

January 31, 2017

Submission to the Honourable Michael Coteau, Minister Responsible for Anti-Racism

**Re: Ontario Government Anti-Racism Directorate 2016/17 Consultation**

The Ontario Anti-Racism Directorate (ARD) has been established to address racism in all its forms, with its key focus on preventing systemic racism in Ontario. The mandate includes consideration of all the government's policy, legislation, programs and services through an anti-racism lens.

In the context of our full support for the struggles of Indigenous peoples against racism and colonialism and of Black Lives Matter against anti-Black racism and police violence and harassment against people in the black and other communities, and all other struggles against racism, we wish to also direct your attention to the importance of solidarity with the Palestinian people as part of the struggle against racism.

In light of your mandate, we call on you to take steps to ensure that government policy, legislation, programs and services are not discriminatory to Palestinians.

With 70 organizations signing the Open Letter to members of the Ontario legislature in September 2016, it should be clear there is much concern across Ontario's civil society about government motions, legislation or other tactics being used to vilify and muzzle freedom of speech. Palestinians are the target of this discrimination and racism, while those who stand in solidarity with Palestinian are on occasion subject to vilification.

Given that the Liberal caucus voted in favour of Motion 36 on December 1, 2016, and Minister Coteau spoke in favour of the Motion, we are concerned that the Anti-Racism Directorate is working counter to the human rights of Palestinians.

The mandate letter from Premier Wynne (September 2016) indicated that you have established relationships with partners in the anti-racism community and worked to develop strong, productive relationships. We urge you to establish such relationships with the Palestinian human rights community, who are also engaged in anti-racism work. The struggle for justice for Palestinians is a global movement that aims to achieve Palestinians' human rights under international law, and is in line with the Palestinians' rights in official Canadian policy.

**Thus, in making this submission to the Anti-Racism Directorate, we raise urgent and critical concerns about the tone for systemic racism and discrimination that Motion 36 sets for Palestinians in Ontario, and the vilification of the Palestinian human rights community.**

## **Ontario Responsibility within Canadian Accountability**

Canada has been a Party to the first four Geneva Conventions (see Appendix A). It is well documented that Israel has consistently violated its terms since its creation, including the continued expansion of Israel's illegal settlements.

Despite this, the Ontario government has established the Israel-Ontario Memorandum of Understanding, updated in 2015, and proceeded with a trade mission to Israel, and on the invitation of the Occupier to its Occupied Territory in May 2016.

Recently Hillel and the Centre for Israel and Jewish Affairs (CIJA) have indicated that the new Code of Conduct adopted by 97 Canadian Universities will provide university administrations with the tools they need to stop any BDS resolutions and campaigns on Canadian college and university campuses. It is based on an interpretation of the Ontario Human Rights Code, which provides "place of origin" as a basis for discrimination. This basis should never be used to silence non-violent tactics against the systematic crimes of a foreign state, such as divestment campaigns on college and university campuses. We ask you to consider how adding "place of origin" to the types of "identifiable groups" covered by our hate speech laws is used to silence, and especially favour one "place of origin" against another. (See Appendix B for resources).

We ask you to engage in these concerns about the systemic racism in the province and the role of government policy, legislation, programs and services; and that you take seriously this discrimination against Palestinians in Ontario (See Appendix C).

## **Focus of ARD**

We understand the focus of the ARD is in the following areas:

1. Policy, research and evaluation
2. Public education and awareness
3. Community collaboration
4. Sustainable governance

Thus, we draw on these areas in our recommendations to and asks of the ARD.

## **Recommendations to the Anti-Racism Directorate**

1. Recognize that Palestinians are subject to racist and hateful attacks, and that there is a campaign to censor or target those who are critical of Israeli state practices.
2. To build relationships between government and Palestinian communities to better address issues of racism, in particular, Israeli ethnocracy and military occupation.

This would include through the development of the cross-government approach, that all work that the directorate does, is informed through engagement with anti-racism leaders, experts, and community partners who can provide perspectives regarding anti-Palestinian tactics and how these impact on Ontario's residents of Palestinian origin.

This would also include the inclusion of Palestinians and the Palestinian human rights community in the ARD initiatives focused on anti-racism, including the ARD Conference.

3. To include the Palestinian perspective in any long-term accountable and transparent organization that is being established to address government systemic racism.

This would include accurate evidence-based information in the Racial Equity Impact Assessment Tool that is being developed through which the directorate can work with and advise government on how to effectively assess legislation, policies, programs and services in terms of impact on racialized communities.

4. That evidence-based research be undertaken to understand:
  - i) Boycotts, divestment and sanctions (BDS) as a historical set of non-violent tactics, both globally and in the Canadian context, to challenge racism;
  - ii) the call for BDS from Palestinian civil society and the actual facts associated with the BDS National Committee and its actions;
  - iii) what BDS activities are happening within the Canadian/Ontario context both in relation to Israel and other situations;
  - iv) the activities associated with Israel's lobby groups in regard to the global efforts to silence opposition to Israel's systematic human rights abuses.
5. For the Ministers of the ARD and the Attorney General (ARD) to denounce the conflation of Palestinian human rights and international law advocacy (including BDS) with a hatred of Jewish people.
6. To conduct a review of all Ontario government legislation, policy, programs, and services to ensure they are in alignment with International Humanitarian Law (IHL), the Geneva Conventions and Universal Human Rights.

This would include ensuring that Canada, as a high contracting party to the Geneva Conventions and with Parliament having enacted the Geneva Conventions Act (1990), respect this Canadian Law and the Conventions in all its circumstances as required under the first clause of the IV Geneva Convention and in the Act. Furthermore, that Canada remain bound by its mutual relations, and since Ontario has chosen to establish relationships with Israel that appear counter to the Conventions and the Act, assurance that the Province of Ontario is in compliance with Canada's legal requirement as a high contracting party to the Conventions.

7. To ensure Ontario follows the stated Canadian Global Affairs policy in regard to Israel-Palestine, and where it is not to provide this transparency to the citizens of Ontario.
8. To affirm its belief that residents of Ontario have the right to endorse, support or engage in BDS activities without censure or sanction in relation to Israel or any state.
9. Repeal the Ontario legislature motion condemning BDS actions (Motion 36, December 1, 2016) and call on the Canadian House of Commons to repeal its resolution condemning the BDS movement (Vote # 14, 42nd Parliament, 1st Session; 22 February, 2016).
10. To undertake public education and awareness of systemic racism against Palestinians. Consult and partner with the Palestinian community on proactive steps to provide support to Palestinian culture, arts and heritage.
11. That the Ministry of Advanced Education and Skills work with the Ontario Human Rights Commission, the ARD and whatever organizations are necessary to provide analysis and messaging to university and college administrations that the use of “place of origin” (as included in their new Code of Conduct) as a basis for discrimination is systemic racism when used to silence non-violent tactics against the systematic crimes of a foreign state, such as divestment campaigns on college and university campuses. To caution university and college administrations in this regard, and to warn of the risk of taking any action to silence boycott and divestment initiatives against companies or institutions complicit in Israel’s human rights abuses, as this would be falling outside the Ontario Human Rights Code and the Canadian Charter of Rights and Freedoms (see Appendix B).
12. To provide training on IHL, the Geneva Conventions and Universal Human Rights to all senior management, legal and policy staff within the Ontario Government, and all political staff.
13. To ensure that no barriers exist for citizens of Ontario—or anyone securing services from the Ontario government or its Broader Public Services— which are associated with their support of any activities that advocate for IHL, the Geneva Conventions or Universal Human Rights. This would include any discrimination against those who engage in Palestinian human rights advocacy, including BDS.
14. For the Ontario government and the Ontario Broader Public Service to practice ethical buying, and not buy any products that have come from within or are manufactured in whole or part within Israeli settlements located beyond the 1949 Armistice Line (Green Line) or support the military occupation, ensuring compliance as a province of Canada, which is a signatory to the Geneva Conventions. This includes adherence of the United Nations Security Council’s Resolution 2334, 2016 that affirms the illegality of Israeli settlements.

15. For the Ontario government to abstain from supporting any partnerships or provide any funding related to businesses that are supporting military occupation or have any business involvement associated within Israeli settlements beyond the 1949 Armistice Line. We call on the Ontario government to work towards legislation that bans goods and services that support the occupation of the Occupied Palestinian Territories.
16. To review all investments associated with the Ontario government and its funds including pension funds, as well as any Broader Public Service Funds over which the Ontario government has legislative or contract oversight, to determine and divest from any investments that support the illegal occupation and military actions by Israel, and as such, are not in line with Ontario's commitment as a province of Canada in relation to our country's signature to the Geneva Conventions.
17. Strengthening the Israel-Ontario MOU, and calling on Canada to strengthen the CIFTA compliance/audit provisions in such ways and clauses as to ensure that imported products labeled "Made in Israel" are actually produced, entirely and exclusively, within Israel's internationally recognized borders.
18. To suspend Ontario's support of all military/security technology development, trade and cooperation arrangements with Israel until such time as Israel's occupation and colonization has ceased.
19. To disclose, through a publicly accessible database, all Ontario corporations and entities currently doing business or investing in business that supports Israel's illegal occupation of lands beyond the Green Line.
20. To work with those who are interested in establishing trade with Palestine, advocating requiring Israel to allow Palestinian goods to be exported to Canada.
21. To see these recommendations regarding Palestinians and the actions of Israel lobby groups to defame and delegitimize their voices, and actions regarding addressing these recommendations, included in:
  - i) the annual report which is to highlight efforts within the government and the broader community towards reaching racial equity as well as perceptions of inclusion, tolerance and community safety among racialized communities;
  - ii) in the ARD's ongoing communications and outreach framework, including public education, to raise awareness of racism and advance anti-racism and inclusion in Ontario; and
  - iii) working with the Minister Responsible for Digital Government in the digital presence and digital outreach strategies to share leading anti-racism information with partner organizations, other levels of government, academic and business organizations.
22. The Ontario government to not introduce or support any further legislation, motions, policy, procedures or other actions that discriminates against those who speak out as

Palestinians, and that the ARD work closely with the organizations who support Ontario taking leadership against human right abuses and international legal violations by Israel and other states.

Minister Coteau you have indicated:

“Our government has committed to fighting all forms of racism, particularly systemic racism, to ensure all Ontarians have an equal opportunity to succeed and prosper. The first step to achieving this goal is to listen to people’s concerns. I look forward to engaging with the broader community and finding ways to work together to build opportunities and remove barriers so that everyone benefits.”

In that regard we look to working with the ARD in its mandate to:

- eliminate systemic racism in institutions governed or regulated by the Ontario government
- increase awareness and understanding of systemic racism among the public
- promote fair practices and policies that lead to racial equity, and
- collaborate with the community, business organizations, government and the Ontario Human Rights Commission

Respectively submitted by the following organizations:

**Canadian Justice and Peace in Middle East (CJPME)**

**Canadian Friends of Sabeel (CFOS)**

**Catholics for Justice and Peace in the Holy Land**

**Coalition Against Israeli Apartheid – Toronto**

**Former Ecumenical Accompaniers to Palestine-Israel (EAPPI) from Ontario**

**Students for Justice of Palestine, University of Ontario Institute of Technology & Durham College**

**Students for Palestinian Rights, University of Waterloo**

**Palestinian Solidarity Working Group- Sudbury**

**Seriously Free Speech Committee**

**Canadian Christian Peacemaker Teams**

**United Network for Justice and Peace in Palestine and Israel**

**Educators for Peace and Justice**

**Canadian Friends Society Committee (Quakers)**

**People for Palestine- London**

Copied:

The Honourable. Kathleen Wynne, Premier of Ontario & Minister of Intergovernmental Affairs

The Honourable Yasir Naqvi, Attorney General of Ontario

The Honourable Deb Matthews, Deputy Premier and Minister of Advanced Education & Skill Development

The Honourable Laura Albanese, Minister of Citizenship & Immigration

The Honourable, Marie-France Lalonde, Minister of Community Safety and Correctional Services

The Honourable Michael Chan, Minister of International Trade

The Honourable Reza Morid, Minister of Research, Innovation and Science

The Honourable Eleanor McMahon Minister of Tourism, Culture and Sports

Honourable Jeff Leal, Minister of Agriculture, Food & Rural Affairs.

Steve Orsini, Secretary of Cabinet

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Organizational Contacts:

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Sylvia Skrepichuk for Catholics for Justice and Peace in the Holy Land

Coalition Against Israeli Apartheid – Toronto

The Rev. Karen Rodman, Norman Williams, and Larry B. Harder, Former Ecumenical Accompaniers to Palestine-Israel (EAPPI) from Ontario

Students for Justice of Palestine, University of Ontario Institute of Technology & Durham College

Students for Palestinian Rights, University of Waterloo

Dr. Reuben Roth for Palestinian Solidarity Working Group- Sudbury

Gordon Murray for Seriously Free Speech Committee

Rachelle Friesen for Canadian Christian Peacemaker Teams

The Rev. Steve Berube, United Network for Justice and Peace in Palestine and Israel

Educators for Peace and Justice

Matthew Legge for Canadian Friends Society Committee (Quakers)

Dr. David Heap for People for Palestine- London

\*list updated as of February 2, 2017



## Appendix A: OVERVIEW

The demands of the Palestinian civil society-led BDS movement are consistent with Canada's official policy:

- i) ending Israel's occupation and removing the separation barrier from occupied territory;
- ii) ending institutional discrimination against Palestinian citizens of Israel; and
- iii) recognizing the rights of Palestinian refugees under UN resolution 194. These are not antisemitic, but rather uphold international humanitarian law, the Geneva Conventions and universal human rights.

Boycotts, divestment and sanctions (BDS) are long time tactic used by individuals, companies, and governments. BDS is non-violent. BDS does not promote hostility, prejudice, racism antisemitism or intolerance or hatred in any way.

Governments use sanctions to hold other states accountable to international law. The government of Canada sanctions 21 countries currently. It is expected that Ontario upholds these sanctions in its trade, investment and other activities.

In the regard to military occupation, Article 49 of the 4th Geneva Convention (12 August, 1949) prohibits an occupying power from transferring parts of its own civilian population to territory it occupies, and from forcibly transferring members of the occupied population into its own territory (both of these acts constituting “grave breaches” of the Convention).

Global Affairs Canada states that “The Fourth Geneva Convention applies in the occupied territories and establishes Israel's obligations as an occupying power.”

Articles 1 and 2 of the 4th Geneva Convention state that “High Contracting Parties undertake to respect and to ensure respect for the present Convention in all its circumstances,” and “shall remain bound by it in their mutual relations.”

International Humanitarian Law (IHL) is the law of war/armed conflict with the purpose to alleviate human suffering (basis from: Fourth Geneva Convention, 1949 based on experiences of WWII).

Palestine remains under occupation by Israel since 1967.

Thus, in the Occupied Palestinian Territories, the ICRC (International Committee of the Red Cross) remains in place to ensure medical care, protect civilians & prisoners, reunite separated families and use humanitarian diplomacy to improve compliance.

This means:

- Occupation is to be temporary; the occupier does not have sovereignty; the occupier is responsible for the citizens under occupation.
- Civilians in the occupied territory are protected persons, with the full protection of their human rights falling under the responsibility of the occupier.
- Occupiers are forbidden from moving people of their own civilian population into the occupied territory (however, Israel has moved in over 500,000 illegal settlers and built cities intended as permanent changes to occupied territory).
- Collective punishment is prohibited, yet this remains a norm within the Occupied Palestinian Territories.

The International Court of Justice has ruled that Israel's settlements in the Occupied Palestinian Territory (OPT) violate international law.

The Canadian government "does not recognize permanent Israeli control over territories occupied in 1967 (the Golan Heights, the West Bank, East Jerusalem and the Gaza Strip). The Canadian government recognizes that Israeli settlements in the OPT "constitute a serious obstacle to achieving a comprehensive, just and lasting peace."

Seventeen EU countries have issued warnings to their nationals that individuals or companies who do business with illegal Israeli settlements could face legal, financial and reputational risks.

However, Israel continues to act with impunity as it continues to violate the 4<sup>th</sup> Geneva Convention/International Humanitarian Law as it expands its settlements, conducts illegal detention of children, illegally arrests and transfers prisoners from the Occupied Territory, builds an illegal wall, undertakes illegal restriction of movement, uses collective punishment and demolishes Palestinian homes and other infrastructure.

The State of Israel has not complied with United Nation Resolutions including, but not limited to the:

- UN General Assembly Resolution 194, 1948: that confirms Palestinians' right of return
- UN Security Council Resolution 242, 1967: that calls for withdrawal of Israeli armed forces from occupied territories
- UN Security Council Resolution 298, 1971 & 465, 1980; that confirms action to change status of Jerusalem, including expropriation of land, transfer of people are invalid
- UN Security Council Resolution 338, 1973: that called for implementation of resolution 242

- UN Security Council Resolution 446, 1979: that affirms Israeli settlements are illegal
- UN Security Council Resolution 1397, 2002: that affirms need for creation of two states
- UN Security Council Resolution 2334, 2016; that affirms the illegality of Israeli settlements

The Ontario legislature is on record (December 1, 2016) stating it shares values through a long standing political, economic and cultural tie with the Israeli government. This is a government that:

- i) is in contravention of the Geneva Convention, International Humanitarian Law, many international laws and universal human rights;
- ii) is illegally colonizing a territory that it military occupies bringing in its own settlers, something that Canada/Ontario is in the process of repudiating for its own transgressions and attempting to reconcile through implementation of the Truth and Reconciliation Commission recommendations;
- iii) has over [50+ laws that discriminate against its non-Jewish citizens](#), including 20% of its population who are Palestinian Israeli citizens and refugees from Eritrea and other countries, in areas such as education rights and funding, health care, public services, where they live etc., thus making the state an ethnocracy.

## **APPENDIX B: HUMAN RIGHTS GROUNDS**

The “place of origin” is a ground of discrimination under the Ontario Human Rights Code. However, it is dangerous when it is applied to protecting a foreign state and its policies, and favouring one place of origin over others. We ask that the ARD seek to understand how adding "place of origin" to the types of “identifiable groups” covered by our hate speech laws is used to silence BDS, and take actions to protect this human discrimination against Palestinians, and vilification against the Palestinian human rights community. We provide the following sources for your consideration in this regard.

<https://bccla.org/2016/03/on-the-boycott-divestment-and-sanctions-bds-movement-and-the-narrowing-of-acceptable-speech/>

<http://www.globalresearch.ca/amnesty-international-endorses-the-inherent-right-of-the-boycott-divestment-sanctions-bds-campaign-against-israel/5521642>

<http://www.cbc.ca/m/touch/politics/story/1.3067497>

### **APPENDIX C: ARD INCLUSION IN CONSULTATION**

The Premier's statement in the legislature on June 2, 2016 indicated that she would work towards a unifying motion condemning BDS.

We are disappointed that the Premier, most of her Cabinet Ministers, many of her MPP caucus members, the Liberal political staff and the Ontario Public Service, including the Anti-Racism Directorate, were not prepared to meet with those of us who have indicated our deep desire that Ontario respects civil liberties, human rights, international humanitarian law and democracy, for all people, including Palestinians.

The Liberal government has now spoken, including in its unconditional support and unbridled enthusiasm for Motion 36, where Ms. Martow slandered supporters of BDS as being akin to the Klu Klux Klan, and not one MPP challenged her on this slanderous statement. Instead, the Liberal government echoed Ms. Martow's words, equating Palestinian human rights activists with hate-filled racists, and denouncing in the strongest terms a non-violent and lawful civil society movement. We are unable to ascertain why the Ontario government is connecting the issue of opposition to the policies of a foreign government with systemic racism in the province of Ontario.

Given the blocking of discussions and the exclusive nature of including CIJA as the key advisor to the Premier and her Cabinet, we have serious concerns regarding open democracy for all residents of Ontario. CIJA has been quite public that they worked closely with the Premier's staff on Motion 36. We call on the ARD to ensure all stakeholders are invited and received at the policy discussion table.

We hope the ARD will welcome open communication with all, including those who make this submission. We expect that you will ensure that the Ontario government is free of racism, including against Palestinians. We urge you to take the following information seriously, and to include our voices in your consultations, both through this report and through future dialogue.