

WRITTEN BRIEF

**THE HOUSE OF COMMONS STANDING COMMITTEE ON JUSTICE
AND HUMAN RIGHTS**

**ANTISEMITISM AND ADDITIONAL MEASURES THAT COULD BE
TAKEN TO ADDRESS THE VALID FEARS THAT ARE BEING
EXPRESSED BY CANADA'S JEWISH COMMUNITY**

Mark J. Sandler, LL.B, LL.D (honoris causa)¹

¹ This brief is submitted on behalf of Mr. Sandler as an individual. Mr. Sandler is the former National Chair of B'nai Brith League for Human Rights. He has served as senior counsel and in related roles at over 20 public inquiries/independent systemic reviews, including those examining how to police protests and how to promote bias-free policing. He has trained police officers and prosecutors on legal remedies to combat hate, chaired or participated in three hate crime conferences, and appeared before the Supreme Court of Canada and Senate and House of Commons Committees on legal issues relating to hate crimes. He currently leads a National Respectful Dialogue initiative for Canada's law community and has participated in Muslim-Jewish, Sikh-Jewish and Black-Jewish dialogues. He is a former part-time member of Ontario's Human Rights Tribunal.

On October 7, life completely changed for Canadian Jews. Of course, right-minded Canadians, not just Jews, deplored what Hamas had done. But almost immediately, and before a single Israeli soldier set foot in Gaza, protestors in Canada celebrated Hamas's barbarities. Those murdered included Israeli-Canadian Vivian Silver, a peace activist and founder of Women Wage Peace and the Arab-Jewish Center for Equality, Empowerment and Cooperation. She was involved, among other things, in ferrying children from Gaza to Israeli hospitals. What perversity of ideology, human behaviour and appalling ignorance explains the glorification and martyrdom of those who torture, behead and burn Jews alive? Or of those who brag about how many Jews they've slaughtered?

In an article entitled, "Confronting the Celebration of Barbarity", I describe the impact that the celebration of barbarity in Canada has had on me and the vast majority of the Jewish community, as well as the double standard and the distortion of history that have been employed to demonize the State of Israel, all of its citizens and Jews and Zionists, without distinction, worldwide.²

I am speaking to you in my personal capacity, as someone who has combatted antisemitism and other forms of hate, including anti-Muslim hate, for almost 40 years. However, to assist the Committee in its important work, I have also invited many groups, organizations and individuals who are deeply concerned about antisemitism to come together to assist in identifying and documenting the nature and scope of antisemitism in Canada, and to promote and participate in strategies to combat it. The informal coalition is called the Alliance Combatting Campus Antisemitism in Canada ("ALCCA") and you will receive briefs from each of its many members.

Through work with the alliance members, we have also compiled an electronic file folder documenting antisemitic incidents across Canada, particularly relating to university and college campuses or their students. This was done with the cooperation of NGOs represented on the previous panel. I have provided the Committee with a preview of this ongoing work in a hyperlink footnoted in my speaking notes.³ This preview highlights just a few egregious illustrations of what Jewish students and faculty are exposed to daily on campuses across Canada. Sadly, the alliance can provide many more illustrations, if requested. You've heard a few of them in the courageous testimony of Jewish students. Some of you have seen them first-hand. And all of you will read more about them in the briefs that will follow.

Sadly, antisemitic (and for that matter, anti-Muslim) hate crimes always increase during conflict in the Middle East. However, today, I wish to address the staggering, unprecedented overt antisemitism that now poisons schools and campuses and provide you 10 reasons why this hatred is so pervasive on campuses across Canada. If questioned, I can certainly elaborate on each.

1. The active involvement of **extremists and extremist organizations** in Canada, some student-based, who operate largely with impunity in Canada. They recruit both the malevolent and the ignorant to their cause.

² <https://www.linkedin.com/pulse/confronting-celebration-evil-mark-sandler-jlrct/?trackingId=LpEOkdP2qeb2wr0QNLReqA%3D%3Dhttps://www.linkedin.com/pulse/confronting-celebration-evil-mark-sandler-jlrct/?trackingId=LpEOkdP2qeb2wr0QNLReqA%3D%3D>

³ <https://flowcode.com/p/EJxRq10up>

2. Foreign money infused into Canada, and the use of Canada as a **major hub for extremist financing and money laundering worldwide.**

3. The **misuse of social media** by circulating misinformation, antisemitic tropes and historical distortions. This misuse is also orchestrated by extremists and foreign governments. Perhaps the most toxic platform is TikTok, a major or sole source for young people in North America of the news.

4. Radicalized faculty members who seek to **indoctrinate** students to uncritically accept the demonization of Zionism and Zionists and to reject the legitimacy of the very existence of Israel as a Jewish democratic state. This results in the marginalization of Jewish students who do not renounce their Zionism and normalizes antisemitic behaviour on and off campuses.

5. Related to the above, **the absence, in many classrooms of a culture that promotes respectful dialogue** on controversial issues and that encourages critical thinking and “active listening.”

6. The confusion, and often deliberate **obfuscation, of the distinction between protected speech and hate speech**, so as to immunize those who engage in hate speech or hate activities from accountability. See my article, “Dialogue v. Hatred”⁴

7. The **underuse and inconsistent use by law enforcement and prosecution services of existing criminal law tools** to address hate. This underuse emboldens hatemongers and their followers. Frequently, there appears to be a lack of common understanding among and between officers and prosecutors as to the applicability of these criminal tools, compounded by an imperfect understanding of antisemitism and the significance of certain activities, language or symbols.

8. The **failure by many school administrations to enforce their own codes of conduct** to protect students from harm. They also fail to utilize non-criminal legal tools to address those people or activities that create a poisoned environment for students, faculty and staff.

9. The use of **slogans that incite violence, promote hatred, and mirror unequivocal jihadist language and activities.**

10. Mainstream media stories that (a) minimize or ignore pro-Israel perspectives; (b) subject Hamas’s assertions to a lower level of scrutiny than Israeli assertions (c) treat unsupported assertions as fact; (d) repeatedly fail to correct or give appropriate attention to the disproof or undermining of inflammatory assertions about Israel.

RECOMMENDATIONS OF MEASURES THAT COULD BE DIRECTLY TAKEN BY THE FEDERAL GOVERNMENT OR THAT THE FEDERAL GOVERNMENT COULD OTHERWISE PROMOTE OR SUPPORT: (1) Promote respectful dialogue initiatives within governments, on campuses and in professions.⁵

(2) Promote the placement of conditions on educational funding to incentivize the development of respectful dialogue strategies and safe spaces.

⁴ <https://www.linkedin.com/pulse/confronting-celebration-evil-mark-sandler-jlrhc/?trackingId=LpEOkdP2qeb2wr0QNLReqA%3D%3D>

⁵ <https://www.linkedin.com/pulse/open-letter-from-canadas-law-community-promoting-dialogue-sandler-8ogvc/?trackingId=hSpO%2F5AjcGi2xJ089gkVew%3D%3D>

- (3) In private and public sector partnerships, fund campus conferences on the rule of law and strategies to promote respectful dialogue on controversial issues.
- (4) Develop, through a national law enforcement task force, consistent, informed policies and frameworks respecting the use of the criminal law to combat hate.
- (5) Develop a robust coordinated strategy (involving multiple ministries and agencies) to urgently address the presence of extremists and extremist organizations in Canada and the use of Canada as a hub for extremist funding/money laundering. Do not overlook the Federal Investment Review Board's jurisdiction to evaluate whether foreign investment undermines national security.
- (6) Create "bubble legislation" (modelled on existing legislation to protect hospital sites) to address the safety of targeted communities. Such legislation may be created at all levels of government.
- (7) Implement the House's unanimous motion to declare the IRGC a terrorist organization.
- (8) Give the highest priority to the investigation of non-profit and charitable organizations that may be supporting extremism.
- (9) Adopt, at all levels of government, the IHRA working definition of antisemitism, and ensure that all policies, practices and legislation comply with and are informed by that definition. Police services, human rights commissions, educational institutions and analogous entities should make similar commitments, captured in policies, protocols, codes, procedures and legislation.
- (10) Ensure or promote appropriate education and training takes place to implement the recommendations relating to the IHRA working definition. This includes education and training of prosecutors and police officers on the distinction between protected and hate speech.
- (11) Ensure that diversity, equity and inclusion programs under federal jurisdiction not exclude Jews.
- (12) Ensure or promote the prosecution of allegations of hate crimes in major cities by designated teams of prosecutors, with appropriate training on antisemitism and other forms of hatred.
- (13) Facilitate the development, as a priority, by law enforcement agencies of a new nation-wide framework for policing protests and encampments that may involve hate speech or activities.
- (14) Reinforce that educational institutions are entitled to codify the appropriate "time and place" for protests, consistent with constitutional values, and with the obligation to create and maintain a safe space for all students. Also reinforce the right of educational institutions to terminate or otherwise sanction a faculty member for creating a poisoned environment for students in or outside the classroom⁶ and the obligation to remove signage on campus that may endanger students.⁷

Respectfully submitted,

Mark J. Sandler. LL.B. LL.D (honoris causa)

⁶ *Ross v. New Brunswick School District No. 15*, 1996 CanLII 237 (SCC), [1996] 1 SCR 825

⁷ *SAIA v. Carleton University*, 2013 HRTO 112