

# The Free Speech Exception. Support for Palestinian Rights Is Facing a McCarthyite Backlash.

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*Two weeks after Hamas attacked Israel, University of Pennsylvania President Elizabeth Magill issued a revealing salvo in the [war of the statements](#).*

Like many other university presidents, she mourned the deaths of Israelis without making any mention of Palestinian loss of life. (As of this writing, over 8,000 Palestinians have been killed—including more than 2,000 children alone.) This dehumanization of Palestinians is common enough to be unremarkable. What was revealing was that Magill's [statement](#) mentioned, and apologized for, a festival of Palestinian literature that had taken place weeks before, referencing the discomfort of some Jewish community members with speakers at the event in the same breath as Hamas.

In my role as an attorney at Palestine Legal, an organization which protects the constitutional and civil rights of people in the United States who speak out for Palestinian freedom, I [advised](#) organizers of the [Palestine Writes Literature Festival](#) that Magill mentions. (I also attended the festival.) Beyond the free speech issue—what in First Amendment parlance is called viewpoint discrimination—what struck me was the bigoted anti-Palestinian nature of the censorship campaign that sought to ban speakers or prevent the festival from taking place. Pro-Israel groups fear-mongered to local papers that the presence of speakers who supported Palestine posed a threat to the Jewish students housed nearby. At the event itself, police stationed themselves outside the venue as elderly Palestinian aunties and families with children streamed in.

And all this took place *before* October 7.

Since then, my office has received a tsunami of requests for legal help from people who have been fired, doxxed, canceled, censored, and physically threatened for speaking out for Palestinian freedom. No profession is untouched. We've received over 370 calls from

lawyers, doctors, journalists, professors, teachers, students, and other workers in nonprofits, government, and the corporate world who have been fired, locked out of email accounts, questioned, or put on leave for signing open letters or retweeting material criticizing Israel or otherwise not sufficiently marching in lockstep behind Israel's actions.

The range of targets spans [Starbucks workers](#), [Harvard students](#), [MSNBC reporters](#), [Pulitzer Prize winners](#), [editors of science journals](#), and [the Hadids](#). 92NY [canceled](#) a talk by Viet Thanh Nguyen after he signed an open letter in the *London Review of Books* supporting Palestinian rights. Events promoting Nathan Thrall's *A Day in the Life of Abed Salama* have likewise been [canceled](#) because the book dared to humanize Palestinians. Hollywood agent Maha Dakhil [was forced to apologize and resign](#) for calling what Israel is doing genocide, though groups like the Center for Constitutional Rights (CCR) have [said the same](#). *Artforum* editor David Velasco has been [fired](#) after the magazine published a letter in support of Palestinian liberation.

This repression amounts to a McCarthyite backlash. The climate of censorship, suppression, and intimidation resembles the aftermath of 9/11; it is what the CCR and we at Palestine Legal have called the "[Palestine exception to free speech](#)"—the "real [cancel culture](#)," or [whatever you want to call it](#)—in action.

At a time when Israel has ordered 1 million Palestinians to leave northern Gaza—the literal definition of ethnic cleansing—and continues to mount air and ground assaults, it's important to understand that the underlying [erasure of Palestinian suffering](#) that undergirds all of this is a form of [anti-Palestinian racism](#). In cases where university administrators have tried to support Palestinian students by expressing symmetric concern for lives lost in both Israel and Gaza, big donors and lobby groups complain that there is not enough sympathy for Israeli victims of Hamas's attack. While universities have been swift to condemn Russia's occupation of Ukraine and to support Black or Asian students faced with racist attacks, there is [often radio silence](#) when it comes to the suffering of Palestinians. Palestinians, and those who believe they are human beings deserving of rights, are appalled at their institutions' double standards.

And it's not just universities. Last week the U.S. Senate [passed a resolution](#) condemning Students for Justice in Palestine chapters for statements critical of Israel (which it called a form of "solidarity with the terrorists"). Lamenting the loss of Israeli life, the resolution said nothing about the rights of Palestinians.

Thousands have taken to the street to protest in support of a ceasefire. Students are organizing. Artists and writers, as they have done throughout history, are [speaking out](#). These are people who have acted as our conscience in moments of grave injustice, often at great personal risk. All of this is in addition to the hundreds of regular people without a large audience who have been fired for a tweet, for condemning genocidal statements for what they are, or for simply asking their bosses to express equal concern for the lives of Palestinian civilians.

If we had truly open and informed debate, where journalists were able to accurately report this issue—where students, professors, and artists could write articles and publish freely without fear of employer retaliation—how might U.S. policy change? Would our elected officials stay Israeli airstrikes? Might we be able to stop the ongoing killing and prevent the mass tragedy unfolding before us? Free speech on behalf of Palestinian rights has never

been more important than it is now.

Employment attorneys, civil rights attorneys, and First Amendment attorneys—among others—will be challenging many of these actions in the coming weeks. But the legal process is often slow, and not every bad act has a remedy in law. Every writer who is canceled should not have to sue for breach of contract; student groups should not need a team of attorneys just to hold a talk, and professors should not need to retain counsel before posting to Instagram. Even if we had an army of lawyers to represent each individual who is targeted, the chilling effect is real: people will self-censor. Combating this injustice requires social change. That means everyone—journalists, artists, students, teachers, professors, anyone with a social media account or the ability to take to the streets—using the tools at their disposal to stop the censorship campaign and the ethnic cleansing that is taking place.

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**Radhika Sainath** is a senior staff attorney at Palestine Legal. Together with the Center for Constitutional Rights, she brought a landmark lawsuit against Fordham University after it refused to grant club status to Students for Justice in Palestine.

Featured image: Students rally for Palestine at Harvard University on October 14th, 2023. (Source: Rick Friedman / Alamy Stock Photo)

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