



Submission to the Special Rapporteur on Freedom of Opinion and Expression

Concerns Regarding Italy's Draft Bill DDL 1004 and Its Implications for Freedom of Expression

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Summary of the Submission

This submission examines the infringements of freedom of expression that result from overly broad definitions of antisemitism which place restrictions on or criminalise speech that constitutes legitimate criticism of the Israeli government. It focuses on Italy's [Draft Bill DDL 1004](#) (the 'Bill'), which seeks to incorporate a broad definition of antisemitism, and the consequential risk of violations of the right to freedom of expression and opinion. It highlights that such wide restrictions do not meet the standards envisaged by international law for legitimate restrictions on hate speech and underscores the potential chilling effect thereof. This is contextualised by highlighting the presence of similar measures in respect of speech criticising the actions of the Israeli government – particularly in Gaza and the West Bank – throughout the world. These examples demonstrate how the right to freedom of religion and protections against hate speech can be instrumentalised to limit free speech impermissibly.

It is vital to note that these restrictions on speech concerning the actions of the Israeli government come amidst the backdrop of severe violence, human rights violations and violations of international humanitarian and criminal law resulting from the actions of Israeli forces in Gaza and the West Bank. Since October 2023 – the beginning of Israel's war on Gaza – the Israeli Defence Forces have, according to the Gaza health ministry, killed more than 74,000 Palestinians in Gaza and more than 1,000

Palestinians in the West Bank.¹ These killings, combined with intensified violence and forced displacement, have led the UN to raise serious concerns over ethnic cleansing.² Most recently, the UK Government has concluded that settlers in the West Bank have perpetrated ethnic cleansing.³ The Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel has found that Israel committed genocide in Gaza from 7 October 2023 until at least 31 July 2025.⁴ Moreover, Israel has been found responsible for actions that severely restrict the right of the media to report freely on its actions in Gaza and the West Bank. This includes the killing of at least 230 journalists and media personnel since 7 October 2023.⁵ There have been minimal attempts at justice for the actions of the Israeli government and forces, and the UN OHCHR has highlighted the ‘*pervasive climate of impunity*’ for gross human rights violations and serious violations of international humanitarian law.⁶

Considering the important context above, this submission analyses:

- A. Relevant International Law.
- B. Human Rights Concerns Relating to the Bill, with Particular Reference to Freedom of Expression.
- C. International suppression of legitimate speech critiquing Israeli government actions.

A. Relevant International Law

Freedom of expression

Article 19 ICCPR

1. Article 19 of the International Covenant on Civil and Political Rights (the ‘ICCPR’) protects the rights to hold opinions without interference, and to seek, receive and impart information and ideas of all kinds (the right to freedom of expression).⁷ The right to freedom of expression is not absolute. This means that limitations on this right are permissible where these meet the tests of legality, legitimacy and proportionality.
2. Among other things, the legality requirement necessitates that legislation be formulated with sufficient precision to enable individuals to regulate their behaviour accordingly.⁸ Where this is

¹ Al Jazeera, ‘Three years of Israel’s genocide in Gaza: In numbers’,

<https://www.aljazeera.com/news/2026/10/7/three-years-of-israels-genocide-in-gaza-in-numbers>.

² UN Human Rights Council, ‘Human rights situation in the Occupied Palestinian Territory, including East Jerusalem, and the obligation to ensure accountability and justice’ UN Doc A/HRC/61/26 (16 March 2026), §58.

³ GOV.UK, ‘Foreign Secretary Oral Statement on Israel-Palestine’,

<https://www.gov.uk/government/speeches/foreign-secretary-oral-statement-on-israel-palestine>.

⁴ UN Human Rights Council, ‘Legal analysis of the conduct of Israel in Gaza pursuant to the Convention on the Prevention and Punishment of the Crime of Genocide’, UN Doc A/HRC/60/CRP.3 (16 September 2025) §§251-255.

⁵ International Federation of Journalists, ‘War in Gaza: Israel must be held accountable’,

<https://www.ifj.org/war-in-gaza>.

⁶ UN Human Rights Council, ‘Human rights situation in the Occupied Palestinian Territory, including East Jerusalem, and the obligation to ensure accountability and justice’ UN Doc A/HRC/61/26 (16 March 2026), §57.

⁷ UN Human Rights Committee, [General Comment No. 34 on Article 19](#) UN Doc CCPR/C/GC/34 (12 September 2011), §§9 and 11.

⁸ UN Human Rights Committee, [General Comment No. 34 on Article 19](#) UN Doc CCPR/C/GC/34 (12 September 2011), §25.

not the case, legislation will fail the test of legality and risks limiting free speech as individuals often self-censor or face legal repercussions for legitimate speech.

3. The UN Human Rights Council (the ‘HRC’) has emphasised that ‘*[p]rohibitions of displays of lack of respect for a religion or other belief system, including blasphemy laws, are incompatible with the [ICCPR]*’, unless where necessary under Article 20(2) (see below).⁹ It has noted also that Article 19 protects speech that is regarded as ‘deeply offensive’.¹⁰

Article 10 ECHR

4. The right to freedom of expression is also protected under Article 10 of the European Convention on Human Rights (the ‘ECHR’). As is the case under the ICCPR, Article 10 is not an absolute right. The ECtHR will assess whether an interference with the right to freedom of expression is ‘*prescribed by law*’, ‘*whether it pursued one of the legitimate aims*’ under Article 10(2), and whether the interference was ‘*necessary in a democratic society*’.
5. The European Court of Human Rights (the ‘ECtHR’) has emphasised that criminal law provisions, including those concerning alleged hate speech, must clearly and precisely define the scope of relevant offences.¹¹ This is necessary to prevent a state from having too wide discretion to prosecute these offences abusively.¹² Moreover, it is well-established that the ECtHR provides higher protections to political discourse and speech criticising government officials.¹³
6. It should be noted that the ECtHR has also considered the relevance of a speaker’s intent in its assessment of alleged hate speech.¹⁴

Article 11 of the EU Charter

7. Article 11 of the EU Charter of Fundamental Rights (the ‘Charter’) protects the right to freedom of expression. Under Article 52(3) of the Charter, the meaning and scope thereof is the same as guaranteed under Article 10 of the ECHR.¹⁵

Article 21 of the Italian Constitution

8. Article 21 of the Constitution of the Italian Republic states that ‘*[a]nyone has the right to freely express their thoughts in speech, writing, or any other form of communication*’.¹⁶

⁹ UN Human Rights Committee, [General Comment No. 34 on Article 19](#) UN Doc CCPR/C/GC/34 (12 September 2011), §48.

¹⁰ UN Human Rights Committee, [General Comment No. 34 on Article 19](#) UN Doc CCPR/C/GC/34 (12 September 2011), §11.

¹¹ [Savva Terentyev v. Russia](#) (App No. 10692/09), §85 and [Altuğ Taner Akçam v. Turkey](#) (App No. 27520/07), §93.

¹² [Savva Terentyev v. Russia](#) (App No. 10692/09), §85 and [Altuğ Taner Akçam v. Turkey](#) (App No. 27520/07), §94.

¹³ [Castells v. Spain](#) (App No. 11798/85) §43.

¹⁴ [Jersild v. Denmark](#) (App No. 15890/89) §31.

¹⁵ European Union Agency for Fundamental Rights, ‘Article 11 – Freedom of expression and information’, <https://fra.europa.eu/en/eu-charter/charter/article/11-freedom-expression-and-information>.

¹⁶ Senato della Repubblica, Constitution of the Italian Republic, pp. 8-9, https://www.senato.it/documenti/repository/istituzione/costituzione_inglese.pdf.

Right to freedom of religion

Article 18 ICCPR

9. Article 18 ICCPR protects the right to freedom of thought, conscience and religion. The measures envisaged in Article 20(2) ICCPR are important safeguards against infringement of the rights of religious minorities and of other religious groups to exercise the rights guaranteed by Article 18.¹⁷

Article 9 ECHR

10. Article 9 ECHR protects the right to freedom of thought, conscience and religion.
11. The ECtHR has found that the right to freedom from interference with the rights guaranteed by Article 9 does not always imply a right to bring legal proceedings against anyone who has offended an individual or group of individuals.¹⁸

Article 10 of the EU Charter

12. Article 10 of the EU Charter similarly protects the right to freedom of religion and its meaning and scope mirrors that of Article 9 ECHR.¹⁹

Article 19 of the Italian Constitution

13. Article 19 of the Constitution of the Italian Republic states that *‘[a]nyone is entitled to freely profess their religious belief in any form, individually or with others, and to promote them and celebrate rites in public or in private, provided they are not offensive to public morality’*.²⁰

Article 20 ICCPR

14. Article 20(2) ICCPR requires that states prohibit *‘the advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence’*. There is a high bar for this, and it is paramount that hate speech is only legislated against where it amounts to national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.²¹
15. The HRC has noted that this incorporates an intent requirement i.e. in the context of racism, there should be evidence of a desire to promote racism.²² Moreover, the HRC has affirmed that Article 20(2) ICCPR is compatible with Article 19, which means that any law implementing its provisions must comply with the requirements of Article 19.²³

¹⁷ UN Human Rights Committee, [General Comment No. 22 on Article 18 UN Doc CCPR/C/21/Rev.1/Add.4](#) (30 July 1993), §9.

¹⁸ *Tagiyev and Huseynov v. Azerbaijan* (App No. 13274/08).

¹⁹ European Union Agency for Fundamental Rights, ‘Article 10 – Freedom of thought, conscience and religion’, <https://fra.europa.eu/en/eu-charter/article/10-freedom-thought-conscience-and-religion>.

²⁰ Senato della Repubblica, Constitution of the Italian Republic, p. 8, https://www.senato.it/documenti/repository/istituzione/costituzione_inglese.pdf.

²¹ *Rabbae v. The Netherlands* (Comm. no. 2124/2011), 14 July 2016, Individual Concurring Opinion of Committee members Sarah Cleveland and Mauro Politi, §4.

²² *Faurisson v. France* (Comm No. 550/1993), 8 November 1996, §10.

²³ UN Human Rights Committee, [General Comment No. 34 on Article 19](#) UN Doc CCPR/C/GC/34 (12 September 2011), §11.

B. Human Rights Concerns Relating to the Bill, with Particular Reference to Freedom of Expression

16. The Bill contains an expansive definition of antisemitism, which risks restricting the capacity of individuals to exercise their right to freedom of expression to critique actions of the Israeli government.
17. The Bill incorporates the definition of antisemitism established by the Plenary Assembly of the International Holocaust Remembrance Alliance (the 'IHRA'), which includes vague terminology and has a potentially broad scope of application.²⁴ Although the explanatory notes to the definition notes that '*criticism of Israel similar to that levelled against any other country cannot be regarded as antisemitic*', the examples provided include definitions that could incorporate legitimate criticism of Israeli policy. For example, it designates as antisemitic '*drawing comparisons of contemporary Israeli policy to that of the Nazis*' or '*claiming that the existence of a State of Israel is a racist endeavour*'.
18. This, and other elements of the drafting of the Bill, raises numerous risks under international law in respect to the right to freedom of expression.
 - i. Risk of conflating antisemitism with legitimate political criticism
 19. The incorporation of the IHRA definition of Antisemitism into the Bill raises concerns about the potential blurring of the distinction between antisemitism and legitimate criticism of the State of Israel.
 20. There is a risk that criticism of Israeli government policies, military operations, occupation, or political ideology, as well as advocacy for Palestinian rights, could be interpreted as antisemitic even where the expression does not demonstrate hostility, prejudice or discrimination towards Jewish people. For example, the wording '*racist endeavour*' from the IHRA definition could result in speech criticising Israeli authorities for committing apartheid against Palestinians being deemed antisemitic, chilling legitimate speech on a political issue affecting human rights.
 21. While combating antisemitism is a legitimate and important objective, the definition must not be applied in a manner that associates criticism of a state or its policies with hatred directed at a religious or ethnic group.
 - ii. Protection of political expression on matters of public interest
 22. Political expression concerning armed conflict, state conduct, occupation, international humanitarian law, human rights and the right to self-determination lies at the heart of public debate and democratic accountability. Such expression should receive meaningful protection under the right to freedom of expression.
 23. An interpretation of the Bill that categorises controversial political positions as antisemitic without carefully examining their meaning, context and purpose risks restricting legitimate debate. Criticism of a government, calls for political change, advocacy for sanctions, and discussion of alleged violations of international law should not be treated as antisemitic merely because they concern Israel or the actions of Israel in Gaza and the West Bank.

²⁴ International Holocaust Remembrance Alliance, 'Working definition of antisemitism', <https://holocaustremembrance.com/resources/working-definition-antisemitism>.

24. The central concern is therefore the risk of an overbroad or insufficiently contextualised application of the definition.

iii. Legal uncertainty and the chilling effect on freedom of expression

25. Article 1(2) of the Bill incorporates the IHRA definition and its illustrative examples into the legal framework governing the Bill. Article 2 further provides for measures addressing antisemitism in online spaces, education, policing, public broadcasting and other institutional settings.

26. When the relationship between the definition and the legal consequences of particular forms of expression is insufficiently clear, individuals and institutions may be uncertain about the limits of permissible speech. Speakers may consequently refrain from expressing lawful opinions because they fear complaints, reputational damage, disciplinary action, professional consequences or the removal of their content.

27. This could have a chilling effect: individuals may self-censor even where their expression is lawful and no formal sanction is ultimately imposed. The risk is particularly significant for journalists, academics, students, researchers, civil society organisations and human rights defenders whose work involves scrutinising state conduct or discussing contested political issues.

iv. Online monitoring and content removal: risks to lawful expression

28. The Bill's provisions concerning online antisemitism may also have implications for freedom of expression if monitoring, reporting and content-removal systems operate without adequate procedural and substantive safeguards.

29. Where platforms or institutions rely on an overbroad interpretation of the IHRA definition, lawful expression may be incorrectly reported, restricted or removed. For example, material documenting alleged violations of international humanitarian law by Israeli authorities, or campaigns advocating sanctions against Israel, could be reported as antisemitic despite being directed at state conduct or political policy rather than Jewish persons as a group.

30. These matters could be exacerbated by automated moderation systems – including those that use artificial intelligence – and decisions made without adequate contextual assessment. The removal of online lawful material can infringe upon the right to information, restrict the right to political participation and undermine the ability of journalists, researchers and civil society organisations to scrutinise alleged human rights violations.

v. The relationship between freedom of religion and freedom of expression

31. The right to freedom of religion must not be used to justify restrictions on legitimate political expression simply because that expression concerns Israel, the actions of the Israeli government and armed forces in Gaza and the West Bank, or the exercise of Palestinian rights.

32. Freedom of religion and freedom of expression are both protected human rights. These must be interpreted and implemented in a manner that respects their respective scope and ensures that measures designed to protect one right do not unnecessarily or disproportionately interfere with another. It is legitimate for states to address anti-religious speech, but it must do so in line with the parameters of international law. This includes a requirement that any such speech constitutes incitement to discrimination, hostility or violence before it can be prohibited under the law.

33. The protection of Jewish people from antisemitism and the protection of legitimate political debate are not mutually exclusive objectives.

vi. Conclusion concerning the Bill

34. The principal human rights concern is that the Bill, by incorporating the IHRA definition into its statutory framework and providing for measures across multiple institutional settings, may create uncertainty about the boundary between antisemitism and legitimate political expression. Without sufficiently clear safeguards, this could lead to overbroad interpretation, inconsistent enforcement and a chilling effect on lawful speech concerning matters of significant public interest.
35. Combating antisemitism and protecting freedom of expression are compatible and equally important human rights objectives.

C. International suppression of legitimate speech critiquing Israeli government actions

36. There is a global trend of restrictions on free speech that expresses concerns about the actions of the Israeli government in Gaza and the West Bank, including on the basis that such speech is antisemitic.
37. In Germany, this has included the banning of some protests²⁵, the classification of the Boycott, Divestment, and Sanctions ('BDS') movement as antisemitic²⁶, and removal of state funding for organisations that support the BDS movement.²⁷ It should be noted that, in a case concerning the prosecution of eleven activists in France in 2009 for their protest in favour of BDS, the ECtHR found a violation of the right to freedom of expression due to a lack of relevant and sufficient reasons. The Court highlighted that *'it is the nature of political speech to be controversial and often virulent. That does not diminish its public interest, provided of course that it does not cross the line and turn into a call for violence, hatred or intolerance'*.²⁸
38. France has seen similarly restrictive actions against those who have protested Israeli government actions in Gaza and the West Bank. Immediately after the Hamas attacks on 7 October 2023, the French interior minister tried to ban all Palestinian solidarity demonstrations²⁹, a measure which was subsequently overturned.³⁰ Protestors still face violence from the police and the vaguely termed offence of *'glorifying terrorism'* has often been used against pro Palestine protestors even where they have not used language glorifying terrorism against Israel.³¹

²⁵ OHCHR, 'UN experts urge Germany to halt criminalisation and police violence against Palestinian solidarity activism', <https://www.ohchr.org/en/press-releases/2025/10/un-experts-urge-germany-halt-criminalisation-and-police-violence-against>.

²⁶ BBC News, 'Germany labels Israel boycott movement BDS anti-semitic', <https://www.bbc.com/news/world-europe-48312928>.

²⁷ Euronews, 'German cultural institutions turn on pro-Palestinian voices', <https://www.euronews.com/2023/12/20/german-cultural-institutions-turn-on-pro-palestinian-voices>.

²⁸ *Baldassi and others v. France* (App no. 1527/16 and 6 others), §79-80.

²⁹ PublicSenat, 'Gérald Darmanin ordonne l'interdiction des manifestations propalestiniennes', <https://www.publicsenat.fr/actualites/politique/gerald-darmanin-ordonne-linterdiction-des-manifestations-propalestiniennes>.

³⁰ PublicSenat, 'Gérald Darmanin ordonne l'interdiction des manifestations propalestiniennes', <https://www.publicsenat.fr/actualites/politique/gerald-darmanin-ordonne-linterdiction-des-manifestations-propalestiniennes>.

³¹ Orientxxi, '«Apologie du terrorisme ». Les pères fouettards des tribunaux jouent à faire peur', <https://orientxxi.info/apologie-du-terrorisme-les-peres-fouettards-des-tribunaux-jouent-a-faire-peur,7311>.

39. The Trump administration has also cracked down on free speech that critiques the actions of the Israeli government. For example, a federal court found that the US government's decision to target five pro-Palestinian student activists for deportation was an illegal action based on the students' speech.³² Thousands of students protesting Israel's war in Gaza have been arrested in universities across the US.³³
40. In the UK, the activist group 'Palestine Action' was proscribed as a terrorist group following a protest where members of the group broke into a military base and spray-painted military aircraft.³⁴ This has resulted in the arrests of thousands of protestors for non-violent protest, including holding up signs that state '*I oppose genocide. I support Palestine Action*'.³⁵

Conclusion

41. Overly broad definitions of antisemitism that do not incorporate the requirements of international law are a threat to the right to freedom of expression and a violation of international law. The Bill in Italy is a concerning manifestation thereof whose drafting fails to guarantee the right to freedom of expression as enshrined in the Italian Constitution, Article 19 ICCPR, and Article 10 ECHR.
42. It is imperative that the public, as well as the media and non-governmental organisations, can comment and express their views on the actions of the Israeli government, as they would the action of any government globally. It is unacceptable for criticisms of a government to be conflated with racial attacks, let alone to be criminalised on that basis.
43. Based on the elements described above, IBAHRI calls on the UN Special Rapporteur to consider an allegation letter to the Government of Italy.

³² NY Times, 'D.H.S. Cited Foreign Students' Writings and Protests Before Their Arrests', <https://www.nytimes.com/2026/01/22/us/politics/trump-rubio-student-speech.html>.

³³ BBC News, 'What do pro-Palestinian student protesters at US universities want?', <https://www.bbc.co.uk/news/world-us-canada-68908885>.

³⁴ OHCHR, 'UK: Palestine Action ban 'disturbing' misuse of UK counter-terrorism legislation, Türk warns', <https://www.ohchr.org/en/press-releases/2025/07/uk-palestine-action-ban-disturbing-misuse-uk-counter-terrorism-legislation>.

³⁵ BBC News, 'More than 500 arrests at Palestine Action Protest', <https://www.bbc.co.uk/news/articles/cp38z9lylddo>.