

Country Visit: CANADA

ENGLISH only

October 1-5, 2018

**Report of Rabbi Andrew Baker
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In a departure from previous Country Visits, on this occasion we held meetings in three cities: Toronto, Montreal and Ottawa. This allowed us to have discussions with key civil society leaders in the two cities with the largest concentration of Jews as well as in the national capital. However, while in Toronto we also met with officials from the Provincial Government and in Montreal with representatives of the city government. Thus, we gained some insight into how the issues that primarily concerned us were manifest and dealt with at these various levels.

Concerns of the Jewish Community

The Jewish population in Canada is about 380,000, with about 200,000 in Toronto and about 85,000 in Montreal, and smaller numbers around the country.¹ Major civil society organizations associated with the Jewish community with whom we met included the Center for Israel and Jewish Affairs (CIJA), B'nai Brith Canada, the Canadian Jewish Holocaust Survivors and Descendants Organization, the Canadian Anti-Hate Network, and J Space.

Community representatives of these organizations offered a similar picture of anti-Semitism in Canada originating from several sources, while not necessarily agreeing on where the emphasis should be placed. Some in Toronto believe that the election of a center-right Provincial government has opened the door to an increase in racist discourse, aided in the process by the influence of American media coverage of President Trump's controversial statements at the time of the Charlottesville neo-Nazi demonstrations and at other occasions. B'nai Brith's National League for Human Rights 2017 Annual Audit of Antisemitic Incidents states, "The aftershocks of Charlottesville were felt here in Canada, as the Jewish community endured a massive wave of vandalism featuring swastikas and other pro-Nazi imagery." Jewish leaders singled out the mayoral campaign of Faith Goldy in Toronto, whose incendiary racist and xenophobic campaign rhetoric was not forthrightly condemned by provincial leaders. Meanwhile the B'nai Brith Audit of 2017 recorded a second consecutive year in which record numbers were recorded. This was primarily in acts of vandalism, but violent incidents increased as well. "Antisemitism has grown as a serious concern for Canadian Jews," they concluded.²

¹ "Basic Demographics of the Canadian Jewish Community." *Centre for Israel and Jewish Affairs*. <https://cija.ca/resource/canadian-jewry/basic-demographics-of-the-canadian-jewish-community/>. Posted 14 June 2012. Accessed December 2018.

² Koren, Daniel. "Another Record-Setting Year for Antisemitism in Canada, B'nai Brith Audit Finds." *B'nai Brith Canada*. https://www.bnaibrith.ca/another_record_setting_year_for_antisemitism_in_canada_b_nai_brith_audit_finds. Posted 24 April 2018. Accessed December 2018.

Concerns described by Jewish Community representatives also focused on left-wing anti-Semitism and anti-Semitic incidents traced to extremist Muslim sources. They described incidents on several Canadian university campuses where Jewish and Israeli students have been harassed or faced calls to violence. They report that at schools such as McGill University students must hide their Jewish identity or relations to Jewish organizations if they want to be elected to student leadership positions, leaving them in “emotional turmoil.”

The United States announcement in December 2017, that it would move its embassy to Jerusalem sparked “furious rallies in Canadian cities,” according to B’nai Brith, that led to a physical assault on a Jewish teenager.

Canada’s previous government by signing the Ottawa Protocol on Combating Anti-Semitism in November 2010, endorsed the EUMC Working Definition of Anti-Semitism, which enumerates various examples including how anti-Semitism may manifest itself with regard to the State of Israel, and the official Global Canada website says it supports the definition. However, Jewish leaders want to see the Canadian Human Rights Commission put it to use. They say this would result in it being used by police and other authorities on a local and Provincial level.

Several community leaders referred to the anti-Semitic sermon delivered by an Imam in a Montreal mosque calling for the murder of Jews. Canadian legislation declares such hate speech to be illegal, but prosecution must be initiated by the Provincial Attorney General, and in this case the Attorney General refused to do so. There seemed to be a consensus among our Jewish organization interlocutors that there is a heightened level of anti-Jewish attitudes among Canadian Muslims, and this could be ameliorated through increased Muslim-Jewish dialogue and cooperation. However, views differed as to the political nature of certain Canadian Muslim organizations and whether that would make them acceptable partners for direct engagement.

Jewish Community leaders in Montreal explained that some of the problems they faced were attributable to the unique situation of the French-speaking Province. If other (English-speaking) Provinces are affected by the political climate in the US, Quebec is more influenced by developments in France. In this regard, attitudes in Quebec have paralleled developments in France, and a newly-elected Provincial Government had made election promises to enact secularity legislation that would ban government employees and possibly others from wearing religiously-identifiable clothing or objects.³ Although this would seem to run counter to the protections guaranteed by the Canadian Charter of Rights and Freedoms, Provincial legislatures have the right to enact such legislation on a temporary basis. The exhortations to a “multicultural” Canada, which are heard regularly in the rest of the country, are viewed differently in Quebec, we are told. They see such calls as diluting the special—and equal status—that Francophone culture has with the country’s English-speaking majority. The new

³ Guly, Christopher. “Quebec public workers face religious clothing ban under secularism law.” *The Telegraph*. <https://www.telegraph.co.uk/news/2018/10/04/quebec-public-workers-face-religious-clothing-ban-secularism/>. Posted 4 October 2018. Accessed December 2018.

government has also promised to restrict the number of new immigrants entering the province. While these views are not anti-Semitic per se, they are cause for concern for the Jewish Communities in Quebec, which are largely comprised of an older, English-speaking generation and more recent arrivals who trace their origins via France to French-speaking communities in North Africa.

All the Jewish organizations report they have close and cooperative relations with government authorities on all levels of government. They say that authorities have taken note of the special security concerns they face and provide some funds to help address those needs. Some say that part of the problem lies in the government viewing them through the prism of “public engagement” (with the country’s diverse minority groups) rather than via “public safety” assessments and needs.

Leaders also noted the prominent role played by two Jewish MPs—Anthony Housefather of Montreal and Michael Levitt of Toronto—who serve as de facto point persons for Jewish concerns in Parliament.

There is a Holocaust museum in Montreal and a memorial to Holocaust victims in Ottawa. Canada marks the public observance of Holocaust Remembrance Day, and a (declining) number of survivors will tell their personal stories to students in schools around the country. Some months after this Country Visit, Prime Minister Justin Trudeau delivered a moving, public apology for Canada’s shameful role in turning away the S.S. St. Louis, a ship with Jewish refugees fleeing Nazi Germany during the Holocaust.⁴

Provincial and Municipal Government Meetings

Officials at the Ontario Human Rights Commission, which focuses primarily on matters of discrimination, describe a “passive” approach to the subject of hate crime incidents. When it comes to data, they rely on the victim communities to report incidents and the police to record them. They say police are not regularly meeting with communities to inform and encourage them to report. OHRC says that most police officers receive very limited training on hate crimes and human rights as part of their police college curriculum (only half a day in a three-month course), and as such there is limited tracking or follow-up to hate crimes.

In recording complaints on discrimination based on creed (a somewhat broader category than religion) OHRC finds that 35% come from Muslims, 35% from Christians of all denomination, and 10.7% from Jews.⁵ As Jews account for only 1 percent of the population, this number is significant.

⁴ Porter, Catherine. “Trudeau Apologizes for Canada’s Turning Away Ship of Jews Fleeing Nazis.” *The New York Times*. <https://www.nytimes.com/2018/11/07/world/canada/trudeau-apology-jews-st-louis.html>. Posted 7 November 2018. Accessed December 2018.

⁵ “Human rights and creed research and consultation report.” Appendix 22.2 Number and percentage of HRTD applications citing creed by creed affiliation (2011-2012 fiscal year). Ontario Human Rights Commission. <http://ohrc.on.ca/en/human-rights-and-creed-research-and-consultation-report/appendices-22>.

It is notable that Montreal, which has one of the most diverse populations (50 percent are immigrants or the children of immigrants) only established a hate crime unit in its police department in 2015. This followed an international “Living Together Summit” hosted by the municipality.⁶ This new unit not only investigates hate crime incidents, but it also has a mandate to focus on prevention. Thus, they communicate on a regular basis with minority communities. The unit speaks weekly with representatives of CIJA, B’nai Brith, and other Jewish community bodies, and they in turn feel comfortable reporting incidents to the police. The police themselves are mindful of their own internal challenges to reflect the diversity of their city, as only 23% of the police force are women, while minorities account for only 10-15 percent.

That 2015 Living Together Summit, hosted by Montreal, led to several local initiatives, in addition to the police hate crime unit, including an office for diversity in city hall which promotes diversity in government hiring. The city population includes 65.8% Christians, 9.6% Muslims and 2.2% Jews.

Another city government initiative coming from that summit was the establishment of the Center for the Prevention of Radicalization Leading to Violence. The Center is a non-profit organization, independent of government agencies but funded by the government. It was established in response to concerns about terrorist attacks stemming from individuals radicalized because of religion or because of right-wing political views. It is premised on the belief that friends, family and co-workers of such people may have important information but are reluctant to share this with law enforcement personnel. The Center takes a “mental health” approach to the problem and maintains a 24 hour/7 day a week help line, answered by professionals trained in counseling and psychology.⁷ They field 200 calls a year, of which 50 require some (over the phone) counseling and another 50 require direct intervention. The Center maintains a strict policy of not sharing any of its information with police, except in the rare situation where it concludes that there is the danger of an imminent violent attack.

FEDERAL GOVERNMENT MEETINGS (OTTAWA)

Statistics Canada

Statistics Canada is the federal agency charged with collecting nation-wide data covering a broad array of social and economic matters, including health, education, crime, housing, labor, manufacturing, and agriculture, among them. Notably for our visit it has collected data on hate crimes in Canada since 2005. It also conducts regular (five-year cycle) surveys of 25,000

⁶ Sheridan, Kate. “Coderre pushes for new hate crimes unit.” *Montreal Gazette*. <https://montrealgazette.com/news/local-news/mayor-coderre-wants-montreal-police-to-create-new-hate-crimes-unit>. Updated 25 June 2015. Accessed December 2018.

⁷ “Approach.” *Centre for the Prevent of Radicalization Leading to Violence*. <https://info-radical.org/en/cprlv/approach/>. Accessed December 2018.

respondents to determine who in Canada faces discrimination and in what forms. When the census is next conducted in 2021, there will be detailed information on religion. As one official stated, “Our data is not anecdotal.” There are thirty-five university research centers in Canada that make use of its data.

Statistics Canada is also the point of contact for ODIHR on providing Canadian data on hate crimes. This data is provided by police across the country, and Statistics Canada reviews this for accuracy and quality in reporting. As already noted, the weak point in the data collection and reporting process lies in the uncertainty that victim groups are willing to report hate incidents to the police.

As part of a larger modernization process Statistics Canada is exploring alternative ways to monitor hate incidents. One possible approach is to use crowd-sourcing to solicit anonymous reporting, which allows for a rapid reporting of problem sites.

In 2017, Statistics Canada reported 2,073 hate crimes, 878 of which were based on race or ethnicity and 842 based on religion.⁸

Department of Justice

Our meetings with Justice Ministry officials focused significantly on the key provisions in the criminal code that sanction certain types of hate speech. These are Section 318, which addresses the advocacy or promotion of genocide against an identifiable group, and Section 319, which addresses the incitement of hatred against an identifiable group in a public place that is likely to lead to a breach of the peace and willful promotion of hatred against an identifiable group. [Note: An “identifiable group” is defined as a segment of the public distinguished by color, race, religion, national or ethnic origin, age, sex, sexual orientation, gender identify or expression, or mental or physical disability.]

In the case of advocating or promoting genocide or willful promotion of hatred, any prosecution first requires the consent of the respective (Provincial) Attorney General. For both offenses it must be proved beyond a reasonable doubt that the accused intended to advocate or promote genocide or to willfully promote hatred.

Offering a further explanation of how such hate speech cases may be prosecuted and why very few reach the courts, one ministry official explains that each of the words—willful, promotion and hatred—must have a high degree of certainty. Thus, it must be clearly intentional in nature and it must be a very explicit and detestable expression of hatred. In this way freedom of speech, while not absolute, is protected.

⁸ “Police-reported hate crime, 2017.” *Statistics Canada*. <https://www150.statcan.gc.ca/n1/daily-quotidien/181129/dq181129a-eng.htm>. Released 29 November 2018. Accessed December 2018.

The *Canadian Charter of Rights and Freedoms*, which is part of Canada's Constitution, guarantees freedom of expression, but under section 1 of the *Charter* this and other rights and freedoms are subject to reasonable limits that are "demonstrably justified" in a free and democratic society. Thus, such (sanctioned) speech must be (1) of low value, namely, contributing very little to the public debate, (2) presumed harmful, and (3) easily delineated from permissible speech. Thus, it may be that certain kinds of offensive speech can be deemed harmful (e.g., conspiracy theories about Jews) but it may not rise to the level of being sanctioned since it is not expressed in a manner reflecting a highly detestable hatred.

Under the Constitution of Canada, the decision whether to prosecute for most crimes, including the hate propaganda offenses, rests with the respective Provincial Attorney General, insofar as hate propaganda prosecutions are concerned the Federal Government provides no guidance to the provinces on when to prosecute for these offenses. [Note: B'nai Brith Canada believes that this decision-making process is opaque and has called for publicizing the internal guidelines, so the public is fully aware of what constitutes an offense.]

There were only a handful of cases of anti-Semitic hatred being brought in 2017, but the Jewish community has faulted authorities for either failing to prosecute the offending party or for doing so in an incomplete way. While employing the IHRA Working Definition of Anti-Semitism might be helpful, Ministry officials say they are unaware of it being used by any of the provincial criminal courts.

It was explained to us that Canada has what is termed the "notwithstanding clause" which allows Parliament or the legislature of a province to declare in an Act of Parliament or of the legislature that provisions of the Act shall operate notwithstanding a provision included in section 2 or sections 7-15 of the *Canadian Charter of Rights and Freedoms*. It has rarely been used and has never been used by the Federal Government, but (as we learned in Montreal) the incoming Government of Quebec has proposed legislation (modeled after France's secularity laws) that would ban the wearing of religious symbols in certain settings. This would otherwise be in violation of the principles of religious freedom, but "notwithstanding" this, it would be legal.⁹ The only restriction, we are told, is that such legislation is limited to five years, during which time there is certain to be another election and thus an opportunity for the voting public to chime in.

Heritage Canada (Minister of Heritage and Multi-Culturalism)

Within this Ministry is a branch focused on multiculturalism. (It had formerly been part of the Citizen and Immigration Ministry.)

⁹ "Section 33- Notwithstanding clause." The Canadian Charter of Rights and Freedoms. *Department of Justice, Government of Canada*. <https://www.justice.gc.ca/eng/csj-sjc/rfc-dlc/ccrf-ccdl/check/art33.html>. Accessed December 2018.

In 1971, Canada adopted an official policy of multiculturalism, that promoted a vision of Canada based on the values of equality and mutual respect with regard to race, national or ethnic origin, color and religion. This policy was enshrined into law in 1988. Thus, multiculturalism is recognized as a fundamental characteristic of Canadian heritage and identity. More than simply promoting tolerance for the country's minority groups, it works to promote diversity and inclusion and equal opportunity for individuals of all origins.

These commitments extend to several special initiatives, which include special funding for anti-racism efforts, addressing Black youth at risk, and enhancing local community efforts.

As part of its international engagement, the Ministry provides support for Canada's membership in the International Holocaust Remembrance Alliance (IHRA) and for meeting its commitments under the International Convention on the Elimination of All Forms of Racial Discrimination.

In the 2018 budget some \$23 million is provided over two years to enable the Ministry to conduct a country-wide review, including multiple cross-country consultations with a wide range of civil society organizations, toward the development of a new, federal anti-racism strategy. It is expected to promote intercultural and interreligious understanding and raise concerns about the country's indigenous peoples.¹⁰

However, our Ministry interlocutors are not sure if anti-Semitism is included as an explicit subset of this broad effort. We are also told that the Ministry is "exploring" the adoption of the IHRA Working Definition of Anti-Semitism, but details are lacking.

Global Affairs Canada (Foreign Ministry)

During a luncheon hosted by Deputy Minister Ian Shugart and in subsequent meetings with other Ministry officials the conversation focused on the issues addressed by the Office of Human Rights, Freedoms and Inclusion (OHRFI). Among the points noted:

1. While Canada no longer maintains a special Ambassador for Religious Freedom, it now addresses these issues in a department at the Ministry.
2. Special focus is being placed on the rights of indigenous peoples.
3. They are concerned about threats to democracy from growing political populism in both new and well-established democracies, not excluding the United States.
4. Concern about resurgent anti-Semitism was included in the G-7 Communique adopted in April.¹¹

¹⁰ "Minister Joly Launches New Funding for Community Support, Multiculturalism, and Anti-Racism Initiatives." *Canadian Heritage, Government of Canada*. <https://www.canada.ca/en/canadian-heritage/news/2018/06/minister-joly-launches-new-funding-for-community-support-multiculturalism-and-anti-racism-initiatives.html>. Posted 27 June 2018. Accessed December 2018.

¹¹ "G7 Foreign Ministers' Communique." G7 Ministerial Meeting: Building A More Peaceful and Secure World. *Canada's 2018 G7 Presidency*. <https://g7.gc.ca/en/g7-presidency/themes/building-peaceful-secure-world/g7-ministerial-meeting/g7-foreign-ministers-joint-communique/>. Posted 23 April 2018. Accessed December 2018.

5. The Ministry maintains a stakeholder network which includes representatives of the country's religious communities.

Public Safety Canada

Our meetings in this Department were confined to representatives of the Canada Center for Community Engagement and Prevention of Violence. Thus, we were unable to address questions of law enforcement and physical protection to those directly responsible for these matters.

The Canada Center for Community Engagement and Prevention of Violence was launched in 2016 with a \$35 million budget over five years to establish the center, including \$10 million in annual, ongoing funding. Through the Community Resilience Fund (CRD), the Canada Center provides program and project support for efforts to counter radicalization to violence across Canada, including those carried out by the Montreal Center for the Prevention of Radicalization Leading to Violence. The 2017 Public Report on the Terrorist Threat to Canada reported that the evolving threat environment is, "diffuse and complex." Among the threats facing Canada, the Report specifically noted both al-Qaeda/Daesh inspired terrorism and violent right-wing extremism.

Separately, Public Safety Canada has a Security Infrastructure Program, which funds security infrastructure for places of worship, including such things as fencing and security cameras.

The Ministry has a mandate to promote media literacy and increase consumer awareness. It engages with social media companies such as Twitter and Facebook to both remove hate messages and store them for possible prosecution.

There is a Cross-Cultural Round Table on Security which provides a place to discuss police training with civil society representatives. This type of civil society engagement is coordinated with Heritage Canada and its anti-racism efforts.

RECOMMENDATIONS

Hate crime units should be established in the police departments of major Canadian cities.

Increased attention should be given to the collection of hate crime data, including outreach to minority communities to encourage reporting and the disaggregation of this data to facilitate measuring incidents of anti-Semitism and other targeted hate crimes.

Use of the IHRA Working Definition of Anti-Semitism should be encouraged in Federal and Provincial bodies, including both Human Rights Commissions and law enforcement agencies.

Consideration should be given to the presentation of ODIHR's Jewish Community Security Guidelines to police trainers in Canada.

Canadian universities (through provincial ministers of advanced education?) should better understand the nature of anti-Semitism on campus today, which includes problems related to BDS and other anti-Israel activities.

Anti-Semitism should be identified as a specific category as part of Heritage Canada's cross-country consultations and development of a national anti-racism action plan.

MEETINGS:

Canadian Anti-Hate Network
Mr. Bernie Farber

The Canadian Jewish Holocaust Survivors and Descendants Organizations
Mr. Sidney Zoltak

B'nai Brith Canada
Mr. Harvey Levine (Regional Director, Quebec)
Mr. Brian Herman (Director of Government Relations, Ottawa)

Centre for Israel and Jewish Affairs (CIJA)
Mr. Shimon K. Fogel (CEO)
Mr. David Ouellette (Director, Research and Public Affairs, Antisemitism Working Group)
Ms. Eta Yudin (Vice-President, Quebec)
Mr. Richard Marceau (Vice-President, External Affairs and General Counsel, Ottawa)

Ontario Education Equality Secretariat
Mr. Patrick Case (Assistant Deputy Minister and Chief Equity Officer)
Ms. Denise Dwyer (Assistant Deputy Minister of the Indigenous Education and Well-Being Division)

Ontario Human Right Commission
Ms. Renu Mandhane (Chief Commissioner)
Mr. Jagtaran Singh (Executive Advisor)
Mr. Shaheen Azmi (Director of Policy, Education, Monitoring and Outreach)
Mr. Jeff Poirier (Senior Policy Analyst)
Mr. Remi Warner (Senior Policy Analyst)

Montreal City Hall
Ms. Magda Poeanu (Vice President of the Executive Committee Member)
Ms. Alia Hassan-Cournol (Advisor, Mayor's office)

Mr. Alain Lavoie (Community Development Advisor, Service de la Diversité sociale et des Sports)
Ms. Véronique Lamontagne (International Relations Advisor, Office of International Relations)
Mr. Esteban Benavides (Coordinator of the International Observatory of Mayor on Living Together / International Affairs Advisor, Office of International Relations)
Mr. Jarryd Nmichi (International Relations Advisor, Office of International Relations)

Service de Police de la Ville de Montreal (SPVM) – Hate Crimes Unit, Urban safety and prevention

Ms. Line Lemay (Lieutenant Detective)
Ms. Janie St-Pierre (Advisor/Officer)

Montreal Centre for the prevention of radicalization leading to violence (CPRMV)
Mr. Benjamin Ducol (Research Manager)

Statistics Canada

Mr. Marc Lachance (Director Social and Aboriginal Statistics Division)
Mr. Jean-Pierre Corbeil (Assistant Director Social and Aboriginal Statistics Division)
Ms. Patrice Martineau (Chief, International Cooperation and Corporate Statistical Methods Division (SDG))
Ms. Rebecca Kong (Chief, Canadian Centre of Justice Statistics)
Mr. Warren Silver (Canadian Centre of Justice Statistics)
Mr. Nicolas Rahal (International Cooperation and Corporate Statistical Methods Division)

Department of Justice Canada

Mr. Eric Nielsen (Counsel, Human Rights Law Section, Public Law and Legislative Services Sector)
Mr. Glenn Gilmour (Counsel, Criminal Law Policy Section)
Ms. Bonnie Lidstone (Principal Analyst, International Relations & Consultations, Intergovernmental and External Relations Division)

Department of Canadian Heritage

Ms. Lisa-Marie Inman (Director General, Multiculturalism Branch)
Ms. Amanda Sharaf (Director, Multiculturalism Policy, Multiculturalism Branch)

Global Affairs Canada

Mr. Ian Shugart (Deputy Minister of Foreign Affairs)
Mr. Mark Gwozdecky (Assistant Deputy Minister, International Security and Political Affairs)
Mr. Troy Lulashnyk (Director General, North Africa, Israel, West Bank/Gaza)
Ms. Shelley Whiting (Director General, Office of Human Rights, Freedoms & Inclusion)
Mr. David Manicom (Assistant Deputy Minister, Settlement and Integration, Immigration, Refugees and Citizenship Canada)
Ms. Giuliana Natale (Director, Inclusion and Religious Freedom Division)

Mr. Mark Selby (Deputy Director, Freedom of Religion or Belief, Inclusion and Religious Freedom Division)

Mr. David Nelson (Deputy Director (NATO/OSCE), Security and Defense Relations Division)

Ms. Blair Brimmell (Senior Policy Analyst, Security and Defense Relations Division)

Public Safety Canada, the Canada Centre for Community Engagement and Prevention of Violence

Mr. Jason Gaudet (Manager of Policy)

Mr. Michael King (Senior Research Advisor)

Ms. Suzanne Waldman (Senior Research Analyst)

Mr. Assim Chaudhary (Junior Policy Analyst)

Mr. Andrew Ager (Senior Research Analyst)

Mr. John Morton (Senior Policy Advisor, International Affairs Division)

Other

Professor Irwin Cotler

Israeli Ambassador Nimrod Barkan

Ms. Karen Mock, Human Rights Consultant