25, 2020, CJPME sent a letter¹ to Dean Iacobucci expressing its concerns about the allegations as reported in national media: that the University had revoked a job offer to Dr. Azarova after a sitting tax judge intervened to complain about her scholarship on Israel's ongoing military occupation of the Palestinian territories. At the time, CJPME noted the effect that this incident would have in putting a "chill" on research into Israeli human rights abuses, and in discouraging the discussion of Palestinian narratives within academia. As CJPME pointed out:

the fact that the job [that was revoked from Dr. Azarova] was for director of the International Human Rights Program (IHRP) makes the incident particularly offensive, as it gives the impression that researching Israeli human rights violations disqualifies one from doing human rights work more broadly.

The letter concluded that "such censorship of Palestinian narratives should be rejected by the UofT as an unacceptable attempt to stifle critical debate." It noted CJPME's endorsement of an open letter signed by over 1,400 academics and lawyers in support of Dr. Azarova, demanding that the University "restore Dr. Azarova's employment offer and issue an apology."²

Context: A Campaign Against Academic Freedom

The incident regarding Dr. Azarova occurred in the context of increasing repression of Palestinian narratives and advocacy on university campuses. This is particularly notable in the United States. A 2015 report by Palestine Legal and the Center for Constitutional Rights noted 152 incidents in the previous year of "censorship, punishment, or other burdening of advocacy for Palestinian rights," 89% of which targeted students and scholars.³ By 2019, this number increased to 247 incidents of Palestine-related suppression in the US, 74% of such incidents related to students and scholars.⁴ The assault on Palestine-related academic freedom has accelerated in recent years due to a number of initiatives of the Trump administration, whose Department of Education has launched investigations into universities, evaluating their Middle East curricula and threatening to withdraw funding for hosting events critical of Israel's human rights record.⁵

In Canada, there have been many noteworthy attempts to suppress academic freedom on Israel and Palestine. In 2009, pro-Israel groups including the UJA Federation, B'nai Brith, the Centre of Israel and

Jewish Affairs (CIJA) and Hillel put immense pressure on York University administrators, asking them to cancel an event on ‘models of statehood’ in Israel/Palestine, and seeking government intervention to revoke their academic grant. Fortunately, the event ultimately went ahead as planned, although opponents had sent a clear message discouraging similar activities in the future.⁶ More recently, B’nai Brith has been petitioning York University to “disallow” Faisal Bhabha from teaching a human rights course, due to his academic criticism of Zionism.⁷ Year after year, pro-Israel groups lobby university administrators to ban campus student groups and events like Israeli Apartheid Week.⁸ Larry Haivan of Independent Jewish Voices (IJV) has outlined more than two dozen recent cases in Canada where pro-Israel groups have sought to cancel events (both academic and non-academic) for being critical of Israel.⁹

For many Canadian pro-Israel organizations such as CIJA and B’nai Brith Canada, challenging and undermining academic freedom about Israel is simply part of their regular activities, often put into practice by directly lobbying university administrators to cancel events, fire faculty, or to ban or discipline student groups. While these organizations may claim to support academic freedom in the abstract, in fact they find scholarship and commentary which is critical of Israel to be beyond the pale and worthy of university censure. This must be understood as the immediate context for Dr. Azarova’s case.

Motives in the Dr. Azarova Case: To Silence Scholarship on Israel

From the evidence available to the public, it seems highly possible that alleged improper interventions by Judge Spiro and Dean Iacobucci had a political objective: to shut down scholarship critical of Israel’s occupation and related human rights abuses.

There is little question that Judge Spiro’s objection to Dr. Azarova’s candidacy was based on her scholarship about Israel. It is reported that Judge Spiro contacted the University of Toronto to complain about Dr. Azarova’s “Israel/Palestine work.” Spiro is also a former board member of the Centre for Israel and Jewish Affairs, Canada’s largest pro-Israel advocacy group. The fact that Spiro, a major donor, reached out to the school’s fundraising office suggests an implicit threat to pull funding from the school if the appointment went ahead. Dean Iacobucci also confirmed to Prof. Macklin that Dr. Azarova’s scholarship was “an issue” that would otherwise have to be addressed. What we as observers don’t know for sure, but which the evidence suggests, is whether this was the deciding factor in the decision to cancel the hiring process.

It is also worth noting that the University’s alleged improper behavior has been embraced – and even celebrated – by external pro-Israel organizations, and by B’nai Brith Canada in particular.

- B’nai Brith has been actively petitioning the University of Toronto to maintain its rejection of Dr. Azarova’s candidacy, describing her as an “anti-Israel activist with ties to an organization closely linked to a terrorist group.”¹⁰ The absurd and reckless “terrorist” charge is a reference to her work with al-Haq, a respected Palestinian human rights organization (see more below).¹¹
- B’nai Brith’s CEO Michael Mostyn wrote in the *Toronto Sun* that Dr. Azarova’s “anti-Israel obsessions” should have disqualified her from consideration in the first place.¹²
- In a later submission to this External Review process, B’nai Brith asserts that the University had the right to intervene and reject the recommendation of the Search Committee, specifically on the grounds of the nature of her human rights scholarship.¹³ In other words, B’nai Brith actually endorses the type of unethical behaviour that the External Review is tasked with investigating.

Taken together, it appears that there is some agreement between Judge Spiro, Dean Iacobucci, and groups like B'nai Brith that critical scholarship on Israel is an "issue" for concern, and that it is appropriate for university administrators to disqualify a job candidate if they do critical research in this area. This is a dangerous ideological position which denies academic freedom for scholarship on Israel and Palestine, and which amounts to a form of anti-Palestinian discrimination in the university.

B'nai Brith's Characterization of Azarova

B'nai Brith's submission to this External Review paints a particularly unflattering, and even demonizing, caricature of Dr. Azarova and her academic scholarship. They summarize her career as a "history of relentless, indeed obsessive, anti-Israel activism," noting specifically "her 'scholarly' efforts to demonize, delegitimize and employ a double standard in the case of Israel." In doing so, B'nai Brith imposes a label on her scholarship in a way that aligns with their preferred definition of antisemitism (Sharansky's three 'ds' of antisemitism, consisting of demonization, delegitimization and double standards), a measure which is based on entirely subjective opinion and tends to be applied to any criticism of Israel that one doesn't like. They go as far as to suggest that she would create a "hostile atmosphere" for Jewish and pro-Israel students on campus.¹⁴

What B'nai Brith does not attempt to do is summarize the content of her scholarship on human rights and international law, which is extensive and varied, nor to explain how that work would be inappropriate for an international human rights law program. They refuse to engage with her work on non-governmental organizations, the regulation of transnational corporations, examining the legality of Israel's occupation, the International Criminal Court and Palestinian statehood, the legal status of refugees, or Russia's annexation of Crimea.

It is also erroneous for B'nai Brith to take issue with Dr. Azarova's academic focus on Israel. While it is true that much of Dr. Azarova's published work deals with the topic of Israeli human rights abuses and international law, specializing in a topic area is normal practice for academics, and it would be ridiculous to somehow fault her for this. Plainly, there is nothing wrong with a scholar focusing on Israel, just as there is nothing wrong with a scholar specializing in human rights in any particular region or territory. It would simply be absurd to fault an academic for 'singling out' or being 'obsessive' about their particular area of focus, whatever it happens to be.

On the contrary, Israel's occupation is a perfect area of focus and case study for someone studying human rights, international law, and supply chain linkages in disputed territory. While B'nai Brith may try to argue that applying principles of international law to the case of Israel is somehow antisemitic, this is frankly absurd. Israel is a signatory to the Geneva Conventions and deserves to be held accountable to those standards just like any other country. B'nai Brith's complaints are nothing more than an attempt to prevent a universal measure of analysis from being applied to the particular case of Israel.

Moreover, B'nai Brith's attempts to discredit Dr. Azarova through her association with the Palestinian NGO Al-Haq, which they describe as "closely linked to a terrorist group," are clearly intended to imply that she is a supporter of terrorism. This is a false and defamatory accusation. Al-Haq is a well-respected Palestinian human rights organization, having won many prestigious international awards in recent years.¹⁵ Al-Haq regularly participates in international forums, presenting evidence to United Nations committees,¹⁶ and hosts briefings for British MPs and international diplomats,¹⁷ among other activities. The charge of supporting terrorism is belied by Al-Haq's human rights work and international legitimacy and is intended to stigmatize Dr. Azarova by association. It might be noted that B'nai Brith is currently

facing two libel suits for falsely accusing Canadian Union of Postal Workers (CUPW) and Palestinian solidarity activist Dimitri Lascaris of supporting terrorism,¹⁸ showing a pattern of behaviour in how they characterize their political opponents.

B'nai Brith Canada's attempt at character assassination is entirely inappropriate, false, and grotesque. There's nothing wrong with Dr. Azarova's scholarly record – unless, of course, you find it inappropriate to research Israeli human rights violations in the first place.

IHRA: A Threat to Academic Freedom

CJPME is alarmed by B'nai Brith Canada's recommendation that the International Holocaust Remembrance Alliance (IHRA) working definition of antisemitism be adopted as a guide to "assist the University in addressing situations of the sort the candidacy of Ms. Azarova presented."¹⁹ In the context of B'nai Brith's recommendations as a whole, their hostility to Dr. Azarova, and their persistent advocacy in support of positions counter to academic freedom, it is clear that B'nai Brith intends that the IHRA definition should be used to give power and direction to university administrators to block academic appointments of candidates whose scholarship touches on Israeli human rights violations. B'nai Brith offers the IHRA definition as a tool that would lead to repeats of the type of incident being investigated today.

There are many concerns that the IHRA definition may be used to suppress scholarship related to Israel, or Palestinian narratives of dispossession and colonial violence. More than 450 Canadian academics have signed an open letter opposing the IHRA definition, noting that the definition is "is worded in such a way as to intentionally equate legitimate criticisms of Israel and advocacy for Palestinian rights with antisemitism," and that its adoption by universities would "create a 'chilly climate' in relation to forms of teaching, research and activism on Israel and Palestine."²⁰ Its adoption is also opposed by the Ontario Confederation of University Faculty Associations, the Canadian Federation of Students, the Canadian Union of Public Employees – Ontario, the Canadian Labour Congress, and many other civil society organizations.²¹

CJPME urges academic institutions to decline to adopt the IHRA definition. Alternative tools must be sought out which can appropriately identify and counter antisemitism, without threatening academic freedom or silencing legitimate scholarship on Israeli human rights abuses.

Conclusion

This submission will conclude by repeating several observations:

- Dr. Azarova's scholarship on Israel's human rights violations in the Occupied Palestinian Territories is a perfectly suitable and appropriate area of research for an international law and human rights program. Nonetheless, Dr. Azarova's scholarship was seen as an "issue" by all parties who are accused of improperly intervening to stop her appointment, and this appears to be the reason that she lost her job offer.
- Across North America, there is a climate of repression against scholarship and activism critical of Israeli human rights abuses. Several influential Canadian pro-Israel organizations are open about their intentions to punish, marginalize, and disqualify academics for their criticism of Israeli government policy. One of those organizations, B'nai Brith Canada, has praised the University of Toronto for the improper acts it is alleged to have committed, and is promoting the idea that

University administrators should block appointments of candidates whose work is critical of Israel.

- B'nai Brith Canada has attempted a character assassination against Dr. Azarova, accusing her of antisemitism, suggesting that she supports terrorism, and entirely misrepresenting the content of her scholarship.
- The IHRA definition of antisemitism is being promoted by B'nai Brith Canada as a solution to the current problem. But instead, by conflating critical scholarship of Israel and Zionism with antisemitism, it will put a chill on legitimate scholarship on Israel-Palestine, and will create future indignities like the one experienced by Dr. Azarova.

If the damning allegations against Judge Spiro and Dean Iacobucci are sustained, CJPME hopes that the outcome of the External Review process will be an apology to Dr. Azarova and the restoration of her job offer. In a more general sense, it is essential that this process affirms and protects the principle of academic freedom; not just academic freedom in the abstract, but the freedom to conduct scholarship on Israeli human rights violations in particular.

Should this External Review process conclude without finding any fault on the part of the University, given what we know about the intervention against Dr. Azarova, we are afraid that this would send a message to administrators that it is acceptable to marginalize and discriminate against scholars who conduct research into the human rights abuses faced by Palestinians. It would give moral support to organizations who seek to discredit and marginalize scholars for their work on Israel and Palestine. It would also send a message to scholars that they must avoid any work related to Israel's occupation if they want to be successful in their professional career. It would give a green light to censorship around the question of Israel-Palestine, prompting a certain amount of self-censorship, and inevitably eroding academic freedom as a whole.

We trust that this External Review process will take these concerns seriously. Should you wish to consult CJPME further on this matter, please contact CJPME's VP Michael Bueckert at 438-380-5410, or by email at michael.bueckert@cjpmc.org.

¹ CJPME letter to Dean Iacobucci, September 25, 2020, https://www.cjpme.org/pr_2020_09_25_uot_letter.

² Statement on Palestine Speech Suppression and University of Toronto Faculty of Law. Published by *Al Jazeera English* as Azeezah Kanji, Dania Majid, and David Palumbo-Liu, “Repression of speech and Scholarship on Palestine Needs to End,” October 1, 2020, <https://www.aljazeera.com/opinions/2020/10/1/repression-of-speech-and-scholarship-on-palestine-needs-to-end/>

³ Palestine Legal and the Center for Constitutional Rights, “The Palestine Exception to Free Speech,” 2015, available online at <https://palestinelegal.org/the-palestine-exception#exec-summary>, p. 5

⁴ Palestine Legal, “2019 Year-in-Review: Movement for Palestinian Rights Thrives Despite Censorship,” 2020, available online at <https://palestinelegal.org/2019-report>.

⁵ *Ibid.*

⁶ Sheri Shefa, “York Conference On Israel Met By Protests,” *Canadian Jewish News*, July 2, 2009, <https://www.cjnews.com/featured/jewish-learning/york-conference-israel-met-protests>; Dorit Naaman, “Coordinated Campaign Aimed to Stifle Academic Discussion about Israel Raises Critical Questions,” CAUT Bulletin, October 2009, <https://bulletin-archives.caut.ca/bulletin/articles/2009/10/coordinated-campaign-aimed-to-stifle-academic-discussion-about-israel-raises-critical-questions>; Gerald Steinburg, “York University vs. Israel: ‘Academic Freedom’ or Academic Farce?: An Open Letter by Gerald Steinberg,” May 28, 2009, <https://www.cija.ca/york-university-vs-israel-academic-freedom-or-academic-farce-an-open-letter-by-gerald-steinberg-2/>

⁷ B’nai Brith Canada, “Petition to Bar Faisal Bhabha from Teaching ‘Human Rights’ at Osgoode Hall Law School,” no date (2020), https://www.bnaibrith.ca/petition_bar_faisal_bhabha/

⁸ For example, Steve Arnold, “Demands Grow For McMaster To Ban Israel Apartheid Week,” *Canadian Jewish News*, February 13, 2020, <https://www.cjnews.com/news/canada/demands-grow-for-mcmaster-to-ban-israel-apartheid-week>

⁹ Larry Haiven, “‘Cancel Culture’ and the Israel Lobby,” *Mondoweiss*, July 13, 2020, <https://mondoweiss.net/2020/07/cancel-culture-and-the-israel-lobby/>

¹⁰ B’nai Brith Canada, “U of T Must Resist Pressure Campaign,” September 25, 2020, https://www.bnaibrith.ca/u_of_t_must_resist_pressure_campaign/

¹¹ Al-Haq, <https://www.alhaq.org/>

¹² Michael Mostyn, “U of T was right to rescind but wrong to offer controversial appointment,” *Toronto Sun*, September 24, 2020, <https://torontosun.com/opinion/columnists/mostyn-u-of-t-was-right-to-rescind-but-wrong-to-offer-controversial-appointment>

¹³ B’nai Brith Canada, “The University of Toronto search for an International Human Rights Program Director: A submission of B’nai Brith Canada to the Search Review,” December 2020, <https://drive.google.com/file/d/17vHdVii3ix3GRyqsAgUd74p-8B90jvVQ/view>, see in particular pp. 16-17.

¹⁴ B’nai Brith Canada, Submission to the Search Review, pp. 5-6.

¹⁵ These awards include the Danish PL Foundation Human Rights Award (2011), the Human Rights Award of the French Republic (2018, co-winner with Israeli human rights organization B’Tselem), the Human Rights and Business Award (2019), and the Gwynne Skinner Human Rights Award (2020).

¹⁶ Al-Haq, “Al-Haq’s Engagement with the UN Committee on Economic, Social and Cultural Rights for Israel’s Fourth Periodic Review,” October 9, 2020, <https://www.alhaq.org/advocacy/15892.html>

¹⁷ Al-Haq, “Al-Haq Receives British MPs,” Feb 17 2020, <https://www.alhaq.org/news/16504.html>; Al-Haq, “Al-Haq and partners hold briefing for diplomatic community in Palestine,” February 20, <https://www.alhaq.org/news/16523.html>.

¹⁸ “Supreme Court Paves Way for Libel Action Against B’nai Brith,” *Canadian Jewish Record*, October 16, 2020, <https://canadianjewishrecord.ca/2020/10/16/supreme-court-paves-way-for-libel-action-against-bnai-brith/>; Ron Csillag, “Court Allows Lawsuit Against B’nai Brith To Go Ahead,” *Canadian Jewish News*, January 22, 2020, <https://www.cjnews.com/news/canada/court-allows-lawsuit-against-bnai-brith-to-go-ahead>

¹⁹ *ibid*

²⁰ “Open Letter from 450+ Canadian Academics Opposing the IHRA Definition of Antisemitism,” Independent Jewish Voices Canada, February 27, 2020, <https://www.ijvcanada.org/open-letter-from-canadian-academics-opposing-the-ihra-definition-of-antisemitism/>

²¹ For more information about Canadian civil society opposition to the IHRA definition, see the No IHRA campaign website by Independent Jewish Voices Canada, <https://www.noihra.ca/>