

Report on Academic Freedom in Canada after October 7, 2023

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It is during times when political threats to academic freedom intensify, that the need for academic staff to contribute to public discourse becomes even more important.

- CAUT Statement on Academic Freedom in Times of Conflict

Introduction

This report examines the state of academic freedom on Canadian campuses concerning debates and discussions over contemporary events in Israel and Palestine. It was produced in response to several cases of alleged violations of academic freedom that were brought to the attention of the Canadian Association of University Teachers (CAUT) following the events of October 7, 2023. On that date, Hamas militants based in Gaza fired a barrage of rockets into Israel, breached Israeli defenses, and conducted a ground attack on nearby communities. In response to the attack, the Israeli Defence Forces (IDF) within days launched a military campaign against Gaza with the stated aim of eradicating Hamas.

These events have reignited deeply contested views on the long-standing Israeli-Palestinian conflict. They have also prompted renewed concerns about the censorship of discussion and debate about Palestinian rights, a problem that some refer to as the “Palestine exception.”¹ CAUT has in fact previously investigated several controversies surrounding academic freedom and debates over Israel and Palestine. During 2008–2009, CAUT was informed of allegations that pro-Israeli lobby groups and individuals sought to block a planned conference at York University on the topic of models of statehood and paths to peace in Israel and Palestine. A CAUT investigation found that university administrators were actively pressured against holding the conference and that the federal government at the time contacted the Social Sciences and Humanities Research Council (SSHRC) to review its funding of the event. In another case in 2021–22, CAUT imposed censure on the University of Toronto after the appointment of the Director of the International Human Rights Program in the Faculty of Law was abruptly terminated following concerns raised about the candidate’s research on Israel’s human rights record.²

The more recent controversies over academic freedom and the politics of Israel and Palestine took place against the backdrop of wider concerns about restrictions on free expression of the subject generally. In November 2023, four United Nations Special Rapporteurs issued a joint statement expressing alarm over alleged attacks, reprisals, criminalization and sanctions against those who publicly expressed positions on the conflict between Israel and Palestine.³ In Canada, many professionals – including pilots, journalists,⁴ and doctors – faced investigations and disciplinary action for public comments they made about the conflict.

¹ In October 2022, Independent Jewish Voices published a report, [*Unveiling the Chilly Climate: The Suppression of Speech on Palestine in Canada*](#), that documented alleged cases of reprisals, harassment and intimidation of activists, faculty, students, and organizations in relation to scholarship and activism on Palestinian human rights.

² See CAUT, [*Report on the Implications of Academic Freedom in the case of Dr. Valentina Azarova at the Faculty of Law, University of Toronto*](#) (Oct 2020).

³ United Nations, “Speaking out on Gaza / Israel must be allowed: UN experts” (November 23, 2023). <https://www.ohchr.org/en/press-releases/2023/11/speaking-out-gaza-israel-must-be-allowed-un-experts>

⁴ Global News journalist Zahraa Al-Akhrass was fired while on maternity leave for failing to remove social media posts that the company said “advocate for violence” and gave a “perception of serious, journalistic bias.”

University and college campuses were not immune to these developments. In the weeks and months following the events of October 7, staff were dismissed,⁵ students and student groups were investigated, campus events were cancelled, and peaceful protests were curtailed.

The CAUT Executive Committee discussed these developments at its April 2024 meeting and authorized the production of a report with the aims of:

- Reviewing and reporting on alleged threats to academic freedom at Canadian universities and colleges arising from discussion and debate about the events in Israel and Palestine from October 7, 2023, onward.
- Developing recommendations as to the courses of action that institutions and CAUT and its affiliates might take in response to the findings of the review.

Since the focus of the report is on academic freedom, the analysis is primarily concerned with cases involving academic staff that were brought to CAUT's attention since October 7, 2023. This is not to deny that there are cross-cutting concerns between the curtailment of academic freedom and free expression generally. When universities and colleges act against students or non-academic employees in ways that may be seen as limiting free expression rights on campus, this can create a chill on academic freedom. Some of the cases involving non-academics are referred to in this report where they touch upon matters relevant to the discussion of academic freedom. However, the primary focus of the report is on academic freedom, and not freedom of expression on campus generally.

The report does not purport to provide an exhaustive review of all instances involving academic staff that occurred over this period. Rather, it relies upon cases that were widely reported or brought to the attention of CAUT. Consequently, it is very likely that many other cases have occurred without being made public or shared with CAUT.

Additionally, the report does not attempt to investigate and determine the merits of each individual case as that was beyond the scope and capacity of the review. While most cases that are identified have been resolved, others are proceeding to litigation. The report mainly considers what general aspects of academic freedom may be implicated in the cases, and to discuss the principles which universities and colleges ought to have applied when determining how to respond.

The review of cases reveals three general themes. First, most instances in which academic freedom is potentially at stake involve comments made by academics publicly, and do not arise from their teaching or research. In this sense, it is "extramural academic freedom" that is most implicated. Extramural academic freedom, as discussed further below, means the expression of academics on matters of public interest that is not necessarily related to their area of scholarly expertise.

⁵ For example, on October 26, Western University announced that Sh. Aarij Anwer would be removed from his volunteer position as Muslim chaplain because of the following comment he wrote online: "Stop spreading lies of beheading babies or rape of little girls. It's been debunked. No one is celebrating the murder of Israeli babies. Palestinians are mourning the death of their babies. It's incredible how Israel sympathizers simultaneously are the oppressor and the victim." In a [statement](#), the university president indicated that the comments "do not align with Western's commitment to peaceful and respectful dialogue." In November 2023, the University of Alberta fired the director of its Sexual Assault Centre for signing an open letter that called for a ceasefire and questioned claims that Hamas militants had sexually assaulted victims on October 7. The university [stated](#) the director's use of the centre's name in the open letter was "improper and unauthorized" and "raised understandable concerns from members of our community and the public." Also in November 2023, Dr. Yipeng Ge, a medical resident at the University of Ottawa, was suspended pending an investigation into complaints about his social media posts. One post included a photo of a sign stating, "from the river to the sea Palestine will be free." In an email to Dr. Ge, the university described the phrase as a call for the "ethnic cleansing of Jewish people from Israel." Dr. Ge was eventually cleared of any wrongdoing in January 2024, but he chose to resign his position.

The second theme is that of external pressure from politicians, donors, and interest groups on institutions to curtail the expression of academics. There are two instances reported in which provincial ministers publicly identified and called for disciplinary action to be taken against academic staff. These interventions highlight important concerns about institutional autonomy, a condition necessary for the exercise of academic freedom.

Thirdly, the report identifies instances where academic staff have been named and targeted online, resulting in threats and harassing messages directed towards them. This targeted harassment raises not just academic freedom matters, but also basic health and safety concerns. In instances when academics are targeted in this way, university and college administrations should have an obligation to protect academic staff.

The report also provides a short reflection on how academic freedom rights may have been affected by the way institutions reacted to the pro-Palestinian student encampments organized on campuses across the country during the Spring and Summer of 2024. The encampments raised important questions about respect of Charter-protected free expression and freedom of assembly rights. Certain institutional responses to the encampments, it is argued, created a climate in which academic freedom was also impinged.

The report concludes by suggesting ways that administrations and academic staff associations might better navigate the controversies over academic freedom in the current political context. It is acknowledged that there are legal and professional limits to the exercise of academic freedom, but the report emphasizes the need to interpret these limits liberally. Institutions need clearer policies and procedures for investigating allegations that respect the principle of academic freedom. This means developing policies that better identify when an academic's extramural expression clearly crosses demonstrable legal and professional limits. Universities and colleges should do more to proactively defend and advance academic freedom, particularly during times of conflict and division. Academic freedom, freedom of inquiry, and debate are essential to the analysis of even the most seemingly intractable and controversial matters. It is this freedom that permits us collectively to advance our capacity to find solutions to these dilemmas and to imagine the world otherwise.

Overview and Discussion of Cases

The following section summarizes and discusses the cases implicating questions of academic freedom and the key themes emerging. Where specific details of cases have not been made public, the names and particulars have been kept confidential because of the potential harassment and recrimination individuals may face.

Extramural Academic Freedom

Most cases that have arisen since October 7, 2023, involve academics expressing views about the conflict in Israel and Palestine on social media, at public demonstrations, and through petitions and open letters. These represent expressive activities that may not be related to an academic's area of scholarly expertise, but as argued below, still attract the protection of academic freedom as it is commonly understood. These cases include the following:

- After her participation in a pro-Palestinian demonstration off-campus, Professor Natalie Knight of Langara College was placed on administrative leave pending an internal investigation into comments she had made at the rally. Media reports indicated she had described the Hamas attack of October 7 as “brilliant” and “amazing”.⁶ The internal investigation determined Dr. Knight did not violate any college policy or her obligations under the collective agreement, and she was scheduled to resume her duties in January. As news of Dr. Knight's return to campus was circulated, the then provincial Minister of Post-Secondary Education and Future Skills, Selena Robinson, posted the following on X: “I am disappointed that this instructor continues to have a public post secondary platform to spew hatred and vitriol. I have met with @langaracollege leadership to express my concerns for the Langara and broader communities. They agreed that everyone deserves to feel safe.” Less than 24 hours later, the College fired Dr. Knight alleging that her

⁶ CityNews, [Langara College instructor on leave after calling Hamas attack “amazing”](#), October 31, 2023.

participation at a subsequent demonstration in which she described Israel as a “criminal state” and led a chant of “from the river to the sea, Palestine will be free” was tantamount to expressing support for the violent destruction of the State of Israel.⁷

- Also in November 2023, George Brown College placed instructor Bashir Munye on paid leave while it investigated complaints related to one of his Instagram posts. Some of his posts used the “from the river to the sea” phrase and accused the Israeli government of engaging in “genocide” and “apartheid”. The investigation found no violation of any college policy.
- In July 2024, an Ontario college professor was suspended without pay for one week for sharing cartoons on social media that were alleged to be antisemitic. The images included one depiction of Israeli Prime Minister Benjamin Netanyahu as Adolf Hitler, and another of Netanyahu cutting the throat of a Palestinian child.
- After they signed an open letter circulated by the Health Workers Alliance for Palestine calling for a ceasefire and cessation of attacks on health facilities in Gaza, several clinical faculty at one university were asked to step down from their roles in the Canadian Residency Matching Service (CaRMS). CaRMS assesses applications for placements for medical students and residents. Administrators at the university’s medical school alleged that by signing the open letter, the faculty demonstrated real or perceived bias against certain applicants to the residency program.
- A Université de Montréal (UdeM) lecturer was suspended after he was involved in a clash between pro-Palestine and pro-Israel supporters at Concordia University. A video of the incident shared on social media showed history lecturer, Yanise Arab, engaged in a fierce shouting match. While the audio is unclear, some observers claimed he was telling a pro-Israel supporter to “go back to Poland.”⁸
- York University professor Lesley Wood, as well as a university researcher and another staff member, were suspended with pay after they were among those charged by police with vandalizing an Indigo bookstore in Toronto. The exterior of the store was splashed with red paint and posters were glued to the doors. The action was done to protest company CEO Heather Reisman’s foundation that provides scholarships to people wishing to serve in the Israeli military.
- Dr. Christian Zaarour, assistant professor of anesthesia with the University of Toronto and the Hospital for Sick Children, was placed under investigation after complaints were made about a social media post attributed to him. A pro-Israeli government group, Honest Reporting Canada, circulated what it claimed was a screenshot of Dr. Zaarour’s Instagram account. It included the following text attributed to Musa al-Sadr, a former Iranian Lebanese cleric: “We consider Israel to be absolute evil. There is nothing worse than Israel. If Israel and the devil fight each other, we will stand with the devil.”
- On January 31, 2024, the National Council of Canadian Muslims wrote to the University of Ottawa to complain about a “campaign of persecution” against students, staff, and faculty who publicly expressed pro-Palestinian views. The letter indicated the Council had received complaints from students and staff claiming they were threatened with suspension or expulsion for social media posts calling for a ceasefire in Gaza and an end to the Israeli bombing of hospitals and medical centres.
- McMaster University launched a review of a social media comment made by cardiology professor Dr. Eva Lonn. In reaction to pro-Palestinian demonstrators who shut down the Brooklyn bridge in late October, she wrote “deport them all to where they came from” on her LinkedIn account. After screenshots of her post were shared widely, a petition calling for McMaster to investigate Dr. Lonn’s comments gathered thousands of signatures.
- A university in Ontario suspended and investigated a contract instructor following complaints received about social media posts he had made supportive of the Israeli government’s actions in Gaza. In response to a post by an academic in Pakistan calling for Palestine to be free “from the river to the sea,” the instructor

⁷ CBC, [Langara employee no longer on the job after “activities contrary the expectations” of the college](#), January 26, 2024.

⁸ Radio Canada, [Échauffourée à Concordia : l’UdeM suspend un chargé de cours](#), November 10, 2023.

accused the academic of being a “pro-Nazi zealot.” Complaints alleged the instructor’s post was “racist and inciting”.

- In November 2024, a professor of medicine was removed from his role in participating in the medical school’s student admissions processes. Complaints were made that his social media posts supporting Israel’s actions in Gaza were “racist” and that he would be biased against students from certain ethnic or religious backgrounds.
- Professor Sean Tucker alleges his contract to teach a course at the University of British Columbia was not renewed due to his public advocacy for Palestinian rights. The UBC Faculty Association is grieving the non-renewal.

Extramural academic freedom is the right of academic staff to freely express their views on matters of public interest without hinderance or fear of penalty from their institution. Such expression may be related or unrelated to their scholarly expertise or institutional affiliation. As stated in the CAUT Policy Statement on Academic Freedom, extramural academic freedom ensures that:

All academic staff have the right to freedom of thought, conscience, religion, expression, assembly, and association and the right to liberty and security of the person and freedom of movement. Academic staff must not be hindered or impeded in exercising their civil rights as individuals including the right to contribute to social change through free expression of opinion on matters of public interest. Academic staff must not suffer any institutional penalties because of the exercise of such rights.

The right to extramural expression is an indivisible component of academic freedom and buttresses freedom in teaching and research. As explained by Finkin and Post:

[F]aculty can promote knowledge or model independent thought in the classroom only if they are actively and imaginatively engaged in their work. If faculty experience their institutions as repressive, they will be vulnerable to forms of self-censorship and self-restraint that are inconsistent with the confidence necessary for research and teaching. The harm would be enhanced if faculty were confused about which communications were protected by freedom of research and which communications would be exposed to punishment if freedom of extramural speech were not a recognized dimension of academic freedom. Such confusion would be inevitable because the line between academic expertise and extramural expression is unclear.⁹

The ability of academics to contribute to public debate, without institutional censorship or sanction, is necessary for fulfilling the core mission of higher education to preserve, disseminate, and advance knowledge.

As with all expressive freedoms, there are important debates about the scope and limitations of extramural academic freedom. It clearly does not confer legal immunity. Extramural academic freedom is not a license to engage in libel, hate speech, harassment, or discrimination as defined in law, or in collective agreements. It does not absolve one of unethical professional behaviour. However, these legal and professional limits do not preclude vigorous debate or sharply negative criticism. Academic staff need not be gentle, nice, or diplomatic in their extramural expression.

The principle, practice and contractual right of extramural academic freedom sets the academic workplace apart from other workplaces. In Canada, most employers can legally discipline employees for their public expression that, even if lawful, can be shown to harm a company’s reputation or adversely affect its operations in some way. The existence of academic freedom, by contrast, is meant to restrict the ability of a university or college employer to sanction academic staff for their public expression. The overriding principle is that an academic’s extramural activity, including the expression of controversial or unpopular opinions that attract negative publicity, should rarely constitute grounds for discipline or dismissal. Only if the expressive activity is illegal or

⁹ M.W. Finkin and R. Post, *For the Common Good; Principles of American Academic Freedom* (New Haven: Yale University Press, 2009), p. 139.

clearly demonstrates professional “unfitness” to teach or engage in scholarly research could academics justifiably face institutional penalty.

Any claims that expression demonstrates “unfitness” need to be supported with evidence, and not just conjecture. In some of the cases cited above, administrations implied that certain expressions and behaviour by academics created an intimidating and hostile classroom environment for some students such that an academic’s ability to teach was compromised. Academics who publicly expressed strong pro-Israeli or pro-Palestinian positions, it was suggested, created potentially unsafe spaces for Palestinian or Jewish students respectively.

If there is evidence that an academic is engaging in harassing or discriminatory behaviour towards students, they are in breach of not just their professional responsibilities but also the law. However, general concerns about how a professor’s political views might affect the learning environment are not in themselves sufficient to determine their fitness to teach or engage in scholarly research. Whether expression constitutes harassment or discrimination requires both a subjective and objective test. Clear objective evidence, and not just assumptions or subjective impressions alone, would need to be compiled to demonstrate how a professor’s extramural views discriminate against students, prejudice the learning environment, and compromise their ability to perform their duties.

In many of the cases cited above, it does not appear that this test was met. On the contrary, there appears to have been little appreciation of the importance and indivisibility of extramural academic freedom by university and college administrators. Many institutions seemed all too quick to immediately place academic staff on leave pending investigations into complaints about their public comments and activities. While these leaves were “with pay” and therefore not normally considered “disciplinary” in nature, the result was largely the same. Academics subjected to complaints were barred from campus and from interacting with students. This undoubtedly exacted not only a professional and personal toll on those directly affected but also likely had a chilling effect on the entire academic community.

It also appears that some institutions applied loose definitions of hate speech, harassment, racism, and antisemitism to justify placing academics on leave and conducting investigations. The Supreme Court of Canada has determined that to constitute hate speech expression must rise to the level of “an intense and extreme nature that is clearly associated with vilification and detestation.”¹⁰ The threshold applied by some universities and colleges was much lower. In the case of Prof. Knight, for example, it was in part her use of the phrase “from the river to the sea, Palestine will be free” that was cited as cause for investigation and eventual dismissal. Some argue the phrase constitutes hate speech as it purportedly calls for the eradication of the State of Israel. However, the full meaning of the phrase has been shown to be far more complicated and indeterminate. The Ontario Superior Court in *University of Toronto (Governing Council) v. Doe et. al.*, a case concerning an injunction sought by the University to remove a pro-Palestinian student encampment, concluded that the phrase “appears to have been used by both Israeli and Palestinian politicians on the far ends of their respective political spectrums to claim the land from the river to the sea as belonging exclusively to either Jews or Palestinians and by more moderate camps amongst both Israelis and Palestinians as reflecting a desire for a political solution that would allow both groups to live in freedom in either one or two states.”¹¹

The controversy over the meaning of the phrase “from the river to the sea” also reflects political disagreements about what constitutes expressions of antisemitism. In 2016, the International Holocaust Remembrance Alliance (IHRA) produced a “working definition” of antisemitism that has since been adopted by many governments and other organizations, including the Canadian federal government and several provinces. There has been pressure on universities and colleges to adopt the working definition. Critics have argued that the definition equates criticism of the policies of the State of Israel with antisemitism, and as such could be used to suppress legitimate

¹⁰ *R. v. Keegstra*, [1990] 3 S.C.R. 697

¹¹ *University of Toronto (Governing Council) v. Doe et al.* 2024 ONSC 3755 at para. 98

academic debate and discussion. Kenneth Stern, one of the authors of the IHRA definition, has stated that the definition “was never intended as a tool to target or chill speech on a college campus.” Stern has objected to what he has called the “weaponizing” of the definition, arguing that its misuse undermines efforts to detect and combat real instances of antisemitism.¹²

Universities and colleges have a legal responsibility to ensure an environment free of harassment and discrimination, including antisemitism, anti-Palestinian racism, and Islamophobia. They also have an obligation to promote academic freedom. There is no inherent contradiction between these goals. The academic community needs to resist the characterization of pro-Palestinian speech or critiques of the Israeli state as invariably antisemitic and should similarly resist claims that pro-Israeli government views or criticisms of Palestinian leaders and groups are necessarily indicative of anti-Palestinian racism. As institutional leaders combat discrimination on campus, they need to be cautious about adopting overly broad definitions of antisemitism, anti-Palestinian racism, and other forms of discriminatory expression. Failing to do so will result in limitations on what can be legitimately taught, researched, and discussed. Narrowing the discursive space around the topic of Israel and Palestine to include controversial but legal expression would be contrary to the fundamental educational mission of universities and colleges.

Additionally, when considering the extramural expression of academics, institutions should also be more sensitive to the context in which the expression occurs. Almost all the cases cited above involved expression communicated on various social media platforms. Social media has been likened to a raucous public square where political debate happens in often exaggerated, passionate, sarcastic, and intemperate ways. The very design and format of social media rewards this type of expression. Failing to consider the discursive context of the medium where such expressions are shared can mistakenly impute meaning without legitimate justification.

External Pressures and Threats of Institutional Autonomy

By statute, universities in Canada are granted broad autonomy over the management of their internal academic affairs, including determining what is taught and discussed, how it is taught, who is hired as faculty, and who may be admitted to study. This autonomy is an essential condition for academic freedom. The full exercise of academic freedom requires that universities and colleges resist external pressures, including any attempt by governments, donors, politicians, or pressure groups to target academic staff for exercising their expressive rights within the law.

Since the events of October 7, 2023, there have been several allegations of political and external pressure exerted on institutions to sanction or otherwise act against academic staff:

- In a statement in the provincial legislature on October 17, Ontario’s Minister of Colleges and Universities, Jill Dunlop, read into the record a list of names of professors and students who she alleged expressed pro-Hamas and antisemitic views on social media. The accusations were vehemently denied by the professors named. The Minister called on the universities in question to act against those named.
- As noted in the case of Dr. Natalie Knight cited above, the British Columbia Minister of Post-Secondary Education and Future Skills publicly expressed her disappointment about Dr. Knight’s reinstatement following an investigation conducted by Langara College. The Minister accused Dr. Knight of spewing “hatred and vitriol” and urged the college administration to take steps to ensure the safety of everyone on campus.

¹² Kenneth Stern, “I drafted the definition of antisemitism. Right wing Jews are weaponizing it.” *The Guardian*, December 13, 2019. <https://www.theguardian.com/commentisfree/2019/dec/13/antisemitism-executive-order-trump-chilling-effect>

- It has been alleged that the BC Ministry of Post-Secondary Education and Future Skills requested that universities and colleges in the province remove any departmental statements on their websites expressing pro-Palestinian views.¹³
- Winnipeg South Centre Member of Parliament Ben Carr criticized the University of Winnipeg for allowing an academic discussion on “Palestine and Genocide: Reflections on Imperialism, Settler-Colonialism, and Decolonization.” Carr alleged the event had “significant antisemitic undertones.” The discussion was organized by several University of Winnipeg professors.
- A Université de Montréal professor’s exhibit on the history of the Palestine Mandate planned to be displayed in the University’s *Carrefour des arts et des sciences* was cancelled. The Dean later indicated the exhibit was being postponed due to unspecified “security reasons,” but it is alleged the decision was made due to concerns about external criticism. The academic staff association has grieved the matter.
- At York University, a talk by Mount Royal University Professor Muhannad Ayyash was interrupted by the police who claimed they were called to investigate a possible disturbance on campus. The talk was entitled “The Palestinian Struggle for Liberation: Aspirations for a Decolonial Life.”

In addition, there are reports of several campus events on the Middle East conflict being cancelled, allegedly due to pressure from outside sources. The Canadian Muslim Public Affairs Council (CMPAC) reported on February 8, 2024, that Carleton University cancelled a planned Palestine solidarity event. Despite prior approval for the event, Carleton’s Director of Student Affairs and Student Life cited procedural irregularities to justify the cancellation. Also in February, Concordia University abruptly cancelled a Palestine solidarity event featuring Sami Hamdi. The organizers claim the cancellation was due to pressure from pro-Israel lobby groups.

In some cases, it is alleged that donors threatened to withhold future contributions unless institutions censored certain speech.¹⁴ At Toronto Metropolitan University, after the administration publicly condemned a group of law students for publishing a statement condemning Israel’s actions in Gaza, many students alleged the University acquiesced to donor pressure. A subsequent external investigation was critical of the administration’s actions in publicly condemning the students, but noted the University denied it had acted under pressure from donors.¹⁵ At the University of Manitoba, a prominent donor wrote to the Max Rady College of Medicine criticizing a valedictory speech in which Israel’s actions in Gaza were characterized as a “genocidal war.” The speech was subsequently removed from the University’s website and the Dean issued a statement in which he expressed disappointment that, “the address was delivered in a way that didn’t represent all students and that was disrespectful to some audience members who were there to celebrate and be celebrated.”¹⁶

Allegations that universities and colleges suppressed speech to appease governments, donors, or pressure groups are disturbing. Institutions have a positive obligation to resist external pressures, whether from governments, donors, or interest groups. If institutions accede to external pressures and demands for political censorship instead of encouraging the utmost freedom of discussion, they abdicate their responsibility for protecting their central mission of education, research, and service to the broader society and to the public good.

¹³ Emma Paling, “After Selina Robinson met with UBC president, Gaza statement disappeared,” *The Breach*, February 7, 2024. <https://breachmedia.ca/selina-robinson-met-ubc-president-gaza-statement-scrubbed/>

¹⁴ In the United States, donor pressure to condemn “anti-Israel” criticism has been more pronounced. See Rob Copeland, “Warning of ‘Grave’ Errors, Powerful Donors Push Universities on Hamas,” *New York Times*, October 15, 2023.

¹⁵ See Hon. J. Michael Macdonald, Strengthening the Pillars: Report of the TMU External Review, May 31, 2024. <https://www.torontomu.ca/report-release/>

¹⁶ Max Rady College of Medicine statement on valedictorian address, May 17, 2024. <https://news.umanitoba.ca/max-rady-college-of-medicine-statement-on-valedictorian-address/>

Targeted Harassment of Academic Staff

Other threats to academic freedom that have arisen since October 7 include efforts to target, intimidate, and harass academic staff who expressed strong views on the Israeli-Palestinian conflict. As noted above, a previous CAUT investigation documented how pro-Israeli government activists and organizations worked to limit discussion of Israel and Palestine on university and college campuses across North America by targeting individual academics.¹⁷ A prominent instance of these efforts is the website Campus Watch (www.campus-watch.org) run by the Middle East Forum. Campus Watch highlights professors who it alleges are antisemitic or biased and invites students and others to report on those who express views on the Middle East critical of Israeli or American government policy.¹⁸

In a similar vein, the website Canary Mission (<https://canarymission.org/>) has published a list of professors and others it alleges “promote hatred of the USA, Israel and Jews.” The website lists dozens of Canadian professors, and includes their photographs, their social media accounts, and links to their university/college websites containing their email address, office location, and telephone number. Many of the professors have been singled out for attending one of the pro-Palestinian student encampments which the Canary Mission site characterizes as a “pro-Hamas” event. Others are targeted for comments they made on social media that are critical of the actions of the Israeli government.

Some of the professors listed on the Canary Mission site contacted CAUT to report they had received threatening emails, telephone calls, and letters. They expressed frustration with their institution’s response. In one case, a professor reported he was simply advised by the administration to consider limiting his time on campus. Another professor reported that the Dean launched an investigation against her based on the allegations made on the Canary Mission site. The threats directed toward academic staff, the publicity generated, and the weak institutional responses can in turn cause others to self-censor to avoid being subjected to similar treatment.

Targeted online harassment is a threat to academic freedom. Institutions have a duty to do more to protect academics from these external threats. The CAUT Policy Statement on Targeted Online Harassment of Academic Freedom asserts that “administrations have a positive obligation to protect academic freedom and should take decisive action to defend academic staff.” At the outset, administrations should recognize that the online targeting of academic staff threatens academic freedom that requires a more robust institutional response.

Student Encampments

As the conflict in Israel and Palestine intensified, protest encampments sprung up on campuses across North America and Europe. While the encampments were largely organized by students, academic staff were also involved. On May 24, the University of Toronto administration issued a trespass notice threatening any academic staff who participated in the campus encampment with discipline, including termination. After the University of Toronto Faculty Association protested the notice as a threat to members’ academic freedom and

¹⁷ Jon Thompson, *No Debate: The Israel lobby and free speech at Canadian universities*. Toronto: James Lorimer & Company, 2011.

¹⁸ A more broadly-based attack on individual academic freedom and university autonomy has been mounted by some partisan organizations and governments in the United States. This has involved the passing of legislation to restrict the education curriculum, including that related to the teaching about the history, policies, and actions of the State of Israel. Those promoting these restrictions have justified them under the guise of protecting students from harm, including discriminatory treatment or exclusion. However, the legislation defines antisemitism very broadly to include political criticism of the government of Israel. According to a report prepared by the American Association of University Professors, this constitutes “state interference with academic freedom, thereby undermining the public mission of higher education to serve the common good through open, searching, and critical pedagogy; research; and extramural speech. See American Association of University Professors, “Legislative Threats to Academic Freedom: Redefinitions of Antisemitism and Racism,” March 2022. <https://www.aaup.org/report/legislative-threats-academic-freedom-redefinitions-antisemitism-and-racism>

right to peaceful assembly, the University subsequently reversed its position, stating on its website that “faculty members who do not comply with the notice will not be terminated.”¹⁹

At the Saint John campus of the University of New Brunswick, a professor participating in an encampment was issued with a trespass notice by campus security on May 28 and told he was barred from campus for 7 days. The Association of University of New Brunswick Teachers grieved the notice, arguing in part that the *New Brunswick Trespass Act* (RSNB 2012, c 117) provides for an exception for those engaged in peaceful demonstrations on the property of a school, college, university, or other educational institution. The grievance was resolved in the member’s favour.

Institutions took different approaches to the encampments. At Queen’s University, Ontario Tech University, and the University of Windsor negotiations between the administration and the protestors produced agreements that ended the protests. By contrast, York University, the University of Alberta, and the University of Calgary almost immediately issued trespass notices to have protestors forcibly removed by police. In the case of the University of Alberta, the administration’s decision to have the encampment dismantled by police led the associate dean of equity, diversity, and inclusion to resign her administrative post. The Association of Academic Staff: University of Alberta (AASUA) and the Faculty Association of the University of Calgary (TUCFA) called for an independent investigation to determine what evidence supported the decision to request the police service to intervene.

Other institutions sought injunctions to end the protests. The McGill University administration failed in its initial application. Unlike the *Canadian Charter of Rights and Freedoms*, the *Quebec Charter of Human Rights and Freedoms* applies to non-government actors, including universities and colleges. As such, the Court was not convinced that the administration had demonstrated an urgent need to dismantle the encampments that would justify overriding protected rights to peaceful assembly and freedom of expression. Nevertheless, the encampment was dismantled in July by private security and without a court order.

At Vancouver Island University and the University of Toronto, the courts granted applications for an injunction against the encampments. In the University of Toronto case, the court rejected arguments submitted by the University that the protests were a safety risk or expressed antisemitic views. However, the Court ruled that the Charter does not apply to universities in Ontario and that there was justification for an injunction based on the legal principles of trespass and ejectment. In effect, the Court found the University had a legal right to eject the protestors because they entered and used property that belongs to the University without any lawful justification.²⁰ The decision in the University of Toronto case was cited by the Memorial University of Newfoundland and Labrador to end its campus protest, even though it was a different jurisdiction.

Ahead of the Fall 2024 academic semester, some universities and colleges introduced new policies curtailing on-campus demonstrations. In late August, for instance, Western University introduced a new policy on “Obtaining Authorization to Hold a Demonstration.” The policy defined a “demonstration” broadly to include “a public gathering of a person or group of persons to express a sentiment by explicit means including but not limited to picketing, marching, carrying signs, distribution of literature, and other related activities, usually in favour of or opposed to some action or opinion.” Anyone wishing to hold a demonstration would be required to seek permission from the administration at least five days prior to the planned event and limited activities to between 12 pm and 6 pm on weekdays. The University of Western Ontario Faculty Association threatened to grieve the policy, in part because it was inconsistent with academic freedom rights provided in their collective agreement and was unilaterally imposed. In the face of mounting criticism, the University withdrew the policy.

¹⁹ A message from President Gertler on our commitment to free speech, June 6, 2024 (5:35 p.m. ET).

<https://www.utoronto.ca/utogether/community-updates#>

²⁰ *University of Toronto (Governing Council) v. Doe et al.*, 2024 ONSC 3755 (CanLII), <<https://canlii.ca/t/k5l9q>>, at para. 128.

The reaction to the student encampments revealed a disappointing lack of tolerance on the part of many universities and colleges for peaceful assembly and free expression. Even if restrictions on campus protests could be legally justified, it is nevertheless inconsistent with principles of academic freedom for universities and colleges to suppress peaceful assembly and freedom of expression. A university's or college's property serves a special purpose – to fulfill the mission of advancing knowledge for the public good. In pursuing this mission, institutions need to foster the expression and debate of differing and even deeply contested points of view. This includes the political expression and peaceful protest of students, academic staff, and all members of the campus community. University and college administrations fail in their duty to uphold the foundational purposes of higher education when they limit or pre-empt peaceful protests and counter-protests. When administrators threaten or authorize the discipline or arrest of peaceful protesters on campus, they are silencing expression and censoring speech. Academic freedom cannot thrive in such an environment where freedom of expression is constrained.

Conclusions and Recommendations

The period following October 7, 2023, has been a challenging one for the academic community in Canada. It has tested our collective tolerance of opposing and controversial views and has exposed external threats to academic freedom and institutional autonomy. While most allegations of infringements of academic freedom that have arisen over this period have been resolved, there are important lessons to be learned about how institutions ought to have handled these cases in the first instance.

As argued above, administrations should have been more forceful in the defence of extramural academic freedom. The comments of academics on matters of general public interest should be protected. The only instance in which such comments might attract institutional sanction is if they violate the law or clearly demonstrate unfitness to teach or conduct scholarly research. Consequently, it is recommended that university and college administrations:

- Recommit to fully protecting academic freedom by defending the freedom of academic staff to express their views on matters of public concern on and off campus.
- Ensure that policies on harassment and discrimination are defined narrowly to capture only expression that violates the law and does not extend to controversial but lawful speech. This includes rejecting the adoption of broad definitions of antisemitism that conflate criticism of the Israeli government with harassing or discriminatory speech.
- Safeguard the independence of universities and colleges by refusing to comply with demands from politicians, donors, interest groups, or other parties that would interfere with academic freedom, including extramural academic freedom.
- Respect and uphold the essential right of academic staff and students to engage in peaceful protest and counter-protest, and restrict such activities only when there is clear, objective, and demonstrable evidence of danger to persons, serious violations of the law, and major disruptions to the essential operations of a university or college.
- Ensure that any institutional policies that may impact academic freedom, freedom of expression, and freedom of assembly are consistent with collective agreements and are not unilaterally imposed but are deliberated by the appropriate academic decision-making body.

For academic staff associations, collective agreement language should be reviewed with the aim of ensuring that extramural academic freedom – the right to comment on matters of public interest -- is explicitly recognized and protected. Collective agreements are legally enforceable contracts protecting the academic freedom rights of members.

Academic staff associations should also ensure that universities and colleges are far more judicious about imposing “non-disciplinary” leaves, particularly when academic freedom is implicated. Such leaves should only be justifiable when there is clear and reasonable evidence that a person’s presence on campus poses a real risk of harm to others or to property.

Concerning the targeted harassment of academic staff, academic staff associations and administrations should agree upon processes and procedures for protecting members. At the very least, when incidents of targeted harassment occur administrations should:

- Publicly condemn the harassment and defend the academic freedom of the targeted member.
- Provide immediate and ongoing support to academic staff who experience threats, including notifying campus security, blocking harassing email and phone messages, and informing relevant personnel.
- Develop general preventative measures to mitigate abuse.

Academic freedom is an individual right, but it exists to serve the public good. It allows for free and open inquiry necessary for the advance of knowledge and understanding. It protects the expression of controversial ideas that some may consider wrong or offensive, not just in an academic’s teaching, research, and service to the institution, but also in their contributions to public debate and discussion. The right to engage in extramural speech without institutional sanction is a crucial and indivisible component of academic freedom.

It is in times of conflict and deep division that our collective commitment to academic freedom is most put to the test. It is in everyone’s interest that we meet this test by placing dialogue and debate above censorship and repression. Central to this is the need for universities and colleges to refrain from sanctioning academic staff for expressing politically controversial views and instead launch a full-throated defense of their right, under principles of academic freedom, to do so.