

The Tyranny of the Guilt Complex

The Dismantling of Freedoms in the Grip of Germany's Fight Against Antisemitism



WOLAS
WORLDWIDE LAWYERS ASSOCIATION



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Worldwide Lawyers Association - WOLAS

The Worldwide Lawyers Association (WOLAS) is an international organization founded by legal professionals and academics based in Türkiye. Headquartered in Istanbul, WOLAS operates globally to advance human rights advocacy and protect fundamental freedoms against systemic violations. Our platform remains open and inclusive to all dedicated practitioners engaged in this critical field.

At its core, WOLAS operates on the principle that the pursuit of truth is the absolute prerequisite for justice. We continuously examine established human rights discourses to identify systemic blind spots. By challenging these assumptions, we strive to cultivate a more holistic, inclusive, and effective framework for global justice.

Our methodology bridges theoretical rights-based advocacy with active legal practice. WOLAS systematically monitors and reports on human rights abuses, with a specific focus on regions experiencing humanitarian crises. We provide direct legal support to victims and stand resolutely alongside them to ensure accountability. To amplify this impact, we are building a robust global network of lawyers and human rights defenders. This network aims to foster a collective, systematic, and coordinated legal struggle.

Committed to the highest ethical standards, WOLAS leads rights-based initiatives to generate actionable change. Our broader mission encompasses raising awareness across international platforms, taking a firm stance against violations, providing specialized training for legal professionals, and mobilizing organized advocacy efforts.

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The Turkish version shall prevail as the authoritative text in all translated reports.

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Abbreviations

ECtHR	European Court of Human Rights
ECHR	European Convention on Human Rights
BDS	Boycott, Divestment and Sanctions
UN	United Nations
UDHR	Universal Declaration of Human Rights
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CDU	Christlich Demokratische Union (Christian Democratic Union)
FDP	Freie Demokratische Partei (Free Democratic Party)
GG	Grundgesetz (Federal Constitution of Germany)
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICCPR	International Covenant on Civil and Political Rights
IHRA	International Holocaust Remembrance Alliance
Art.	Article
SPD	Sozialdemokratische Partei (Social Democratic Party of Germany)
NGO	Non-Governmental Organization
StGB	Strafgesetzbuch (German Criminal Code)
WOLAS	Worldwide Lawyers Association

Introduction

The human rights situation in Germany has come under international scrutiny after Israeli attacks in Palestine escalated in 2023. Questions have arisen about whether policies to combat antisemitism are compatible with the right to freedom of expression. Although Germany has taken a leading role in addressing antisemitism due to its historical responsibility, it has faced significant criticism from human rights and democratic perspectives, particularly concerning the impact of these measures on pro-Palestinian demonstrations, freedom of expression, freedom of assembly and protest, boycotts, and related forms of speech.

Police intervened in protests, restricted the BDS (Boycott, Divestment and Sanctions)¹ movement, and participated in the adoption of the motion² numbered 20/13627 by the German Federal Parliament (Bundestag) in November 2024. This motion, titled “Never Again Is Now: Protecting, Preserving, and Strengthening Jewish Life in Germany” (*Nie wieder ist jetzt: Jüdisches Leben in Deutschland schützen, bewahren und stärken*) has intensified concerns. Authorities have criminalized critical voices on the Palestinian issue, which further raises serious concerns that democratic rights are being curtailed arbitrarily.

Demonstrations addressing serious human rights violations in Gaza and advocating for their resolution are occurring not only in Germany but also across Europe and other regions. Asserting that these protests are inherently linked to antisemitism constitutes an overgeneralization that misrepresents democratic values and obscures the actual experiences of Palestinians. The stigmatization of such protests as being motivated by “*antisemitic intent*”, coupled with their suppression through police violence, constitutes a direct interference with freedom of expression.

Motion 20/13627, adopted by the German Federal Parliament, is justified as a measure to protect against antisemitism and strengthen social cohesion. It is seen as one of Germany’s strictest parliamentary initiatives in this field. However, there

1 <https://www.bdsmovement.net/>, (Accessed: December 2, 2025).

2 Deutscher Bundestag, Drucksache 20/13627: Antrag der Fraktionen Spd, Cdu/Csu, Bündnis 90/Die Grünen und Fdp (20th legislative period, November 5, 2024).

are concerns that its implementation may infringe on freedom of expression, freedom of association, freedom of assembly and protest, the right to form associations, and principles of equality and non-discrimination.

This report employs the motion as an official case study to illustrate Germany's interventionist policies that restrict freedom of expression. It examines these restrictions in detail using concrete examples. Explicit references to the motion guide the analysis of its impact on freedom of expression, equality, assembly, demonstration, and association.

This report argues that labeling peaceful pro-Palestinian protests as criminal conduct is incompatible with democratic values and fundamental rights. Such characterizations may have serious implications for constitutional rights and freedoms. The report also emphasizes the importance of Germany's adherence to its constitutional framework and international human rights obligations. These rights are protected under the German Basic Law, the European Convention on Human Rights (ECHR), and the International Covenant on Civil and Political Rights (ICCPR).

The report provides an overview of the human rights climate in Germany by analyzing new regulations introduced under the framework of combating antisemitism by the governing Social Democratic Party (SPD), the Greens, the Free Democratic Party (FDP), and the opposition Christian Democratic Union (CDU). It further assesses the impact of these regulations on freedom of expression and the resulting restrictions on pro-Palestinian discourse.

The methodology of this report is based on open sources, including reports from international human rights organizations and media coverage, with a particular emphasis on witness testimonies. The Worldwide Lawyers Association (WOLAS) *Human Rights Monitoring Unit* collected these accounts through in-person interviews with victims and witnesses. To ensure security and prevent reprisals, the identities of these individuals remain undisclosed, and their statements are documented anonymously. This approach enhances the report's credibility while safeguarding witnesses and victims.



Figure 1: Regions with the highest density of rights violations emphasized in the report

Purpose of the Report

This report examines how Germany's efforts to combat antisemitism have affected fundamental rights and freedoms. It pays special attention to social and political developments since 2023. In democratic societies, the rights to peaceful assembly and freedom of expression are guaranteed by constitutions and international law. Restrictions on these rights are legitimate only in exceptional circumstances and must strictly comply with the principle of proportionality. Within this framework, the report seeks to systematically document human rights violations by comparing government and law enforcement practices with constitutional and international standards. As in many European countries, a range of peaceful protests have been organized in Germany to draw attention to the grave human rights violations taking place in Gaza. In recent months, however, it has been observed that German police have responded to these protests with excessive force. Incidents include demonstrators being dragged, having their mouths forcibly covered, and being detained with their hands bound behind their backs. These actions have caused controversy and raised serious questions about their compatibility with German Basic Law (*Grundgesetz*)¹ and international human rights law.

This report by WOLAS provides a critical evaluation of current practices in Germany in light of national and international legal norms. The report stresses that interventions by the government, opposition, and law enforcement under the pretext of “combating antisemitism” undermine democratic society and violate fundamental rights. This legal assessment not only documents human rights violations in Germany but also contributes to a broader international debate on the protection of human rights standards.

1 German Federal Parliament, Basic Law for the Federal Republic of Germany (*Grundgesetz*), (May 1949), <https://www.btg-bestellservice.de/pdf/80207000.pdf>, (Accessed December 2, 2025)

Framework and Methodology

This study evaluates interventions against pro-Palestinian demonstrations and organizational activities from both national and international legal perspectives. It uses open-source data, including testimonies from participants in peaceful protests, German-language media reports, and judicial decisions. For example, court rulings clarify legal debates about BDS-related event restrictions. Witness testimonies directly illustrate police interventions and arbitrary practices that affect freedom of assembly, association, and expression.

The report extends beyond legal analysis to contribute to protecting democratic values and to promote transparent evaluation of human rights practices in Germany. It offers a comprehensive evaluation of interventions affecting freedom of expression, assembly, and association, as well as discriminatory practices, drawing on concrete case studies and documented testimonies.

The study is grounded in a multi-layered methodological approach. The report's references include primary sources such as Federal Parliament documents, legislative texts, and official government statements, as well as secondary sources such as reports by United Nations Special Rapporteurs, reports by non-governmental organizations (NGOs), and academic studies. Interviews conducted with demonstrators and individuals who witnessed police interventions during pro-Palestinian demonstrations held in Germany in recent years are incorporated into the report. These interviews provide concrete evidence that the state has adopted policies that interfere with freedom of expression. Detailed accounts are presented regarding demonstrators' experiences during police interventions, including detentions and incidents of violence. In this context, the report substantiates concerns about restrictions on freedom of expression and the right to peaceful assembly in Germany, using illustrative examples and social media footage.

Legal Framework and Violations

The first five articles of the German Basic Law regulate fundamental rights as follows:

- Protection of human dignity and honor
- Right to life, protection of personality, and personal liberty
- Equality before the law; prohibition of discrimination
- Freedom of religion, conscience, and belief; the right to object military service
- Freedom of thought and of the press; freedom of art and science

Within this framework, freedom of expression is guaranteed under the first five articles of the German Basic Law and may be restricted only in cases involving the violation of others' rights or in accordance with statutory limitations.

In addition, freedom of expression is regulated through provisions of the German Criminal Code (Strafgesetzbuch, StGB). This freedom reaches its limits where it conflicts with the rights of others and with laws in force. Where appropriate, it may also be restricted for purposes such as protecting personal rights, protecting minors, and safeguarding individual dignity. For instance, under German practice, expressions constituting insult, hate speech, defamation, and racist, antisemitic, or anti-constitutional speech are not regarded as falling within the scope of freedom of expression and are subject to criminal sanctions. The dissemination of symbols and slogans associated with extremist groups is treated similarly and is likewise punishable. Germany's heightened sensitivity toward far-right discourse is also a consequence of its historical responsibility stemming from the legacy of the Holocaust. In particular, the denial of the Holocaust¹ is regarded as a direct attack on the fundamental values of the Federal Republic of Germany and is therefore subject to criminal penalties.

1 Teoman Ertuğrul Tulun, "An Assessment of the United Nations General Assembly Resolution on the Denial of the Holocaust" (Online paper, February 15, 2022), <https://osf.io/preprints/osf/tc4gd>, (Accessed: December 2, 2025)

In this section, human rights violations observed during peaceful pro-Palestinian protests in Germany will be examined within the framework of both German and international law and substantiated through witness testimonies and open-source information. Witness statements will be assessed in relation to the rights to assembly, demonstration, expression, and association, as well as the right to property, with reference to the relevant articles and paragraphs of the German Basic Law. Taking into account the guarantees provided by the ECHR and the ICCPR, the extent to which police and governmental practices interfere with these rights will be demonstrated. Witness testimonies and court decisions will serve as primary evidence to document violations in practice.

Freedom of Expression

Freedom of expression occupies a central position among fundamental rights and freedoms in both national and international legal systems. This right constitutes one of the indispensable pillars of democratic societies, as it enables individuals to freely express their opinions, access information, and share their views with others. The German Basic Law, ECHR, ICCPR, and UDHR recognize and safeguard freedom of expression at different normative levels.² Pursuant to Article 130 of the StGB:

2 United Nations, International Covenant on Civil and Political Rights (ICCPR), December 16, 1966, Arts. 1–2. “Everyone has the right to hold opinions and to receive and impart information and ideas without interference. Everyone has the right to disseminate their views through any medium. These rights may be subject only to certain restrictions prescribed by law, such as those necessary for reasons of national security, public order, public health, or the protection of the rights and freedoms of others.” Art. 19. “Everyone has the right to freedom of expression; this right includes the freedom to seek, receive, and impart information and ideas through speech, writing, print, or other means. This right provides protection against interference by public authorities. However, it may be subject to lawful restrictions for reasons such as national security, public order, the prevention of crime, the protection of health or morals, or the protection of the reputation and rights of others.” European Convention on Human Rights, 1950, Art. 10. “Everyone has the right to freedom of expression; this right includes the freedom to hold opinions and to receive and impart information and ideas without interference and regardless of frontiers, whether orally, in writing or in print, or through any other medium.”

“inciting hatred against a national, racial, religious or ethnic group, segments of the population, or an individual on account of their belonging to such a group or segment of the population, or calling for violent or arbitrary measures against them, in a manner capable of disturbing public peace” and “attacking human dignity by insulting, maliciously disparaging, or defaming a national, racial, religious or ethnic group, segments of the population, or an individual on account of their belonging to such a group or segment of the population, including by attributing knowingly false facts, in a manner capable of disturbing public peace” are punishable by imprisonment for a term ranging from three months to five years.³ Article 166 of the StGB, which concerns freedom of religion and belief, provides for punishment of insults against religious communities and of expressions that disturb public peace.

Freedom of assembly is not regulated directly under the StGB, but rather under specific legislation governing assemblies. Nevertheless, Article 111 of the StGB criminalizes incitement to commit criminal acts, including calls for violence or encouragement of criminal conduct during demonstrations. In addition, Articles 185 to 187 and Article 241 of the StGB provide for criminal liability for insults, defamation, and threats that exceed the limits of freedom of expression. Under Article 185 of the StGB, insult is punishable by up to one year of imprisonment or a fine; where the offense is committed publicly, at a gathering, through the dissemination of content, or by means of physical assault, the penalty may increase to up to two years of imprisonment or a fine. Pursuant to Article 186 of the StGB, entitled *Üble Nachrede* (Defamation), any person who asserts or disseminates a fact about another that is capable of degrading that person or harming their public reputation, where such fact cannot be proven to be true, is subject to up to one year of imprisonment or a fine; where the act is committed publicly, at a meeting, or through the dissemination of content, the penalty may extend to up to two years of imprisonment or a fine.

Within the context of this legal framework, the motion numbered 20/13627, adopted by the Federal Parliament in November 2024 and entitled *“Never Again Is Now: Protecting, Preserving, and Strengthening Jewish Life in Germany,”* has been the subject of extensive political and legal debate in international media and academic circles. This motion will also be examined in the present report as a case study

3 Elif Ergüne, “The Offence of Inciting Hatred or Hostility Against the Public or Degrading the Public in the Context of Endangerment Offences (Article 216 of the Turkish Criminal Code),” *Istanbul Hukuk Mecmuası*, (2020), 78(3), 1675.

within the framework of fundamental rights. While emphasizing a policy of “zero tolerance” toward antisemitism, the motion has had pronounced effects on freedom of expression, freedom of association, and freedom of assembly.⁴ The motion, jointly prepared by the SPD, CDU/CSU, Bündnis 90/Die Grünen and the FDP, is primarily justified by the perceived risk that protests held in Germany following the attacks carried out on October 7, 2023 by Hamas and other armed groups against Israel, and the subsequent Israeli military operations in Gaza, could lead to an increase in antisemitic incidents and a proliferation of anti-Israel demonstrations.⁵

The primary reason for the consensus reached by the German government and opposition parties on this motion lies in the effort to adopt a “zero tolerance” approach toward any antisemitic act that could evoke Germany’s Holocaust past or contribute to its recurrence. In this context, the motion’s text explicitly references developments that occurred after October 7. It is asserted that, since that date, Germany has experienced a significant increase in antisemitic crimes and rhetoric, which is claimed to have had a deterrent and intimidating effect, particularly on the Jewish community. The motion is further justified by reference to Germany’s obligations regarding Israel’s security as well as Germany’s historical responsibility. Supporters of the motion argue that antisemitic slogans and “calls for the destruction of Israel” cannot be assessed solely within the scope of freedom of expression, but rather constitute hate crimes and pose a threat to public order.⁶

The motion also emphasizes the need to adopt political and economic measures against the BDS movement. While the pro-Palestinian policies and actions of the BDS movement are characterized as a modern form of antisemitism, the motion further aims to prevent public funding and financial support for organizations and projects that call for boycotts of Israel or actively support the BDS movement. As a result, the question of whether opposition to BDS falls within the scope of freedom of expression has become a matter of considerable controversy. Ultimately, the proponents of the motion contend that BDS constitutes discrimination against Jews.⁷ In particular, the restrictions imposed on the BDS movement have sparked debate on the grounds that they allegedly conflict with Article 10 of the ECHR,

4 Deutscher Bundestag, Drucksache 20/13627 (n 2).

5 <https://www.bundestag.de/dokumente/textarchiv/2024/kw45-de-juedisches-leben-1027708>, (Accessed: December 2, 2025).

6 Deutscher Bundestag, Drucksache 20/13627 (n 2).

7 <https://www.bbc.com/news/world-europe-48312928>, (Accessed: December 2, 2025);

<https://www.middleeastmonitor.com/20220126-germany-federal-court-rules-anti-bds-policy-to-be-unconstitutional/>, (Accessed: December 2, 2025).

Article 5 of the German Basic Law, and established guarantees of freedom of expression. The motion has also been criticized for its potential to restrict academic freedom and civil society activities. Ralf Michaels (Max Planck Institute) has noted that the practical implementation of the motion would be difficult, that it could interfere with artistic and freedom of expression rights, and that framing the right to criticism through the definition adopted by the International Holocaust Remembrance Alliance (IHRA) is problematic.⁸ The IHRA definition of antisemitism states: “Antisemitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities.”⁹ By adopting this definition, the motion carries the risk of characterizing criticism of Israel as antisemitism, thereby creating a form of “disproportionate interference” in freedom of expression, academic freedom, and social freedoms.¹⁰ The motion further proposes sanctions, including the withdrawal of public funding. However, it must be emphasized that such measures risk undermining freedom of expression rather than effectively protecting Jewish life.¹¹

The motion calls on the federal government and opposition parties to adopt a more stringent stance toward pro-Palestinian protests, particularly in Berlin and other major cities, on the grounds that slogans used at such demonstrations allegedly contain antisemitic content. It advocates prohibiting antisemitic expressions in public spaces and banning related events. The motion emphasizes that Israel’s security constitutes part of Germany’s “*raison d’état*” [*reason of state*] and that the fight against antisemitism represents a historical obligation. This approach is presented as reflecting Germany’s moral responsibility arising from its Holocaust past and as equating anti-Israel slogans with antisemitism. For all these reasons, the motion underscores that protecting Jewish life forms an integral part of democratic values, that cultural and political measures are indispensable in combating

8 <https://www.dw.com/en/germany-passes-controversial-antisemitism-resolution/a-70715643>, (Accessed: December 2, 2025).

9 International Holocaust Remembrance Alliance, IHRA Working Definition of Antisemitism (non-legally binding working definition, adopted May 26, 2016), <https://holocaustremembrance.com/resources/working-definition-antisemitism>, (Accessed: December 2, 2025).

10 <https://www.german-foreign-policy.com/en/news/detail/9875>, (Accessed: December 2, 2025).

11 <https://www.iamexpat.de/expat-info/germany-news/what-germanys-new-antisemitism-resolution>, (Accessed: December 2, 2025).

antisemitism, that antisemitism has no place in a democratic society, and that the BDS movement is discriminatory in nature, thereby justifying the need to prevent its support by public institutions.¹²

The German Basic Law recognizes human dignity as inviolable and guarantees freedom of expression as one of the cornerstones of a democratic society. Established case law of the Federal Constitutional Court—most notably the *Lüth* judgment—has emphasized that freedom of expression is not merely an individual right, but also an indispensable element of public debate. This approach affirms that ideas themselves fall within the scope of constitutional protection. In recent years, however, certain academic and artistic expressions linked to criticism of Israel and associated with allegations of antisemitism have reopened debates regarding the limits of this constitutional protection. A striking example of this controversy is the cancellation of philosopher Nancy Fraser’s professorial appointment in Cologne on the grounds of her criticism of Israel. This decision has generated widespread concern regarding academic freedom. In May 2024, the University of Cologne revoked the Albertus Magnus Visiting Professorship it had offered to the American philosopher Nancy Fraser after she signed a letter expressing solidarity with Palestine. The university stated that Fraser’s views were incompatible with its academic cooperation agreements with Israel. Fraser has argued that this decision constitutes a restriction on academic freedom and that conflating criticism with antisemitism is dangerous.¹³

The Albertus Magnus Professorship is a special and highly symbolic title for the university. The termination of Fraser’s appointment, therefore, amounts to the arbitrary withdrawal of academic honor and duties on the basis of a scholar’s political views and expressions of social solidarity. This is manifestly inconsistent with the principle of protecting academic freedom under international standards, including the UNESCO Recommendation concerning the Status of Higher-Education Teaching Personnel (1997).¹⁴ The letter signed by Fraser represents a political opinion and a statement of solidarity. The university’s determination that such views are unacceptable in light of its cooperation with Israel effectively subordinates freedom of opinion and criticism to political and institutional interests.

12 <https://thinc-israel.org/articles/anti-bds-motion-passed-by-german-federal-parliament/>, (Accessed: December 2, 2025).

13 https://docs.google.com/document/d/1bAKcxp4rN7JuhzNpm_z4Pezb8cVGZ90E/edit, (Accessed: December 2, 2025).

14 UNESCO, Recommendation concerning the Status of Higher-Education Teaching Personnel, (November 1997), <https://www.unesco.org/en/legal-affairs/recommendation-concerning-status-higher-education-teaching-personnel>, (Accessed: December 4, 2025).

In recent years in Germany, particularly since 2023, it has been reported that approximately one quarter of the 84 cases targeted by allegations of antisemitism involved Jewish individuals or groups themselves. This development is closely linked to the expansion of the definition of antisemitism and the growing reliance on the IHRA definition. The potential of the IHRA definition to characterize criticism of Israel as antisemitism poses a significant threat to freedom of expression in both academic and civic spaces. In particular, under the IHRA definition, expressions directed at Israel are considered antisemitic¹⁵ when “the State of Israel is perceived as a Jewish collective”, a formulation that has led to the suppression of legitimate criticism. In this context, criticism is increasingly voiced that the IHRA definition undermines efforts to combat antisemitism by restricting freedom of expression.¹⁶

These developments demonstrate the need to safeguard freedom of expression and academic independence while combating antisemitism in Germany. It is essential that the IHRA definition not be used to suppress legitimate criticism and that it be applied with caution in order to remain an effective tool against antisemitism.¹⁷ Within the academic community, pro-Palestinian discourse or expressions critical of Israeli policies may be associated with the risk of potential career repercussions. Consequently, this situation may create a chilling effect on academics and researchers in expressing their views. It should therefore be noted that relying on a definition of antisemitism that is susceptible to such broad interpretation and acting in accordance with that understanding carries the potential to constitute a violation of freedom of expression in Germany under Article 10 of the ECHR and Article 19 of the ICCPR.

The ambiguity of the IHRA definition creates fertile ground for the silencing of critical voices. Instead, more nuanced and freedom-of-expression-compatible approaches, such as the Jerusalem Declaration on Antisemitism (JDA), should be adopted. The JDA defines antisemitism as follows: “Antisemitism is discrimination, prejudice, hostility or violence against Jews as Jews (or Jewish institutions as Jewish).”¹⁸ In this respect, the JDA offers a framework that more robustly safeguards freedom of expression and political pluralism. The Declaration further clarifies

15 IHRA Working Definition (n 12).

16 <https://rm.coe.int/ecri-general-policy-recommendation-no-9-revised-on-preventing-and-comb/1680a64f20>, (Accessed: December 2, 2025).

17 <https://perspektif.eu/2023/10/24/yahudi-aydinlardan-acik-mektup-her-israil-elestirisi-antisemitizm-degildir/>, (Accessed: December 2, 2025).

18 Jerusalem Declaration on Antisemitism (March 25, 2021) <https://jerusalemdeclaration.org/>, (Accessed: December 2, 2025).

what does not constitute antisemitism, stating that political criticism of Israel, rejection of Zionism, and pro-Palestinian advocacy should not be regarded as antisemitic, provided they do not involve hatred toward Jews.

The main differences between the two declarations can be summarized as follows: while the IHRA definition may, in certain circumstances, characterize criticism of Israel as antisemitic, the JDA regards such criticism as legitimate political expression. Similarly, criticism of Zionism is treated as suspect under the IHRA framework, whereas the JDA does not classify such criticism as antisemitism. Pro-Palestinian discourse may be considered antisemitic under the IHRA approach, while the JDA does not regard such expressions as antisemitic unless they involve hatred toward Jews. In terms of legal use, the IHRA definition has been formally adopted by governments and universities, whereas the JDA is primarily used in academic circles and lacks official status. Finally, regarding freedom of expression, the IHRA definition may be restrictive, whereas the JDA aims for a more expansive, pluralistic approach. These differences are of great importance for striking a balance between combating antisemitism and safeguarding freedom of expression.

Academic institutions have an obligation to guarantee the expression and discussion of diverse viewpoints. The Nancy Fraser case demonstrates a breach of this obligation and shows that the university failed to fulfill its responsibilities within the framework of democratic values. This incident also highlights the need to strengthen standards of academic independence and freedom of expression at universities in Germany. There are court decisions indicating that this situation arises not only within universities, but also in the application of freedom of expression in the public sphere.

The decision of the Düsseldorf Administrative Court dated September 25, 2024, concerned the legality of an administrative measure refusing permission for a demonstration on the grounds that the slogan “From the River to the Sea, Palestine will be Free” was to be used. Law-enforcement authorities argued that this slogan is associated in Germany with banned organizations, in particular Hamas and Samidoun, and that its use could therefore pose a concrete threat to public order and security. The court, after examining the matter, found the police decision to be lawful. At the same time, the court expressly stated that the slogan does not, in and of itself and in all circumstances, constitute a criminal offense. However, in the specific case, the court concluded that the use of the slogan could reasonably be perceived as linked to specific organizations. In this context, the court emphasized that when the slogan ceases to be merely an “abstract expression

of political opinion” and becomes a symbolic form of expression associated with banned organizations, it may pose a risk to public order. Ultimately, the court accepted not an absolute prohibition of the slogan, but the possibility of restricting it depending on the context. In the case at hand, taking into account the demonstration’s content and prior actions, the slogan was assessed as having a character that threatened public security. The police ban was therefore deemed legitimate. In its reasoning, the court balanced freedom of expression and public security in a manner consistent with constitutional principles, emphasizing that freedom of expression is of fundamental importance in a democratic society but may be restricted where it amounts to hate speech, incitement to violence, or support for illegal organizations. By reiterating the established German jurisprudence that the limits of freedom of expression are determined less by the content of the words themselves than by the context in which they are expressed, the court reinforced the legal approach in Germany, under which certain slogans used in pro-Palestinian demonstrations may be prohibited depending on the concrete circumstances.¹⁹

In another case before the courts, the Municipality of Frankfurt prohibited the use of the relevant slogan at a demonstration, on the grounds that it should be regarded as a symbol of Hamas, a banned organization.

However, the 5th Chamber of the Administrative Court of Frankfurt am Main ruled that the prohibition was unlawful, finding that the slogan constituted an abstract expression of political opinion and did not call for violence. The court emphasized that not every use of the slogan constitutes a criminal offense.²⁰ This ruling illustrates how the balance between freedom of expression and public order and security is to be struck, and underscores that slogans must be assessed in light of their specific context.

Similarly, on November 8, 2024, the Berlin Regional Criminal Court (Landgericht Berlin I) held that the mere use of the slogan “From the River to the Sea, Palestine will be Free” does not in itself constitute a criminal offense, but that it may be assessed as support for terrorism when used in conjunction with a specific act.²¹ The Bremen Administrative Court likewise ordered the suspension of a decision

19 <https://dejure.org/dienste/vernetzung/rechtsprechung?Gericht=VG%20D%FCsseldorf&Datum=25.09.2024&Aktenzeichen=18%20K%203322%2F24>, (Accessed: December 2, 2025).

20 <https://www.rv.hessenrecht.hessen.de/bshe/document/LARE240000435>, (Accessed: December 2, 2025).

21 <https://dejure.org/dienste/vernetzung/rechtsprechung?Text=502%20KLS%2021%2F24&-Suche=502%20KLS%2021%2F24>, (Accessed: December 2, 2025).

by the Municipality of Bremen that imposed certain restrictions on assemblies, including a ban on the use of the slogan “From the River to the Sea, Palestine will be Free.”²² Taken together, these decisions demonstrate that in Germany, the balance between freedom of expression and public order and security is interpreted by courts in differing ways, depending on the context and the specific circumstances of each case.²³

The dismissal process of Melanie Schweizer, whom we interviewed as part of the WOLAS monitoring unit, constitutes a concrete example of an alleged violation of freedom of expression in Germany.²⁴ Melanie Schweizer is a 37-year-old lawyer employed in the public sector. She states that she served as a senior policy advisor on labor and human rights issues at the German Federal Ministry of Labor and Social Affairs. Melanie, a candidate for the MERA25 political party in Berlin in the 2025 federal elections, reports that she was dismissed on February 28, 2025, for social media posts critical of Israel. She further explains that she was handed a “letter of intent” during a meeting on January 2, 2025, and was immediately suspended from her duties thereafter, while her formal dismissal took place after the federal elections.

Melanie Schweizer maintains that the real reason for the termination of her public service position was her criticism of what she describes as Israel’s genocide in Palestine. The official justifications cited include the alleged breach of the “duty of moderation” (requiring civil servants to remain within certain limits in their political expressions), the obligations of neutrality and loyalty, and the duty of proper conduct. Notably, her social media posts made outside working hours, as well as small symbolic accessories she wore (such as watermelon-shaped earrings), were also treated as political symbols and criticized accordingly. Melanie Schweizer considers

22 https://www.verwaltungsgericht.bremen.de/sixcms/media.php/13/24_1013_V_5.pdf?utm_source, (Accessed: December 2, 2025).

23 Although not specific to Germany, an important case that sets a precedent regarding the boundaries between freedom of expression, academic freedom, and the distinction between antisemitism and anti-Zionism—and that reflects the ECH’s approach—is *Miller v. University of Bristol* (2024). Sociology professor Dr. David Miller was dismissed from the University of Bristol in 2021 for describing Zionism as a “racist and colonial ideology.” The court held that Miller’s anti-Zionist views constituted a “protected philosophical belief” and that his dismissal therefore amounted to unfair dismissal and discrimination. The judgment confirmed that anti-Zionism cannot be equated with antisemitism and that such views are protected under the Equality Act 2010 as an expression of freedom of thought and belief in the United Kingdom.

24 Melanie Schweizer has given her explicit consent for her first and last names to be included in this report. She stated that, as the dismissal process became a matter of public record and widely known, there is no need to anonymize her identity.

these decisions to be contrary to fundamental rights, freedom of expression, and the Constitution, and states that she is planning to initiate legal proceedings.

Another witness, a German citizen identified as A, works as an engineer in the automotive sector in Bochum.²⁵ They began the interview by stating that there is unconditional support for Israel in Germany at both the state and societal levels. They believe that this stance is rooted in the responsibility arising from the country's Holocaust past and that, regardless of changes in government, there is a determination to maintain this policy. According to them, although a significant part of society has become uncomfortable with the intensification of attacks on Gaza, many people remain silent due to a sense of moral unease and responsibility toward Jews.

A stated that they know from conversations at work that most of their German colleagues condemn Israel, but refrain from participating in active demonstrations because they fear that even the slightest criticism of Israel is labeled as antisemitism by the government and the media, and that there is no room for retreat on this issue.

According to A, criticism of Israel is easily suppressed because the media is controlled by a powerful Jewish lobby. While there is some public awareness of boycotts, it has not yet developed into a strong movement. Nevertheless, a segment of the public does support boycotts. German media, however, engages in intensive advertising to undermine public awareness of boycotts. This is easily noticeable; in other words, a deliberate resistance against boycotts is being created:

“As a society, we are extremely concerned about the pressure exerted by the Federal Office for the Protection of the Constitution (Bundesamt für Verfassungsschutz)²⁶ on institutions and individuals. Even sermons are monitored, and left-wing Jewish groups are being profiled under accusations of anti-semitism. The policy of supporting Israel is never relaxed by the state. We have friends who have applied for citizenship; they were asked whether they recognize the existence of Israel, and in some federal states, they were required to sign a document stating, ‘I will not oppose the State of Israel,’ before citizenship was granted.”²⁷

25 Witness (A) - Documented to support the report and hidden in line with the association's policies to protect witnesses and victims and prevent retaliation.

26 The Federal Office for the Protection of the Constitution is responsible for safeguarding the free democratic basic order at the federal level and across the 16 federal states. See: https://www.verfassungsschutz.de/DE/home/home_node.html (Accessed: December 2, 2025).

27 Witness A.

The use of slogans such as “From the River to the Sea, Palestine will be Free” as a rationale for police intervention²⁸ during protests in Berlin, and the imposition of disproportionate restrictions on peaceful demonstrations, are incompatible with the freedom of expression protected under Article 5²⁹ of the German Basic Law.³⁰ The cancellation by university administrations of lectures planned to be given by UN Special Rapporteur on Palestine Francesca Albanese on February 16, 2025 at Ludwig Maximilian University of Munich and on February 19, 2025 at the Free University of Berlin (Freie Universität Berlin), as well as the deportation of Palestinian academics, constitute direct interference with academic freedom and the right to share political opinions. Such measures violate the freedoms guaranteed under Article 19³¹ of the ICCPR and Article 10³² of the ECHR.

The expression of political slogans in public space lies at the core of freedom of expression. Their prohibition violates the principle of proportionality. The detention of peaceful protesters solely on the basis of the slogans they express, in the absence of physical violence, constitutes a restriction of freedom of expression. Moreover, the requirement to pay bail creates indirect economic pressure on the exercise of freedom of expression.

28 For the relevant news report and rationale, see: <https://www.thecourieronline.co.uk/from-the-river-to-the-sea-freedom-of-speech-in-germany/> (December 2, 2025).

29 “Every person shall have the right freely to express and disseminate his opinions in speech, writing and pictures, and to inform himself without hindrance from generally accessible sources. Freedom of the press and freedom of reporting by means of broadcasts and films shall be guaranteed. There shall be no censorship.”

See: <https://www.btg-bestellservice.de/pdf/80207000.pdf>, (Accessed: December 2, 2025) 1949, 15.

30 <https://www.dw.com/en/germany-anger-over-cancelled-talks-by-un-special-rapporteur-for-palestinian-territories/a-71662122>

31 “Everyone shall have the right to hold opinions without interference. 2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.” See:

<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>, (Accessed: December 3, 2025).

32 “All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>, (Accessed: December 3, 2025) 1966, “Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

https://www.echr.coe.int/documents/d/echr/convention_tur, (Accessed: December 3, 2025), 1950, 11.

Although one-sided reporting by the German media does not, in itself, constitute a direct violation, the state's failure to create space for alternative voices amounts to a de facto restriction of freedom of expression. In some federal states, requiring applicants for citizenship to give an undertaking that they "will not oppose the State of Israel" forces individuals to make a political declaration against their will and violates the prohibition of forced speech.³³ These practices constitute rights violations, as they create a chilling effect on the freedoms of thought and press guaranteed under Article 5 of the German Basic Law, as well as under Article 10 of the ECHR and Article 19 of the ICCPR.

The case of *Handyside v. United Kingdom* (1976)³⁴ is a landmark judgment in which the ECtHR articulated the principle that freedom of expression is one of the essential foundations of a democratic society. According to the Court, freedom of expression protects not only ideas that are favorably received or regarded as harmless, but also those that "offend, shock or disturb the State or any sector of the population". Harsh slogans such as "Free Palestine" or references to "genocide" may be perceived as disturbing, but this alone does not render interference legitimate. In a democratic society, pluralism, tolerance, and broad-mindedness are only possible if such disturbing views are allowed.³⁵

Within the framework of the German Criminal Code, treating protests against the alleged genocide in Palestine as antisemitic offenses creates a serious tension between freedom of expression and legal restrictions. In Berlin, during a peaceful protest, an individual was taken into police custody for carrying a banner that read "Palestine will be free" even though the phrase was partially censored. Despite courts repeatedly dismissing cases involving this slogan, the Berlin police and prosecution authorities continue to resort to detention and criminal investigations in similar incidents. Videos circulating on social media show protesters being taken into custody following harsh police interventions.³⁶

33 Witness A.

34 For the case, see: [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-57499%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-57499%22]}), (Accessed: December 3, 2025).

35 See *Handyside v. United Kingdom* (1976), ECtHR; see also Zühtü Arslan, "Limitation of Fundamental Rights and Freedoms: Some Reflections on Article 13 of the Constitution" (2002), *Anayasa Yargısı* 150.

36 For the relevant social media footage, see: https://www.instagram.com/reel/DN_DQ8liuP-W/?igsh=MWZxOWUyajRyNzBxdQ%3D%3D (Accessed: December 3, 2025).

Protests in Berlin and other major cities are being restricted through preventive measures and police-imposed bans. Participants are confronted with allegations of “spreading antisemitic hatred” and, in some cases, face threats of legal action or deportation. Moreover, the use of physical force by the police has occasionally been observed during these interventions.³⁷

One of the most striking videos shared on social media—widely discussed in international public opinion—shows moments in which Irish citizen Kitty O’Brien, a member of the pro-Palestinian group Irish Bloc Berlin, was punched twice in the face by German police officers, causing her nose to bleed. O’Brien participated in a protest held on August 28, 2025, in Berlin’s Mitte district in memory of Palestinian journalists killed in Israeli airstrikes. During the protest, she was punched in the face twice by police officers and subsequently arrested. During the arrest, her right arm was forcefully pulled and twisted, resulting in a fracture.³⁸

Particularly in Berlin, incidents occurring between demonstrators and the police are often shared with the global public in real time through live streams by social media users rather than through traditional media outlets. The methods of police intervention against demonstrators captured in these images constitute violations of the freedoms of expression, assembly, and demonstration guaranteed under the German Basic Law, as well as of international human rights norms. These practices have drawn criticism from German legal circles, international human rights organizations, and academic communities alike.

Incidents identified by the WOLAS monitoring unit from social media footage indicate that police interventions may result in serious legal consequences. In light of the observations conducted, the following acts and their potential legal implications come to the fore:

- The excessive use of force and physical assaults by police officers against O’Brien may constitute the offence of “intentional bodily harm” under Article 223 of the StGB, which is punishable by up to three years’ imprisonment or a fine.

37 See <https://www.youtube.com/watch?v=W9MZOBX6ecg> (Accessed: December 3, 2025).

38 For the footage, see: https://www.instagram.com/reel/DN_DQ8liuPW/?igsh=MWZxOWUyajRyNz-BxdQ%3D%3D (Accessed: December 3, 2025).

For the news report, see: <https://www.irishtimes.com/world/europe/2025/08/30/ambassador-raises-concerns-with-german-authorities-after-irish-protester-assaulted-by-police/> (Accessed: December 3, 2025).

- Disproportionate and arbitrary violence exercised by public officials in the course of duty may fall within the scope of “causing bodily harm through abuse of official authority” under Article 340 StGB.
- Acts of violence against protest participants and coercion compelling individuals to act against their will may be assessed under “coercion” as regulated in Article 240 StGB.
- The dispersal of a peaceful protest and the use of force against its participants may constitute a violation of Article 8 of the German Basic Law and the relevant assembly legislation.
- Physical violence and degrading treatment may amount to a violation of the “prohibition of torture and inhuman or degrading treatment” under Article 3 of the ECHR.
- Targeting individuals or groups participating in protests on the basis of their political views may constitute a violation of freedom of expression and the right to peaceful assembly under Article 14 ECHR, the UDHR, and Articles 19 and 21 of the ICCPR.³⁹

In summary, the incidents outlined above may constitute serious violations under human rights law, particularly under the German Basic Law, the StGB, and the ECHR. In this context, the police violence to which O’Brien was subjected may constitute a criminal offence under domestic criminal law and, at the same time, represent a clear violation of fundamental rights guaranteed under international law.

The case of Kitty O’Brien clearly demonstrates that police violence can reach levels that violate physical integrity. In this incident, freedom of expression (Article 5 of the German Basic Law; Article 10 of the ECHR; Article 19 of the ICCPR) was violated. The expression “Free Palestine” constitutes a political opinion and a peaceful slogan. As such, it is protected under Article 5 of the German Basic Law and, in line with established case law, does not fall within the scope of hate speech. Nevertheless, the Berlin police and prosecution authorities’ assessment of this expression under Article 130 StGB (incitement to hatred) constitutes an arbitrary and disproportionate interference.

Accordingly, in this and similar cases, Germany is required—under its national and international human rights obligations—to conduct independent and transparent investigations into allegations of police violence, to ensure access to treatment

39 For a detailed discussion of the relevant provisions, see Sections 2.1.1 and 2.1.4 of the report.

and rehabilitation for victims, and to put an end to practices that criminalize peaceful demonstrations.⁴⁰

The images documented on social media reveal harsh physical interventions against protesters. Such practices, which are contrary to the prohibition of ill-treatment under Article 3 of the ECHR and Article 7 of the ICCPR, suppress freedom of expression and assembly by using disproportionate force and have a chilling effect. This situation may be regarded as part of a broader strategy aimed at criminalizing pro-Palestinian discourse and deterring protest movements.

Right to Life and Physical Integrity, Personal Liberty, and Protection of Private Life

The right to life, physical integrity, personal liberty, and the protection of private life are safeguarded under both international law and German law. Article 3 of the Universal Declaration of Human Rights (UDHR) provides that “everyone has the right to life, liberty and security of person.”⁴¹ Article 2⁴² of the ECHR guarantees the right to life. Article 2(2)⁴³ of the German Basic Law stipulates that everyone has the right to life and physical integrity and that personal liberty may be interfered with only pursuant to a law. This provision also encompasses personal freedom, while Article 104 of the Basic Law regulates in detail arrest, deprivation of liberty, and the conditions thereof. The protection of private life is guaranteed under Article 8 of the ECHR and, within German constitutional law, is interpreted as part of the general right of personality under Article 2(1)⁴⁴ of the Basic Law. Article 10⁴⁵ of the Basic Law

40 For news regarding a lawsuit filed against the German police, see <https://elsc.support/elsc-files-criminal-complaint-against-police-officer-be-24111-who-beat-up-protestors-at-nakba-day-demo-in-berlin/> (Accessed: December 3, 2025).

41 United Nations, Universal Declaration of Human Rights (UDHR), (Paris, 1948)

42 “Everyone’s right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law. Deprivation of life shall not be regarded as inflicted in contravention of this Article when it results from the use of force which is no more than absolutely necessary...” See: https://www.echr.coe.int/documents/d/echr/convention_tur, (Accessed: December 3, 2025).

43 “Every person shall have the right to life and physical integrity. Freedom of the person shall be inviolable. These rights may be interfered with only pursuant to a law.” <https://www.btg-bestellservice.de/pdf/80207000.pdf>, (Accessed: December 3, 2025).

44 “Every person shall have the right to free development of his personality insofar as he does not violate the rights of others or offend against the constitutional order or the moral law.”

45 “The privacy of correspondence, posts and telecommunications shall be inviolable. (2) Restrictions may be ordered only pursuant to a law. If the restriction serves to protect the free democratic ba-

guarantees the secrecy of communications, and Article 13⁴⁶ protects the inviolability of the home. Furthermore, Article 3 of the ECHR establishes the prohibition of torture, while also relating to the protection of personal liberty and security.

Witness B⁴⁷, a German citizen of Palestinian origin and a medical doctor residing near Düsseldorf, states that they have observed pro-Palestinian demonstrations in various cities across Germany since October 7. They report encountering such protests, particularly in Düsseldorf, Bochum, and Dresden. According to B, Germany's approach toward both Israel and protesters has not shown any meaningful change since October 7; rather, there has consistently been a pro-Israel stance combined with an interventionist approach toward supporters of Palestine.

According to B, before the demonstrations began, the police issued warnings to participants. In some protests in Düsseldorf, even before the demonstrations begin, individuals identifiable as officials position cameras and photographers at various points around the protest area. In this way, everyone present at the demonstration is recorded, and it is known that these images are archived by the police. B characterizes this practice as a form of "profiling".

"During the demonstration, certain slogans directly serve as grounds for police intervention. For example, when police hear or are informed that expressions such as 'Free Palestine,' 'Terrorist Israel,' 'Genocide,' or 'From the River to the Sea, Palestine will be Free' are being used, they do not hesitate to employ physical force. Methods such as handcuffing individuals behind their backs or dragging them away for detention are frequently used. These individuals are then usually released after paying bail."⁴⁸

sic order or the existence or security of the Federation or of a Land, the law may provide that the person affected shall not be informed of the restriction and that recourse to the courts shall be replaced by a review of the case by agencies and auxiliary agencies appointed by the legislature."

46 "The home is inviolable. (2) Searches may be authorized only by a judge or, when time is of the essence, by other authorities designated by the laws, and may be carried out only in the manner therein prescribed..."

47 Witness B - Documented to support the report and hidden in line with the association's policies to protect witnesses and victims and prevent retaliation.

48 Witness B, for recent news reports concerning the acts of violence mentioned, see:
<https://www.aljazeera.com/video/newsfeed/2025/8/11/german-police-make-arrests-at-protest-for-slain-al-jazeera-journalists#flips-6376804844112:0> (Accessed: December 3, 2025);
<https://www.youtube.com/shorts/tKNkDj1f1LU>, August 2025 (Accessed: December 3, 2025);
<https://www.aljazeera.com/features/2024/5/25/punched-choked-kicked-german-police-crack-down-on-student-protests> (Accessed: December 3, 2025).

Another witness, D⁴⁹, began their statement by emphasizing “a strong commitment to the Palestinian issue and a willingness to engage in cooperation in all its dimensions.” However, the witness stated that they refrain from participating in peaceful demonstrations in Germany, citing as the rationale, the violence and discriminatory practices allegedly displayed by police forces during such events. The witness characterized the conduct of German police forces as “excessively harsh”, stating that police employ disproportionate force against demonstrators, engage in severe violence, and continue surveillance activities even after demonstrations have ended.⁵⁰

Witness C, who states that they have been a journalist for 17 years and resides in Düsseldorf, Germany, reports that they began participating in demonstrations in Germany in March 2024. According to C, the aggressiveness of law enforcement authorities toward demonstrators supporting the Palestinian cause has increased significantly in recent months. They emphasize that demonstrators are merely exercising one of their fundamental rights, namely the right to peaceful assembly. The attacks are not limited to physical violence; they also include arbitrary detentions aimed at silencing dissenting voices.⁵¹ Certain slogans are classified as “antisemitic” and consequently prohibited. C estimates that approximately 50% of the attacks against demonstrators are primarily motivated by an attempt to intimidate protesters and prevent them from taking to the streets and expressing solidarity with Gaza.

According to the settled case law of the ECtHR, the use of force by security forces is legitimate only where it is “absolutely necessary” (*Nachova and Others v. Bulgaria*, Article 2 of the ECHR⁵²). Otherwise, physical violence applied during arrest procedures—such as the use of excessively tight restraints or handcuffing behind the back—constitutes a violation of the prohibition of ill-treatment (*Selmouni v. France*,

49 Witness D - Documented to support the report and hidden in line with the association's policies to protect witnesses and victims and prevent retaliation.

50 For a social media video corroborating the witness's testimony, see: <https://www.instagram.com/reel/DLwVQxnNDPy/>, (Accessed: December 4, 2025); <https://www.youtube.com/shorts/Df15KrlOKfg>, (Accessed: December 4, 2025).

51 Witness C

52 For the case, see [https://hudoc.echr.coe.int/tur#{%22itemid%22:\[%22001-69630%22\]}](https://hudoc.echr.coe.int/tur#{%22itemid%22:[%22001-69630%22]}), (Accessed: December 4, 2025), and the relevant ECHR provision: “No one shall be subjected to torture or to inhuman or degrading treatment or punishment.” https://www.echr.coe.int/documents/d/echr/convention_tur, (Accessed: December 4, 2025).

Article 3 of the ECHR⁵³). Furthermore, forcibly detaining individuals solely on the basis of chanting slogans constitutes a violation of the right to liberty and security. In addition, since a person's physical and psychological integrity forms an integral part of private life, such treatment also infringes the right to respect for private life (Pretty v. the United Kingdom,⁵⁴ Article 8 of the ECHR)⁵⁵. Consequently, interventions of the type described above in response to slogans such as "Free Palestine" or "Genocide" amount not only to violations of freedom of expression and assembly (Article 10 of the ECHR), but also to serious violations of the rights to life and physical integrity (Articles 2–3), as well as the right to liberty and security (Article 5)⁵⁶.

According to a press release⁵⁷ published on the official website of the Berlin Regional Court I (Landgericht Berlin I, Staatsschutzkammer) concerning a judgment delivered on June 21, 2024, a 27-year-old woman was charged with incitement to hatred, public incitement to commit criminal offences, and dissemination of propaganda for a terrorist organization, on the grounds that she had publicly made antisemitic and criminally inciting statements in the context of the Israel–Palestine conflict. The court imposed a total sentence of one year and ten months' imprisonment, but suspended it in full on the condition of "Bewährung" (probation). In addition, the defendant was ordered to pay a fine of 600 euros and to participate in a democratic education program.⁵⁸ This decision illustrates that Germany's policy of combating antisemitism conveys not only a legal but also a political and societal message. On the one hand, severe penalties signal a stance of "zero tolerance" toward antisemitism; on the other hand, the suspension of sentences indicates a

53 For the case, see [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-58287%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-58287%22]}), (Accessed: December 4, 2025), and the relevant ECHR provision: "No one shall be subjected to torture or to inhuman or degrading treatment or punishment." https://www.echr.coe.int/documents/d/echr/convention_tur, (Accessed: December 4, 2025).

54 See also Elif Çelik, "The Place and Role of Human Dignity in Human Rights Law," *Hacettepe Hukuk Fakültesi Dergisi*, (2019), 9(2), 282–310, 300.

55 For the case, see [https://hudoc.echr.coe.int/fre#{%22itemid%22:\[%22001-60448%22\]}](https://hudoc.echr.coe.int/fre#{%22itemid%22:[%22001-60448%22]}), and the relevant ECHR provision: "Everyone has the right to respect for his private and family life, his home and his correspondence."

56 "Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law."
https://www.echr.coe.int/documents/d/echr/convention_tur, (Accessed: December 4, 2025).

57 <https://www.berlin.de/gerichte/presse/pressemitteilungen-der-ordentlichen-gerichtsbarkeit/2024/pressemitteilung.1458546.php>, (Accessed: December 4, 2025).

58 Official Press Release Accessed from the Source: <https://www.berlin.de/gerichte/presse/pressemitteilungen-der-ordentlichen-gerichtsbarkeit/2024/pressemitteilung.1458546.php>, (Accessed: December 4, 2025).

more pragmatic approach in practice. Nevertheless, from the perspective of freedom of expression, this approach creates legal grey areas. In particular, the blurring of the line between critical speech on the Palestinian issue and antisemitic hate speech carries the risk of exerting pressure on democratic freedoms.

Equality Before the Law; Prohibition of Discrimination

Equality before the law and the prohibition of discrimination are guaranteed under both German constitutional law and international law. Article 3⁵⁹ of the German Basic Law provides that all persons are equal before the law and prohibits discrimination on grounds such as gender, origin, language, religion, or political opinion. Article 14 of the ECHR stipulates that the enjoyment of the rights and freedoms set forth in the Convention shall be secured without discrimination.⁶⁰ Article 2 of the ICCPR obliges states to ensure the rights recognized in the Covenant without distinction, while Article 26 enshrines equality before the law and prohibits discrimination.⁶¹ Freedom of religion and conscience is guaranteed under Article 4⁶² of the

59 “Equality Before the Law; Prohibition of Discrimination: (1) All persons shall be equal before the law. (2) Men and women shall have equal rights. The state shall promote the actual implementation of equal rights for women and men and take steps to eliminate disadvantages that now exist. (3) No person shall be favored or disfavored because of sex, parentage, race, language, homeland and origin, faith, or religious or political opinions. No person shall be disfavored because of disability.”

60 “Prohibition of discrimination: The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”

61 Relevant articles: “Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” 21: “The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.” Art. 26: “All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>, (Accessed: December 4, 2025).

62 “Freedom of thought, conscience and religion; objection of military service. (1) Freedom of faith

German Basic Law, Article 9⁶³ of the ECHR, and Article 18⁶⁴ of the ICCPR, including the right to manifest one's religion, to worship, and to wear religious symbols.

Articles 8 (respect for private and family life) and 14 (prohibition of discrimination) of the ECHR also provide protection against arbitrary interference in the private and family lives of non-citizens, including in citizenship and asylum procedures. In addition, the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW) explicitly protects women's rights to equality and employment, particularly under Article 11.⁶⁵

and of conscience, and freedom to profess a religious or philosophical creed, shall be inviolable.
(2) The undisturbed practice of religion shall be guaranteed."

63 "Freedom of thought, conscience and religion 1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance."

64 "The restrictions permitted under this Convention to the said rights and freedoms shall not be applied for any purpose other than those for which they have been prescribed."

65 1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular: (a) The right to work as an inalienable right of all human beings; (b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment; (c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;

(d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work; (e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave; (f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction. 2. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures: (a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status; (b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances; (c) To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities; (d) To provide special protection to women during pregnancy in types of work proved to be harmful to them. 3. Protective legislation relating to matters covered in this article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary. See: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women, 1981>, (Accessed: December 4, 2025).

Article 46 of the German Criminal Code (StGB), which regulates factors to be considered in sentencing, was amended in 2020 to designate crimes committed with an antisemitic motive as an aggravating circumstance. This amendment has been justified by Germany's historical responsibility and its process of reckoning with the legacy of the Holocaust. However, this specific emphasis raises controversial questions regarding the principles of equality before the law and non-discrimination.⁶⁶

Article 3 of the German Basic Law provides that no person shall be disadvantaged or favored on grounds of religion, race, origin, or belief. Accordingly, from a criminal law perspective, there should be no principled distinction between antisemitic, Islamophobic, anti-Christian, or racist motives in the assessment of hate crimes. Nevertheless, the explicit legislative focus on antisemitic motives has prompted criticism that legal protection is being defined asymmetrically in favor of the Jewish community. While this approach is understandable in light of Germany's historical context—given that antisemitism in modern Europe represents the only form of hatred against a belief system that culminated in systematic mass extermination—it nevertheless raises concerns regarding legal universality and equal protection.

If criminal law provides for sentence enhancement based on bias or hate motives, then Islamophobic, anti-Christian, and other comparable motives should likewise be explicitly defined and treated in an equivalent manner. Otherwise, the state risks appearing to grant greater protection to certain religious or ethnic groups than to others, thereby violating the principle of equal treatment.

This situation reflects an underlying tension between Germany's normative policy of confronting its historical past and liberal norms of equality. While the state has institutionalized a particular sensitivity toward antisemitism, the question inevitably arises as to whether this sensitivity is fully compatible with universal human rights principles. If antisemitic motives may receive special protection due to historical responsibility, then, by the same logic, Islamophobic and other contemporary forms of hate-driven violence should also be accorded explicit recognition and protection.

66 *German Criminal Code* (trans. P. D. Plagemann), Istanbul, May 2015, Art. 46, (Accessed: December 4, 2025). Content of the amendment: This law added the following wording to paragraph 2 of Article 46 of the StGB: *“Bei der Strafzumessung sind insbesondere Beweggründe und Ziele des Täters, namentlich rassistische, fremdenfeindliche, antisemitische oder sonstige menschenverachtende Beweggründe oder Ziele zu berücksichtigen.”*

(English translation: “In determining the sentence, factors that may be taken into consideration include among other things the “attitude reflected in the offence” and “the degree of the breach of the offender’s duties” but also the “offender’s motives and objectives, in particular including racist, xenophobic, antisemitic or other motives evidencing contempt for humanity.”

VERWALTUNGSGERICHT FRANKFURT AM MAIN



BESCHLUSS

In dem Verwaltungsstreitverfahren

der Frau R [REDACTED]

Antragstellerin,

bevollmächtigt:



gegen

die Stadt Frankfurt am Main, vertreten durch den Oberbürgermeister,
Rechtsamt, Rechtsreferat Ordnungsverwaltung,
Kleyerstraße 86, 60326 Frankfurt am Main,
- 32.25 St -

Antragsgegnerin,

wegen Verbots einer Versammlung

hat das Verwaltungsgericht Frankfurt am Main – 5. Kammer – durch

Präsidenten des VG Dr. Gerster,
Richter Kratzer,
Richterin am VG Preikschat Costa

am 28. August 2025 beschlossen:

8. Senat
8 B 1859/25
5 L 4151/25.F



HESSISCHER VERWALTUNGSGERICHTSHOF
BESCHLUSS

In dem Verwaltungsstreitverfahren

[REDACTED]

Antragstellerin und Beschwerdegegnerin,

bevollmächtigt: Rechtsanwältin [REDACTED]
Borsigallee 18, 60388 Frankfurt am Main,

gegen

die Stadt Frankfurt am Main, vertreten durch den Oberbürgermeister,
Kleyerstraße 86, 60326 Frankfurt am Main,

[REDACTED] gegnerin und Beschwerdeführerin,
wegen [REDACTED] (nicht-Beschwerde)

hat der Hessische Verwaltungsgerichtshof - 8. Senat - durch

Vorsitzende Richterin am Hess. VGH Reißer,
Richterin am Hess. VGH Buchwald,
Richterin am Hess. VGH Wagener

am 29. August 2025 beschlossen:

Die Beschwerde der Antragsgegnerin gegen den Beschluss des Verwaltungsgerichts Frankfurt am Main vom 28. August 2024 - 5 L 4151/25.F - wird zurückgewiesen.

Die Antragsgegnerin hat auch die Kosten des Beschwerdeverfahrens zu tragen.

Der Wert des Streitgegenstands wird auch für das Beschwerdeverfahren auf 5.000 € festgesetzt.

In conclusion, the specific emphasis on antisemitism in Article 46 of the German Criminal Code points to a selective protection regime. This selectivity risks rendering the protection against hate crimes asymmetrical from a universal human rights perspective and may lead to a situation in which “protection against discrimination” itself becomes discriminatory. This selectivity manifests not only at the legal level but also in social and political practice. The institutionalization of a heightened sensitivity toward antisemitism has created a marked asymmetry in the state’s response to other forms of hatred or political identities—an asymmetry that has become particularly visible in recent years in the context of pro-Palestinian demonstrations in Germany.

Witness D states that participation in pro-Palestinian demonstrations has produced tangible and deterrent effects on asylum and administrative procedures in Germany. According to the witness, the asylum applications of many participants have been delayed, or their existing residence permits revoked. Although no official case of citizenship revocation has been identified to date, such proceedings are described as lengthy, complex, and characterized by legal uncertainty. Witness D further emphasizes that these practices have contributed to the emergence of a broader human rights movement. The witness notes close coordination between the police and municipal authorities regarding demonstrations. As a result, protests are frequently cancelled one day or even only hours before their scheduled time, and in some cases even shortly after they have already begun. While domestic law provides the possibility to challenge such cancellation decisions before the courts, this legal avenue is predominantly pursued by German citizens. This is attributed to the significantly stronger legal status enjoyed by citizens compared to asylum seekers or individuals residing in Germany on the basis of temporary residence permits.

Witness D highlights discriminatory and disproportionate treatment directed particularly at women wearing hijab. In Berlin, the witness reports having observed a female demonstrator whose headscarf was forcibly removed by police officers.⁶⁷ Additionally, police forces reportedly blocked streets and followed demonstrators to public transportation stations, their homes, or other destinations. The witness describes this practice as “strange and degrading,” stressing that such treatment of peaceful demonstrators undermines human dignity and creates a deeply troubling public image.

67 See the social media video corroborating the witness’s statement:

https://www.youtube.com/shorts/Nd3D-_sdYBM, (Accessed: December 4, 2025).

According to Witness D, police officers at demonstrations are heavily equipped with video recording devices. Once a participant is detained and subsequently fined or issued a ban from attending demonstrations, that individual can be immediately identified and targeted if they participate again. This practice significantly complicates legal defense and facilitates the stigmatization of demonstrators as “terrorists” or “ Hamas supporters.” D further reports that some acquaintances were taken into custody but were later released following judicial proceedings. Systematic torture is not practiced in police detention facilities, primarily due to strict oversight and the likelihood that any evidence of such abuse would provoke strong public backlash in Germany. Nevertheless, the witness emphasizes that police officers do not hesitate to employ direct and excessive physical force on the streets and in front of cameras. Such violence is typically justified under the pretext of “dispersing the demonstration.”⁶⁸ Furthermore, numerous individuals have reportedly had their homes raided by German police on allegations of “supporting Hamas,” despite the fact that these individuals merely participated in peaceful demonstrations and voiced opposition to oppression and acts amounting to genocide against the Palestinian people.

In this context, discriminatory practices targeting Muslims, the direct targeting of women wearing hijab, and the labeling of pro-Palestinian demonstrators as “terrorists” or “ Hamas supporters”⁶⁹ constitute clear violations of the principle of non-discrimination enshrined in Article 3 of the German Basic Law, Article 14⁷⁰ of the ECHR, Articles 2 and 26 of the ICCPR, and Article 2⁷¹ of the Universal Declaration of Human Rights. Such practices effectively prevent individuals subjected to differential treatment on religious or ethnic grounds from exercising their fundamental rights. With regard to asylum and citizenship rights, the delaying of asylum procedures and the risk of revocation of residence permits for individuals participating in protests amount to violations of Article 16a of the German Basic Law, Article 12 of the ICCPR, and Article 33⁷² of the 1951 Geneva Convention Relating to the Status

68 See <https://www.youtube.com/shorts/LSstIRUGhx4>, (Accessed: December 4, 2025). Social media footage of police violence corroborating the witness’s statement.

69 Witness D.

70 “The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”

71 “Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

72 “No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race,

of Refugees, which enshrines the principle of non-refoulement. These practices indicate a failure to uphold international protection obligations and expose individuals to indirect risks of forced return.⁷³

Article 16a⁷⁴ of the German Basic Law guarantees the right to political asylum and explicitly provides that no individual may be returned to a country where they would face persecution. This provision constitutes the domestic legal embodiment of the principle of non-refoulement. Residence and citizenship regulations, the delaying of asylum applications, the revocation of residence permits, or the arbitrary withdrawal of citizenship rights are unlawful under Article 16a of the German Basic Law and constitute practices that are contrary to Germany's international obligations. Pursuant to Article 33⁷⁵ of the 1951 Geneva Convention on the principle of non-refoulement⁷⁶, no refugee may be returned to a country where they face a risk of torture or cruel, inhuman, or degrading treatment. This provision establishes a positive obligation on states to uphold the prohibition of refoulement. Article 12 of the ICCPR concerns everyone's right to liberty of movement within a country and freedom to choose their residence. This article prohibits the arbitrary deportation of individuals or the arbitrary restriction of residence rights.⁷⁷

Moreover, the accusation of antisemitism against left-wing Jewish groups, or differential treatment among groups sharing the same religious identity on the basis of political views⁷⁸, violates Article 3 of the German Basic Law, Article 26 of the ICCPR, and the *International Convention on the Elimination of All Forms of Racial*

religion, nationality, membership of a particular social group or political opinion.”

73 See Section 2.2.3 of the report.

74 “[Right to asylum] (1) Persons persecuted on political grounds shall have the right of asylum.”

75 “No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.”

76 Ceren Karagözoğlu, “Application of the Non-Refoulement Principle within the Framework of the European Convention on Human Rights”, *Public and Private International Law Bulletin*, 43(1), 313-351. <https://doi.org/10.26650/ppil.2023.43.1203096>, (Accessed: December 4, 2025).

77 “Freedom of movement 1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence. 2. Everyone shall be free to leave any country, including his own. 3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant. 4. No one shall be arbitrarily deprived of the right to enter his own country.”

78 Witness A.

*Discrimination (ICERD)*⁷⁹. The surveillance and profiling of Jewish individuals who criticize Israeli policies must likewise be considered within this framework of prohibited discrimination.

The imposition of a requirement to recognize the existence of the State of Israel as a condition for naturalization constitutes discrimination based on political opinion and is incompatible with Articles 16 and 33⁸⁰ of the German Basic Law, the European Convention on Nationality (1997), and Article 25⁸¹ of the ICCPR. Pursuant to Article 4 of the German Basic Law⁸², freedom of religion and freedom of conscience are fully guaranteed. However, as indicated in witness testimonies, the monitoring of sermons, the profiling of imams or preachers, and state interference in forms of worship and expression constitute an intervention by the state in religious practice and expression, amounting to violations under Article 18⁸³ of the ICCPR and Article 9⁸⁴ of the ECHR.⁸⁵

79 <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-elimination-all-forms-racial>, (Accessed: December 4, 2025).

80 Article 16: “Deprivation of Citizenship / Extradition (1) German citizenship may not be withdrawn. Loss of citizenship may occur only pursuant to a law and against the will of the person affected only if the person concerned does not become stateless as a result. (2) No German may be extradited to a foreign country. A different rule may be provided by law for extraditions to a Member State of the European Union or to an international court, provided that the rule of law is observed.” Article 33: “Equal Access to Public Office (1) Every German shall have the same civil rights and duties in every Land. (2) Every German shall be equally eligible for any public office according to aptitude, qualifications, and professional achievements. (3) Enjoyment of civil and civic rights, eligibility for public office, and rights acquired in the public service shall be independent of religious denomination. No one may suffer any disadvantage by reason of adherence or non-adherence to a particular religion or philosophical creed.”

81 “Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions...”

82 “Freedom of faith and of conscience, and freedom of creed religious or ideological, are inviolable.”

83 “Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.”

84 “Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance. 2. Freedom to manifest one’s religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.”

85 Witness A.

The ECtHR's case law supports these assessments. In *D.H. and Others v. the Czech Republic* (2007),⁸⁶ the Court held that the state's failure to fulfill its obligation of equal treatment in the context of education and social policy, due to ethnic-based discrimination, constituted a violation. Similarly, in *Timishev v. Russia* (2005),⁸⁷ the Court found a breach of the state's positive obligations arising from discrimination based on ethnic origin. In light of these precedents, the practices of German police and public officials that prevent individuals subjected to differential treatment on the basis of religious or ethnic identity from exercising their fundamental rights demonstrate the state's failure to fulfill its positive obligations. The ECtHR has held that discriminatory treatment and stigmatization directed at Muslim demonstrators constitute a violation under Article 14 of the ECHR. Accordingly, the state is responsible for its failure to comply with its positive obligations. Unless adequate measures are put in place, unequal treatment and discrimination persist.

Another witness, E,⁸⁸ who resides in Frankfurt and serves as an imam, began their testimony by stating: *"The position of the German government on the Palestinian issue reflects a biased stance in favor of the Israeli occupation, and this is not a new development."* The witness reported that a mosque in Düsseldorf was closed on the grounds that the presiding imam had expressed pro-Palestinian views. They further emphasized that Muslim women wearing hijab face discrimination in access to employment and in the workplace, particularly in the health and education sectors. According to the witness, establishing private schools by Muslims in Germany is extremely difficult due to bureaucratic obstacles; they noted that the King Fahd Academy was previously closed for this reason. They also stated that the financial resources of Islamic institutions have been systematically curtailed in recent years, with restrictions imposed on bank accounts and support mechanisms effectively dismantled.

Witness Melanie Schweizer, when asked whether individuals in the public sector who support Israeli policies are subjected to similar pressure, responded unequivocally: *"No."* She emphasized that such pressures affect only those who express pro-Palestinian views and stated that freedom of expression in Germany is severely restricted when it comes to Palestine.

86 For the decision, see: <https://hudoc.echr.coe.int/fre#%22itemid%22:%22001-83256%22>}, (Accessed: December 4, 2025).

87 <https://hudoc.echr.coe.int/fre#%22itemid%22:%22001-71627%22>}

88 Witness E - Documented to support the report and hidden in line with the association's policies to protect witnesses and victims and prevent retaliation.

Right to Freedom of Assembly and to Protest

Right to freedom of assembly and to protest are guaranteed under Article 8⁸⁹ of the German Basic Law, which provides that all Germans have the right to assemble peacefully and unarmed without prior permission or notification. Assemblies held in public spaces may be subject to statutory restrictions. Article 9 further guarantees the right to form associations and unions.

Article 11⁹⁰ of the ECHR guarantees everyone the right to freedom of peaceful assembly and association. Any restriction of this right is permissible only insofar as it is prescribed by law and necessary in a democratic society for the interests of national security, public safety, public order, the prevention of crime, the protection of health or morals, or the protection of the rights and freedoms of others. Similarly, Article 21 of the ICCPR recognizes the right to peaceful assembly, subject to lawful and necessary restrictions for the protection of the rights and freedoms of others. Article 22 emphasizes that the right to assembly constitutes a fundamental tool for political protest and boycott campaigns.⁹¹

Witness F⁹² stated that they have been actively engaged as a human rights defender since the outbreak of what they described as genocide in the Gaza Strip. They reported regularly participating in protests in Berlin, Germany's capital, and remained highly active on social media. Using their independent press accreditation, they indicated that they documented approximately 90% of these demonstrations.⁹³

89 Freedom of Assembly (1) All Germans shall have the right to assemble peacefully and unarmed without prior notification or permission. (2) In the case of outdoor assemblies, this right may be restricted by or pursuant to a law.

90 "Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others."

91 Art. 21: "The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others." Art. 22: "Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests."

92 Witness F - Documented to support the report and hidden in line with the association's policies to protect witnesses and victims and prevent retaliation.

93 See: <https://www.independent.ie/irish-news/irish-protester-repeatedly-punched-in-the-face-by-police-during-gaza-protest-in-berlin/a249856773.html>, (Accessed: December 4, 2025). Witness

They further stated that protests in support of Palestine began in earnest in November 2023. During this period, despite an official ban imposed by the German government on such events, demonstrators took to the streets to express solidarity with the Palestinian people. As public mobilization intensified, security forces increased pressure and intervention against demonstrators. Numerous incidents involving physical violence by police forces were recorded. Shortly thereafter, the ban on such demonstrations was partially lifted, and by the time of the interview, protests were once again permitted to be officially organized. Nevertheless, authorities have continued to implement measures to limit the effectiveness of these protests. In particular, demonstrators' movement through Berlin streets has been restricted, and protests have been compelled to take the form of "static demonstrations," with marching and procession explicitly prohibited.

During the interview, the witness also emphasized that German authorities impose severe restrictions on the content of slogans and expressions used during demonstrations in Berlin. On November 2, 2023, the German Federal Ministry of the Interior banned the activities of Hamas and the international Samidoun⁹⁴ network on the grounds that they posed an "antisemitic risk."⁹⁵

Among the prohibited slogans is the phrase "From the River to the Sea, Palestine will be Free," a fact reiterated by this witness and corroborated by social media footage.⁹⁶ According to the witness, German authorities classify this slogan as antisemitic, and the utterance of such expressions during protests results in immediate police intervention and the forcible dispersal of demonstrators. These interventions at times involve direct physical violence, including harsh use of force, beatings, and, in certain cases, disproportionate police brutality.⁹⁷

F, who was present during the incident described in this news report, documented this and all the actions involving police violence by live-streaming them on social media.

94 See <https://samidoun.net/> (Accessed: December 4, 2025).

95 News links (Accessed: December 4, 2025):

<https://www.nytimes.com/2024/08/06/world/europe/germany-river-to-sea-chant-fine.html>;

<https://peoplesdispatch.org/2023/10/23/germany-bans-public-grieving-and-solidarity-with-palestine/et/>;

<https://www.972mag.com/berlin-palestinians-nakba-protest-police/>;

<https://www.theguardian.com/world/article/2024/aug/06/german-court-due-to-rule-on-from-the-river-to-the-sea-case-in-test-of-free-speech>.

96 <https://www.instagram.com/reel/DN6-o9Ajj4h/> (Accessed: December 4, 2025). In this video, while there is initially no intervention against the young woman, police immediately intervene and handcuff her at the moment she says "From the River to the Sea, Palestine will be Free."

97 See <https://www.instagram.com/reel/DMVQuhDyPH7/?igsh=MWJyZGV2Mzh2MTJ0bA%3D%3D>, (Accessed: December 4, 2025).

Despite repeated and explicit statements by protest participants that they oppose “*not the existence of Israel, but the mass killings in Gaza*”, numerous individuals have been dismissed from their jobs, and academics have faced disciplinary sanctions within universities. The degree of police intervention also varies significantly between federal states. For instance, while slogans are not excessively suppressed in cities such as Düsseldorf and Bochum, Berlin has witnessed harsh interventions even against minor acts, with the wearing of *keffiyehs* and the display of Palestinian flags reportedly being prohibited.⁹⁸

Witness E similarly reported that demonstrations planned in Frankfurt and several other cities were cancelled by police and municipal authorities, with protest areas sealed off days in advance. Demonstrators have been dispersed through disproportionate police interventions involving water cannons and violent methods. Although legal challenges to protest bans have frequently resulted in rulings favorable to demonstrators, the administration continues to impose prohibitions systematically.

Witness and lawyer Melanie Schweizer shared with WOLAS documentation of a decision issued by the *Hessischer Verwaltungsgerichtshof* (*Hesse Higher Administrative Court*) on August 29, 2025, concerning the right to freedom of assembly and to protest⁹⁹, for inclusion in this report. In this case, the applicant notified the City of Frankfurt by email on July 26, 2025, of his intention to organize a march titled “United4Gaza – Stop the Genocide Now!” (“*United4Gaza – Stoppt den Völkermord jetzt!*”). The demonstration was planned to take place on August 30, 2025, between 15:00 and 20:00, with an expected participation of 5,000 people, and a march route extending from Hafenpark to Willy-Brandt-Platz. During a coordination meeting held on August 20, representatives of the police, intelligence services, and municipal authorities attended; however, the meeting focused solely on potential restrictions. Subsequently, the Frankfurt Police Department, *the Office for the Protection of the Constitution, and the State Commissioner for Combating Antisemitism*

98 Witness F – see example incidents referred to by the witness illustrating bans and police interventions: in the first video, an individual wearing a Palestinian *keffiyeh* and chanting “freedom for Palestine” is shown; in the second video, the same individual is subjected to police violence and taken into custody.

<https://www.instagram.com/reel/DHZI-lvl4dM/?igsh=YjR1eHNhN3Zzbnlw>, (Accessed: December 4, 2025); <https://www.instagram.com/reel/DMJ8BfCN4vg/?igsh=MTdq3g2cTBjdZRmcQ%3D%3D> (Accessed: December 4, 2025).

99 <https://acrobat.adobe.com/id/urn:aaid:sc:AP:58a544bf-0990-4694-bf86-93b8fd5eb084>, (Accessed: December 4, 2025); <https://acrobat.adobe.com/id/urn:aaid:sc:AP:898fba78-92b8-4ce9-98b9-a57ea83d8672>. (Accessed: December 4, 2025).

issued negative opinions regarding the demonstration. On this basis, the City of Frankfurt imposed a ban on the demonstration on August 27, 2025, citing an alleged “danger to public security”. The ban entered into force on the same day and was declared immediately enforceable (*sofortige Vollziehung*). The applicant lodged an objection against the ban on August 28, 2025, and requested the suspension of its execution. The Administrative Court granted this request, thereby allowing the demonstration to proceed. The City of Frankfurt appealed the decision; however, the Higher Administrative Court of Hesse rejected the municipality’s appeal, confirming the lower court’s ruling.

In the concrete case, the City of Frankfurt relied on incidents that had occurred during a different demonstration in Berlin but failed to establish any specific and imminent danger relating to the planned demonstration in Frankfurt. The Court held that where a potential danger remains merely hypothetical, authorities may at most adopt proportionate preventive measures, rather than imposing the severe restriction of an outright ban on an assembly. Accordingly, the Court found the prohibition of the demonstration to be unjustified.¹⁰⁰

Similarly, during the Open-Air-Sommerfest (Open-Air Summer Festival) held at Heidelberg University in the summer of 2024, a group initiated a protest against Israel. Although some students called the police, the university rector refused to allow police onto campus. This incident sparked public debate regarding the stance of public authorities and academic institutions toward freedom of expression. The university administration deemed police intervention against the protesters disproportionate and defended campus autonomy and freedom of expression, thereby triggering renewed discussion on how academic institutions in Germany position themselves vis-à-vis public protest.¹⁰¹

Witness F further drew attention to certain practices by German authorities which he considers to amount to deliberate provocation. According to their account, authorities frequently grant simultaneous permission for two entirely opposing demonstrations to take place at the same location and time. For example, while authorizing a humanitarian demonstration aimed at supporting innocent children

100 *ibid.*

101 <https://www.welt.de/politik/deutschland/article252308386/Heidelberg-Wenn-die-Uni-Rektorin-den-Polizei-Einsatz-beim-Anti-Israel-Protest-fuer-unerwunscht-erklaert.html#:~:text=Lukas%20Honemann%20vom%20Ring%20Christlich,bei%20WELT%20TV%20deutliche%20Worte.&text=Wegen%20eines%20spontanen%20Anti%20Israel,ihr%20Erscheinen%20nicht%20erw%C3%BCnscht%20sei>, (Accessed: December 4, 2025).

in Gaza and condemning starvation policies, authorities have also permitted a counter-demonstration supporting Israel at the very same site.

In light of recent developments, Witness F also described a new form of protest, the “Pots and Pans Campaign.” Within this initiative, demonstrators peacefully express their opposition to the attacks by using kitchen utensils such as pots and pans. However, when participants loudly chant slogans such as “All of Palestine is free” police intervention has occurred, as in previous cases, involving harsh measures. Such interventions constitute violations of the right to freedom of assembly (German Basic Law Art. 8; ECHR Art. 11; ICCPR Art. 21).¹⁰² The witness further stated that they themselves have been subjected to physical police interventions during numerous protests, including being pushed from behind and actions intended to restrict their freedom of movement.

In the context of pro-Palestinian demonstrations in Germany, a pattern of human rights violations has been observed. With regard to freedom of peaceful assembly and protest, police violence, arbitrary detentions, bans on demonstrations, surveillance of assembly areas through cameras, and intimidation of participants significantly restrict the exercise of fundamental rights. Moreover, the banning of slogans such as “From the River to the Sea, Palestine will be Free” and the automatic conflation of pro-Palestinian views with antisemitism constitute interferences with both freedom of expression and freedom of assembly.

In this regard, the ECtHR’s judgment in *Ezelin v. France* constitutes a key precedent, as it establishes that participation in peaceful protests cannot be penalized under European human rights standards.¹⁰³ In that case, Jean Ezelin received a disciplinary warning from the Bar Association despite not having engaged in any violence during a demonstration. The Court held that participation in peaceful assemblies may not be sanctioned and emphasized that, in a democratic society, individuals may not be penalized merely for attending a demonstration, so long as they do not resort to violence.¹⁰⁴ The ECtHR held that the right to freedom of assembly and association had been violated in the case. It reached the same conclusion regarding freedom of expression (Article 10). This principle has since been reaffirmed in later cases such as *Kudrevičius v. Lithuania* (2015) and *Bukta v. Hungary* (2007)¹⁰⁵:

102 <https://www.instagram.com/reel/DMh1rQ4omSh/>, (Accessed: December 4, 2025).

103 *Ezelin v France* App no 57675/00, (ECtHR, 2001).

104 For the case, see <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-57675%22%5D%7D> (Accessed: December 4, 2025);

105 <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-158200%22%5D%7D> (Accessed: December 4, 2025).

“Participation in a peaceful demonstration cannot be punished so long as the participant does not engage in violence.”¹⁰⁶

Another significant development in relation to freedom of assembly occurred on October 16, 2025, when a group of UN experts called on Germany to cease the suppression, criminalization, and punishment of legitimate support for Palestine. This group of five UN rapporteurs and experts emphasized that individuals exercising their right to peaceful assembly and protest in Germany have been subjected to police violence resulting in injuries solely for chanting the slogan “From the River to the Sea, Palestine will be Free.” They further highlighted inconsistent court rulings regarding the prohibition of this slogan, unlawful restrictions on freedom of assembly, and a broad spectrum of punitive measures, including against children. The experts stressed that Germany should support, rather than suppress, efforts aimed at halting atrocities and genocide.¹⁰⁷

Right to Freedom of Association and Freedom of Contract

Article 9 of the German Basic Law guarantees the freedom to form associations and to organize collectively. Likewise, Article 11 of the ECHR recognizes the right to freedom of peaceful assembly and association, including the right to form and join trade unions. Article 22 of the ICCPR further affirms that everyone has the right to freedom of association, explicitly encompassing the right to establish and join trade unions. Within this legal framework, the obstruction of association initiatives by pro-Palestinian groups, the initiation of dissolution proceedings, and the exertion of pressure on organizational activities constitute violations of the freedom of association as protected under both domestic and international law.

Articles 2(1) and 2(2) of the German Basic Law, which safeguard personal freedom and freedom of will, indirectly protect the right to conclude contracts. Accordingly, freedom of contract and property rights are secured within this constitutional framework. In this context, a motion adopted by the Federal Parliament has specifically targeted the BDS movement on the grounds that it allegedly promotes discriminatory practices against Israel. The legal framework governing measures taken

106 For detailed information, see Guide on Article 11 of the European Convention on Human Rights – Freedom of Assembly and Association, updated on August 31, 2024, Guidelines on Article 11 of the Convention - Freedom of assembly and association, 7.

https://ks.echr.coe.int/documents/d/echr-ks/guide_art_11_tur, (Accessed: December 4, 2025).

107 <https://www.ohchr.org/en/press-releases/2025/10/un-experts-urge-germany-halt-criminalisation-and-police-violence-against>, (Accessed: December 4, 2025).

against the BDS movement in Germany has, at various times, been subject to judicial scrutiny. In this regard, a 2019 decision¹⁰⁸ of the Munich Regional Court constitutes an important precedent concerning the freedom of expression and contractual rights of civil society organizations. In the case at hand, the civil initiatives *Yallah Arabi* and *Jüdisch-Palästinensische Dialoggruppe* had reserved halls belonging to Caritas¹⁰⁹ in Munich for BDS-related events aimed at ending the genocide in Gaza. Subsequently, the city administration cancelled these events and denied access to the venues, prompting legal action against the administrative decision. The court held that the plaintiffs were entitled to use the venues under the contractual provisions and that the unilateral termination of the contracts lacked a lawful basis.

In the *Wunsiedel* decision, the court emphasized that even in cases involving restrictions on Nazi propaganda, interference may be legitimate only in exceptional circumstances and solely to protect human dignity, thereby requiring a narrow interpretation of the scope of prohibitions.¹¹⁰

To further illustrate this legal framework through concrete judicial practice, the Cologne Administrative Court ruled on September 13, 2019, that the City of Bonn's decision to exclude the *Deutsch-Palästinensische Frauenverein e.V.* (German-Palestinian Women's Association) from the "Festival of Diversity" due to its alleged support for BDS was incompatible with the constitutional principles of equality and freedom of expression.¹¹¹ The court clarified that local political resolutions cannot serve as a legal basis for restricting access to public institutions on the grounds of fundamental rights. The court further held that the resolution adopted by the Bonn City Council on May 14, 2019, titled "*No Place for the Antisemitic BDS Movement in Bonn*", constituted a non-binding political statement and therefore could not justify the exclusion of organizations from public events. It also ruled that Bonn Municipality's exclusion of these organizations violated the principle of equality enshrined in Article 3 of the German Basic Law and the freedom of expression protected under Article 5. The court emphasized that such exclusion amounted to unequal treatment and could not be justified under any circumstances.¹¹²

108 <https://globalfreedomofexpression.columbia.edu/wp-content/uploads/2020/05/12-O-12183-LG-Munich.pdf>, (Accessed: December 4, 2025).

109 The official social welfare organization of the Catholic Church in Germany.

110 Detlev W. Belling and Nurten İnce, "The Effect of Fundamental Rights on Private Law Relations in Turkish-German Law" (2014) *Legal Hukuk Dergisi* 12(137), 3–59.

111 Cologne Administrative Court, *Statement regarding the decision rendered in a case conducted on behalf of supporters of the BDS movement* (September 16, 2019, Germany).

112 <https://www.alhaq.org/advocacy/16098.html>, (Accessed: December 4, 2025).

The Court emphasized that the resolutions adopted by the Bonn City Council and the Parliament of the State of North Rhine–Westphalia condemning the BDS movement constitute political statements without legal binding force and therefore cannot serve as a legal basis for preventing participation in events. It further stated that such exclusionary practices amount to “unequal treatment” and cannot be justified “under any circumstances.” Taking into account similar decisions previously rendered by the Oldenburg Administrative Court and the Higher Administrative Court of Lower Saxony, the Court held that access by BDS activists to publicly accessible spaces must be protected.

This decision is also significant for the protection of the rights to freedom of expression and freedom of association as guaranteed under Articles 10 and 11 of the European Convention on Human Rights. As a member state of the European Union, Germany has likewise enshrined these rights in its domestic legal order. The Court underscored that the exercise of the right to boycott constitutes a form of expression and association that must be protected. The ruling thus represents an important precedent in Germany and across Europe, delineating the legal limits on restricting the participation of organizations supporting the BDS movement in public events.

In Munich, developments between 2018 and 2020 began when Klaus Ried requested the use of a hall at the Munich City Museum to host a discussion on the BDS movement. The municipality rejected the request on the basis of a city council resolution banning BDS-related activities. However, in its decision of November 17, 2020, the Bavarian Higher Administrative Court (VGH) found this rejection unlawful, ruling that the municipality lacked the authority to impose such a ban and that such a generalized exclusion violated freedom of expression and equality norms.¹¹³ Upon appeal by the municipality, the Federal Administrative Court (*BVerwG*) upheld this jurisprudence in its January 20, 2022 decision and explicitly reaffirmed the protection of political freedom of expression.¹¹⁴

At the international level, a similar legal approach has been adopted. In *Baldassi and Others*¹¹⁵ v. France, the ECtHR held that calls for boycotts of Israeli products,

See also: <https://www.jns.org/fury-over-german-courts-anti-semitic-pro-bds-ruling/>, (Accessed: December 4, 2025).

113 See <https://www.gesetze-bayern.de/Content/Document/Y-300-Z-BECKRS-B-2023-N-16396?hl=true>, (Accessed: December 4, 2025); <https://elsc.support/more-and-more-german-courts-confirm-the-right-to-bds/>, (Accessed: December 4, 2025).

114 <https://electronicintifada.net/blogs/adri-nieuwhof/munich-anti-bds-policy-illegal-german-federal-court-rules> (Accessed: December 4, 2025).

115 <https://anayasagundemi.com/2020/07/10/ihamin-baldassi-ve-digerleri-v-fransa-kararinin->

insofar as they do not involve violence, fall within the scope of protected freedom of expression. Administrative practices in Germany that restrict such activities therefore risk contravening this established jurisprudence. The ICCPR and the interpretations of the relevant Human Rights Committee likewise emphasize the need to ensure a conducive environment for political boycotts and peaceful protests.¹¹⁶ These concrete judicial examples demonstrate that while the parliamentary motion numbered 20/13627, entitled “*Never Again Is Now: Protecting, Preserving and Strengthening Jewish Life*” pursues a legitimate aim in combating antisemitism, it nevertheless raises serious proportionality concerns regarding freedom of expression and freedom of association.

One notable rights violation attributed to this motion—widely discussed in major media outlets—concerns the *Schelling Architecture Foundation’s* decision to revoke an award granted to British artist James Bridle after he signed an open letter supporting BDS.¹¹⁷ The revocation was explicitly justified by reference to the Bundestag’s antisemitism resolution. Furthermore, the motion adopts the IHRA definition of antisemitism, thereby introducing a stringent approach to combating antisemitism. Critics, however, warn that this definition may be used to suppress legitimate criticism of Israel, particularly within the cultural and academic spheres, raising serious concerns about undue interference with freedom of expression and academic freedom.¹¹⁸

The motion characterizes the BDS movement as “antisemitic” under the stated objective of combating antisemitism and prohibits the allocation of public funds and public venues to actors associated with the movement. This approach results in severe restrictions on the freedom of association. The ban on granting public funding and access to public spaces to BDS-related actors constitutes an indirect restriction of fundamental freedoms that is incompatible with the state’s duty of neutrality. The ICCPR guarantees the right to peaceful assembly under Article 21 and the freedom of association under Article 22.¹¹⁹ Restrictions imposed on the

ozet-cevirisi-israilden-ithal-edilen-urunleri-boykot-eden-bds-hareketi-aktivistlerinin-yeterli-dayanaktan-yoksun-cezai-mahk/, (Accessed: December 4, 2025).

116 [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22002-12849%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22002-12849%22]}), (Accessed: December 4, 2025).

117 <https://www.theguardian.com/world/2024/nov/18/german-architecture-award-rescinded-british-artist-israel-boycott-vow-james-bridle>, (Accessed: December 4, 2025).

118 <https://www.welt.de/kultur/article254348936/Antisemitismus-Resolution-Bundestag-fasst-Judenhasser-nicht-mehr-mit-Samthandschuhen-an.html>, (Accessed: December 4, 2025).

119 See Section 2.2.4 of the report, where the relevant points are examined in detail.

BDS movement are discriminatory in nature, as they specifically target a particular political viewpoint. Such limitations fail to meet the criteria for legitimate restrictions as established under international human rights law. Ultimately, the BDS ban leads to violations of the lawful exercise of the rights to peaceful assembly and association. Limitations on these rights may only be imposed by law and must be necessary and proportionate in a democratic society. However, under international human rights law, the prohibition of peaceful political boycott calls is not recognized as a legitimate restriction.

Beyond state practices, international organizations have also published reports addressing the BDS movement. Human Rights Watch (HRW), in its 213-page report,¹²⁰ documents Israel's policies and practices of discrimination and repression against Palestinians. The report emphasizes that the BDS movement should be protected under the right to freedom of expression. Similarly, Amnesty International has criticized plans by the United States Department of State to cut funding to organizations supporting the BDS movement on the grounds that it is allegedly antisemitic. Amnesty International has stated that such measures constitute violations of freedom of expression and disproportionately target human rights defenders.¹²¹

120 <https://www.hrw.org/report/2021/04/27/threshold-crossed/israeli-authorities-and-crimes-apartheid-and-persecution> (Accessed: December 4, 2025).

121 <https://www.amnesty.org/en/latest/press-release/2020/11/state-departments-attack-on-the-bds-movement-violates-freedom-of-expression-and-endangers-human-rights-protection/> (Accessed: December 4, 2025).

Evaluation

It is evident that practices directed against pro-Palestinian views and protests in Germany have resulted in systematic violations across multiple areas of fundamental rights, including freedom of expression, freedom of assembly, freedom of religion and conscience, the principle of equality, the prohibition of discrimination, and the right to liberty and security. These violations clearly conflict with rights guaranteed under both the German Basic Law and binding international treaties, including the ECHR, the ICCPR, the ICESCR,¹ CEDAW, and the 1951 Geneva Convention.

According to field observations and witness statements collected by the WOLAS monitoring unit, practices such as reverse handcuffing, dragging, detention, registration, and profiling have become systematic during pro-Palestinian protests. The obstruction of demonstrations, cancellation of marches, and the forcing of protesters into “designated areas” constitute violations of the right to peaceful assembly. Physical violence, the use of pepper spray, and arbitrary detentions further undermine the right to liberty and security.

The banning of slogans chanted during protests—such as “From the River to the Sea, Palestine will be Free,” “Genocide,” or “Terrorist Israel”—constitutes a direct violation of freedom of expression. As emphasized by the ECtHR in *Handyside v. the United Kingdom*, freedom of expression protects not only ideas that are favorably received, but also those that “offend, shock, or disturb.” Accordingly, the prohibition of such slogans and the use of police force solely on the basis of their expression cannot be considered necessary or proportionate in a democratic society.

Expressions supporting Palestine, which do not contain calls for violence or hate speech, constitute lawful criticism of Israel’s human rights violations. Penalizing such expressions, therefore, amounts to a disproportionate interference. At the

1 United Nations, International Covenant on Economic, Social and Cultural Rights (ICESCR), December 16, 1966, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>, (Accessed: December 4, 2025).

same time, it represents an indirect form of discrimination based on political opinion. Under Germany's *General Equal Treatment Act* (Allgemeines Gleichbehandlungsgesetz – AGG), differential treatment based on worldview or political belief is prohibited. Public officials expressing pro-Israel views face no comparable sanctions, indicating the operation of a selective and one-sided political pressure mechanism. As a result, Germany's principle of neutral public service is effectively violated, and freedom of expression is reduced to a privilege afforded only to certain political viewpoints.

German courts have issued inconsistent rulings regarding the slogan "From the River to the Sea, Palestine will be Free."² While courts in Düsseldorf and Duisburg have found police bans based on security concerns to be lawful, courts in Bremen and Munich have ruled such bans unlawful, noting the absence of incitement to violence. Courts in Frankfurt and Kassel, by contrast, have upheld limited bans based on alleged "antisemitic risk." These inconsistencies contribute to arbitrary restrictions on freedom of expression and undermine legal certainty and foreseeability.

The automatic conflation of pro-Palestinian slogans with antisemitism, combined with pressure targeting Muslims and discriminatory practices against women wearing hijab, violates the principles of equality, non-discrimination, and freedom of religion. The profiling, surveillance, and stigmatization of protesters as "terrorists" further constitute serious interferences with the right to privacy and the right to reputation.

Excessive bureaucratic barriers imposed on private educational institutions effectively restrict the right to education, while the closure or limitation of activities of pro-Palestinian associations and organizations undermines freedom of association.

From the perspective of refugee and migrant rights, the association of foreign nationals or migrants participating in protests with "terrorism" creates pressure within asylum procedures and jeopardizes the effective exercise of the right to asylum. This practice poses serious risks of violating international protection standards and the principle of non-refoulement.

2 WELT, "Court Prohibits the Use of the Slogan 'From the River to the Sea'" (September 25, 2024, Germany), <https://www.welt.de/politik/deutschland/article253707946/Antiisraelischer-Slogan-Gericht-untersagt-Verwendung-der-Parole-From-the-river-to-the-sea.html>, (Accessed: December 4, 2025).

Parliamentary Motion numbered 20/13627, entitled “*Never Again Is Now: Protecting, Preserving, and Strengthening Jewish Life*” reflects a contradictory position. While the motion is framed as a measure to combat antisemitism, in practice, it seeks to restrict the activities of the BDS movement and pro-Palestinian civil society organizations. Consequently, it plays a restrictive role with regard to freedom of expression, freedom of association, freedom of assembly, and the principle of equality. However, judicial precedents clearly establish that state authorities and local administrations may intervene only in exceptional cases involving concrete and imminent danger, and may not exclude groups on the basis of generalized assumptions. This creates a direct legal contradiction between the parliamentary motion and established German judicial practice, raising serious concerns about the protection of democratic rights.

In conclusion, current judicial practices demonstrate a pressing need to clarify standards ensuring that peaceful pro-Palestinian expression is protected within the framework of freedom of expression and the right to peaceful assembly in Germany. The court decisions discussed above highlight potential violations of freedom of expression and the right to democratic protest, thereby confirming the necessity of legal and institutional reform.

Proposals

Strengthening Freedom of Expression and Assembly and Ensuring Balanced Policies

- An independent and transparent oversight mechanism should be established to prevent disproportionate police interventions against peaceful protests.
- Clear national-level guidelines should be adopted for police and security forces, ensuring that any interference with freedom of expression and assembly is lawful, necessary, and proportionate.
- The practice of automatically treating protest slogans or critical expressions as criminal offenses should be discontinued.
- In the absence of demonstrable antisemitic content, the democratic rights of participants in peaceful pro-Palestinian demonstrations must not be obstructed.
- Decisions to ban or intervene in demonstrations must be based on concrete evidence, and arbitrary practices should be avoided.
- Policies aimed at combating antisemitism should be implemented in a manner that does not deepen social polarization.
- Public education programs should be designed to raise awareness against both antisemitism and Islamophobia.
- The Federal Government of Germany and relevant public institutions should develop policies that guarantee public officials the ability to freely express their political views. In particular, practices that penalize international human rights criticism and democratic debate should be avoided.
- The IHRA definition of antisemitism should be narrowly interpreted so that mere criticism of Israel does not fall within its scope, or alternatively, the Jerusalem Declaration on Antisemitism (JDA) should be officially adopted.
- Parliamentary Motion numbered 20/13627, entitled “Never Again Is Now: Protecting, Preserving, and Strengthening Jewish Life,” which contains restrictive and discriminatory elements affecting fundamental rights, should be repealed.

Protection of Freedom of Religion and Belief

- Legal safeguards should be strengthened to prevent state interference with forms of worship and religious expression, and to prohibit the surveillance, profiling, or blacklisting of imams or religious preachers.
- Monitoring and oversight mechanisms should be restructured in line with Articles 4 of the German Basic Law, 18 of the ICCPR, and 9 of the ECHR, all of which guarantee freedom of religion and conscience.
- In order for policies combating both antisemitism and Islamophobia to gain broad societal support, dialogue and cooperation programs among different social groups—particularly Jewish and Muslim communities—should be actively encouraged.

Prevention of Discrimination on the Basis of Political Opinion

- Practices that result in discrimination on the basis of political opinion or ethnic/cultural identity (e.g., requirements to refrain from opposing Israel in citizenship applications, dismissals from employment, or disciplinary sanctions) should be discontinued.
- The state and public institutions must establish mechanisms that ensure equal treatment for all individuals. (Article 3 of the German Basic Law, Article 26 of the ICCPR, and the ICERD).
- Selective sanctions imposed on public officials based on their political views must be prevented, and the principle of equal treatment must be strictly upheld.

Strengthening Academic Freedom and Media Pluralism

- Barriers preventing academics and international speakers from expressing their views should be removed, and practices such as deportation threats and censorship should be reviewed.
- State-funded media and public broadcasting services should be regulated to ensure the representation of diverse viewpoints, and legal reforms should be enacted to enhance pluralism and freedom of expression.

Implementation of Case Law and International Standards

- Based on the case-law of the ECtHR (e.g., *Kudrevičius v. Lithuania*, *Bukta v. Hungary*), it should be explicitly incorporated into domestic law that participation in peaceful protests cannot be criminalized.
- German legislation should be updated to prevent the criminalization of protests, and national courts and law enforcement authorities should be trained in accordance with these standards.

Independent Monitoring and Oversight Mechanisms

- An independent monitoring body should be established to identify and assess human rights violations, with transparent public reporting at both the federal and state levels.
- Cooperation with international human rights mechanisms should be strengthened to ensure that practices in Germany comply with international standards.

Strengthening Freedom of Association and Assembly

- During the implementation of Parliamentary Motion numbered 20/13627, clear and binding criteria should be established to prevent peaceful protests from being automatically classified as criminal acts or antisemitic conduct.
- State intervention in the activities of political parties, civil society organizations, and independent groups should be permitted only under lawful, necessary, and proportionate conditions.
- Police and security forces should be trained to prevent the use of disproportionate force during public assemblies, and an independent oversight mechanism should be established.

Protection of Political and Economic Rights

- Arbitrary sanctions, disciplinary measures, dismissals, and economic penalties arising under Parliamentary Motion numbered 20/13627 should be reviewed, and practices that result in violations of property rights and freedom of contract should be eliminated.
- Mechanisms should be established to prevent individuals and organizations from facing economic or legal disadvantages on the basis of their political views, ensuring transparency and effective oversight.

Transparency and Accountability Mechanisms

- All decisions and police interventions related to the implementation of the parliamentary motion should be reported transparently and subjected to independent oversight and appeal mechanisms.
- Rapid and independent complaint procedures should be established for alleged violations, and access to effective remedies for victims should be facilitated.
- Authorities and law enforcement officers should be trained to distinguish between antisemitic conduct and legitimate criticism.
- The application of the “duty of moderation,” neutrality, loyalty obligations, and codes of conduct must be proportionate and compatible with international standards; such rules should apply only to actions genuinely incompatible with official duties, and must not be used to penalize democratic criticism or symbolic expression.
- The availability of effective legal remedies and compensation mechanisms for public officials whose rights have been violated—such as Melanie Schweizer—must be guaranteed. In addition, oversight and transparency mechanisms should be strengthened to prevent similar cases in the future.
- The practice of automatically criminalizing or stigmatizing BDS-related or pro-Palestinian activities should be abandoned.

Legal Education and Awareness

- Local authorities, security forces, and courts should receive systematic education on standards relating to freedom of expression, freedom of association, and property rights under both the German Basic Law and the ECHR.
- Practical guidelines should be developed to prevent unlawful restrictions during peaceful demonstrations and assemblies.

Germany's Responsibility Regarding Human Rights Violations in Palestine

- As WOLAS, we call upon Germany—at both the state and societal levels—to adopt a more sensitive and responsive stance toward the grave human rights violations and acts amounting to genocide committed by Israel in Palestine. Within the framework of international human rights law, Germany's historical responsibility assumed in the aftermath of the Holocaust entails obligations not only to combat antisemitism, but also to uphold and protect universal human rights.
- In this regard, the UN Convention on the Prevention and Punishment of the Crime of Genocide (1948), the International Covenant on Civil and Political Rights (ICCPR, 1966, Articles 6 and 7), and the European Convention on Human Rights (ECHR, Articles 2 and 3) impose clear duties on states to protect the right to life and to prevent torture and inhuman or degrading treatment.
- Germany's responsibility in this context should be clearly reflected in its state policies, diplomatic initiatives, and public information practices. Raising public awareness and strengthening the application of international law and universal fundamental rights will advance a position consistent with Germany's democratic and legal values.

Conclusion

The German Criminal Code contains numerous provisions that are directly related to antisemitism. Amendments made to paragraphs 1 and 2 of Article 130 (§130 StGB), which regulates expressions and acts that incite hatred and hostility against the public, have encouraged an expansion of the scope of the offense to include the denial of Israel's "right to exist" or expressions and acts that amount to calls for the destruction of the State of Israel.¹ These provisions are essentially aimed at punishing hate speech and calls for violence targeting the Jewish community. However, in Germany, the wearing of *keffiyehs*, slogans such as "Free Palestine," or the display of Palestinian flags at pro-Palestinian demonstrations are often prevented by the police on the grounds that they constitute antisemitic acts. Yet expressions of support for Palestine are not, in and of themselves, hate speech against Jews. The slogan "Free Palestine" is a political demand grounded in a people's right to self-determination and in international law. To classify this slogan as an antisemitic hate crime within the scope of Article 130 is legally unfounded. Symbols such as the *keffiyeh* or the Palestinian flag are not antisemitic symbols; they are historical and cultural symbols and cannot be equated with Nazi symbols or ideologies of hatred. Accordingly, they do not fall within the scope of prohibited symbols regulated under Article 86a. Freedom of expression is one of the fundamental guarantees of the German Constitution. International conventions likewise protect the political freedom of expression (Article 10 of the ECHR and Article 19 of the ICCPR). Pro-Palestinian actions fall under these protections.

The justification of combating antisemitism cannot under any circumstances be used to disregard the human rights violations suffered by Palestinians or to criminalize peaceful solidarity against such violations. Provisions on antisemitism in German criminal law—leaving aside debates on their compatibility with the prohibition of discrimination—were introduced to protect the safety and human dignity of the Jewish community. Using these provisions to suppress

1 Esra Özen, "The Protection of Anti-Zionist Views within the Scope of Freedom of Thought and Expression: The Employment Tribunal Decision in *Miller v. University of Bristol*," *Ankara Yıldırım Beyazıt Üniversitesi Hukuk Fakültesi Dergisi*, (2025), 74, 911–945, 932.

peaceful demonstrations in support of Palestine constitutes a transgression of legal limits.

Chanting the slogan “Free Palestine,” wearing a *keffiyeh*, or carrying a Palestinian flag, is not an antisemitic act. Therefore, the police’s prevention of such symbols and peaceful demonstrations is contrary to both the spirit of the German Criminal Code and constitutional guarantees of freedom of expression. Police interventions and administrative practices targeting pro-Palestinian protests in Germany violate numerous fundamental rights, including freedom of expression, assembly, religion, and conscience, as well as the principles of equality and non-discrimination. Conflicting court decisions weaken legal certainty, deter peaceful protests, and narrow the democratic space. It can be stated that Germany’s practices in this regard pursue a political objective; therefore, they are incompatible with the German Constitution, the ECHR, the ICCPR, and other international human rights instruments, violate the rights to peaceful expression and assembly, and contribute to the erosion of democratic society standards.

The incorrect conflation of hostility toward Jews (antisemitism) with opposition to Zionism may lead to criticism of Zionism being assessed as a racist approach and excluded from the scope of freedom of expression. As discussed in previous sections, the ECtHR case of *Miller v. University of Bristol* provides a clear example. Miller criticized Zionism as an imperialist and racist policy and supported these criticisms with academic studies and international human rights reports. By protecting this assessment under the right to freedom of thought and expression, the Court contributed to the preservation of a pluralistic and democratic social order.²

This report has identified fundamental rights violations in Germany, including police interventions against peaceful protests, detentions, and other intimidation policies, and has observed that the balance between combating antisemitism and freedom of expression has been seriously disrupted. The analyses reveal that practices in Germany violate freedoms of expression, association, and assembly, and that policies to combat antisemitism carry risks of deviating from the democratic framework.

In this context, the fight against antisemitism is legitimate only so long as it is conducted within the rule of law and democratic boundaries. It is concerning that this struggle is being transformed into a tool to silence peaceful protests in Germany that draw attention to serious violations of international law in Gaza.

2 Özen, “The Protection of Anti-Zionist Views...” (n 127).

Germany risks denying its own democratic values by violating fundamental rights and freedoms in the name of combating antisemitism. Combating antisemitism is, of course, important in light of historical responsibility; however, this struggle cannot be instrumentalized in a way that undermines the essence of democratic rights and freedoms.

In Germany, disproportionate police interventions against peaceful protests on the grounds of “antisemitism” constitute human rights violations. Parliamentary Motion numbered 20/13627, adopted to combat antisemitism, has been shown in practice to involve serious disproportions and to lead to the censorship of legitimate criticism in academic and artistic fields. This situation is alarming for both democratic pluralism and the protection of fundamental rights. In addition, the adoption of the IHRA definition of antisemitism—ambiguous and open to misuse in official contexts—significantly restricts freedom of expression.

The fight against antisemitism is legitimate insofar as it is pursued within a legal and democratic framework. However, it cannot be allowed to function as a means of suppressing peaceful protests that draw attention to grave violations of international law in Gaza. Otherwise, Germany will face a dilemma in which it seeks to fulfill its post-Holocaust historical responsibility while simultaneously violating fundamental rights and freedoms. In many cities, especially Berlin, police engage in ill-treatment of civilians participating in peaceful protests; detentions, the use of force, and intimidation policies are becoming increasingly widespread. As emphasized throughout the report, treating protesters who oppose the genocide in Gaza as criminals and subjecting them to police violence are among the factors that cause Germany to fall short in terms of fundamental rights. In this context, WOLAS calls on Germany to adopt an approach to combating antisemitism that is compatible with human rights law, democratic pluralism, and fundamental freedoms.

Despite the absence of antisemitic rhetoric, positions, or acts of violence at peaceful protests organized in support of Palestine, participants have frequently faced accusations of “antisemitic propaganda,” and many demonstrations have been arbitrarily banned or dispersed through police intervention. Nevertheless, the German Bundestag’s Motion numbered 20/13627 has significantly narrowed freedom of expression and assembly by associating the BDS movement and Palestinian solidarity actions with “antisemitic tendencies.” Although ostensibly aimed at combating antisemitism, this motion carries the risk of equating legitimate criticism and calls for solidarity with Palestine with antisemitism. This not only weakens the

democratic debate environment but also has the potential to fuel Islamophobic attitudes toward Muslim communities and pro-Palestinian activists in Germany. Consequently, rather than providing protection against antisemitism, Motion numbered 20/13627 has the effect of restricting political pluralism and freedom of expression and deepening social polarization. A genuine policy to combat antisemitism should secure the peaceful expression of different identities and viewpoints rather than suppress critical thought.

Police interventions against pro-Palestinian demonstrations and political expressions in Germany narrow the space for democratic debate and contradict universal principles of law. Beyond individual rights violations, these practices also have negative consequences for world peace and the pursuit of justice. Such interventions weaken the international community's capacity to monitor conflicts and human rights violations and erode an understanding of justice based on equality and impartiality in the Israeli-Palestinian context. The necessity of preserving neutral, transparent, and law-abiding spaces for debate—critical to world peace—is undermined by these interventions. WOLAS calls on German authorities to develop policies that guarantee freedom of expression and democratic participation and to ensure that police interventions comply with international human rights standards. Universal justice and sustainable peace can only be achieved through the protection of transparent and equitable public spaces.

In conclusion, this report contributes to practical problems arising at the intersection of human rights law and democratic practices in the German context, as well as to current debates on the balance between combating antisemitism and democratic rights and freedoms.

In this respect, the report is of a quality that can serve as a reference source for both academic literature and policymakers.

Annexes

In the annexes section of this report, interventions by security forces against demonstrators supporting Palestine in Germany, as well as the related human rights violations, are documented. The materials included here have been compiled primarily from images, news items, and testimonies shared on social media platforms (Instagram, YouTube, Twitter/X, Facebook).

These documents present concrete examples of restrictions on the exercise of fundamental rights guaranteed under Articles 10 and 11 of the European Convention on Human Rights, in particular freedom of expression and freedom of assembly. The annexes also reveal the controversial aspects of interventions carried out in Germany on the grounds of public order and security, especially with regard to the principles of proportionality and necessity.

The content presented within this scope is intended to demonstrate the practical reflections of the analyses addressed in the report and aims solely to make visible the legal and social dimensions of documented violations.

Moreover, today, social media has become one of the fastest channels for global information and communication, enabling developments around the world to be shared simultaneously. For this reason, social media content constitutes not only a part of collective memory but also an important source and form of evidence in academic studies, human rights reports, and legal documents. The social media data used in this report are likewise evaluated as examples that directly and temporally document developments occurring on the ground.

In particular, the social media footage included in the annexes shows police directly intervening against individuals solely for wearing a *keffiyeh*, clothing bearing the colors of Palestine, or expressing the slogan “Free Palestine,” with these individuals being beaten or taken into custody. Yet all documented demonstrations are peaceful; participants include civilians of all ages, and none were carrying weapons or any other harmful objects. This situation stands out as an indication of serious violations of the essence of the right to peaceful assembly in a democratic society.

As WOLAS, this report aims not only to discuss the documented rights violations at a theoretical level but also to present them concretely through images and testimonies shared on social media. These visual and digital data constitute direct evidence of interventions against peaceful demonstrations and support the report's analytical findings. In this way, the contradiction between current practices in Germany and international human rights standards is made more visible.

The social media videos used in this report were shared either by individual user accounts documenting violations during protests or by accounts belonging to human rights defenders. Since this content was published through publicly accessible profiles, our use of these materials as WOLAS does not pose any legal concerns.

Social Media Footage of Police Interventions Against Demonstrators



<https://www.instagram.com/reel/DOEx5jQDGDw/?igsh=MW1yamd6OWgyc3lxaw%3D%3D>
October 2025, Berlin.



<https://www.instagram.com/reel/DN1WDVzUIBT/?igsh=MTRqam1odjNwYmhxZg%3D%3D>
August 2025, Berlin.



<https://www.instagram.com/reel/DMasHfAtxmj/?igsh=Y3ZwY3dpMXZrZW1>
July 2025, Berlin.



<https://www.instagram.com/reel/DCce87-tY6P/?igsh=NWZkMjdjNnV2eHA4>
16 November 2024, Berlin.



<https://www.instagram.com/reel/DMVQuhDyPH7/?igsh=MWJyZGV2Mzh2MTJ0bA%3D%3D>
20 July 2025, Berlin.



<https://www.instagram.com/reel/DOcejXejM3X/?igsh=ZTQ0MjU5YWdxMmlw>
1 September 2025, Berlin.



<https://www.instagram.com/reel/DN6dm7AjK3V/?igsh=Njd3cHntZHduc3N4>
August 2025, Berlin.



<https://www.instagram.com/p/DOBavL4DPiP/?igsh=MWFhZG13cHRydGxzDQ%3D%3D>
1 September 2025 Berlin.



<https://www.instagram.com/reel/DN6RxPhjPzp/?igsh=MXg5dJlnbnFucjMx>
August 2025, Berlin.



<https://www.youtube.com/shorts/Df15KrLOKfg>
July 2024, Berlin.



https://youtube.com/shorts/2IejkBN_PBo?si=auKqTzhYkfkj0WG
September 2024, Berlin.



<https://www.youtube.com/shorts/xXAVaGZ9Bb8>
July 2025, Berlin.



<https://www.youtube.com/shorts/mHFWS7rMixk>
March 2024, Berlin.



<https://www.youtube.com/shorts/DNyCGAZamho>
April 2024, Berlin.



<https://www.youtube.com/shorts/ZkigRiAJnew>
August 2025, Berlin.



<https://www.youtube.com/shorts/8tfdH2IH00U>
July 2025, Berlin.



<https://www.youtube.com/shorts/9azTdEkufeg>
July 2025, Berlin.



<https://www.youtube.com/watch?v=PwlvVtMkkEw>
September 2024, Berlin.



<https://www.youtube.com/shorts/dhmXHR4nAKY>
May 2024, Berlin.



<https://www.youtube.com/watch?v=I37RWmtIQOs>
October 2023, Berlin.



<https://www.youtube.com/watch?v=in7CTnxVnk0>
September 2024, Berlin.



<https://www.youtube.com/watch?v=mfs5pdT1V4I>
June 2025, Berlin.

References

- Al Jazeera, *German Police Arrest Civilian Demonstrators*, (July 11, 2025, Berlin), <https://www.aljazeera.com/video/newsfeed/2025/8/11/german-police-make-arrests-at-protest-for-slain-al-jazeera-journalists#flips-6376804844112:0>, Accessed: December 4, 2025.
- Al Jazeera, *Punched, Choked, Kicked: German Police Crack Down on Student Protests*, (no date, Berlin, Germany), <https://www.aljazeera.com/features/2024/5/25/punched-choked-kicked-german-police-crack-down-on-student-protests>, Accessed: December 4, 2025.
- German Criminal Code (StGB), translated by P. D. Plagemann, Istanbul, May 2015.
- German Federal Parliament, *Basic Law for the Federal Republic of Germany (Grundgesetz)*, (May 1949), <https://www.btg-bestellservice.de/pdf/80207000.pdf>, Accessed: December 4, 2025.
- Anayasa Gündemi, *Summary Translation of the ECtHR Judgment in Baldassi and Others v. France*, (July 10, 2020, Istanbul), <https://anayasagundemi.com/2020/07/10/ihamin-baldassi-ve-digerleri-v-fransa-kararinin-ozet-cevirisi-israilden-ithal-edilen-urunleri-boykot-eden-bds-hareketi-aktivistlerinin-yeterli-dayanak-tan-yoksun-cezai-mahk/>, Accessed: December 4, 2025.
- Arslan, Z., "Limitation of Fundamental Rights and Freedoms: Some Reflections on Article 13 of the Constitution" (2002), *Anayasa Yargısı*, 150.
- European Court of Human Rights, *Guide on Article 11 of the European Convention on Human Rights*, (August 31, 2024), https://ks.echr.coe.int/documents/d/echr-ks/guide_art_11_tur, Accessed: December 4, 2025.
- European Convention on Human Rights, *as amended by Protocols Nos. 11 and 14*, (Rome, 1950), <https://www.yargitay.gov.tr/documents/AIHM.pdf>, Accessed: December 4, 2025.
- European Convention on Human Rights, *Text of the European Convention on Human Rights*, (November 4, 1950), https://www.echr.coe.int/documents/d/echr/convention_tur, Accessed: December 4, 2025.
- BBC, *Germany Labels Israel Boycott Movement BDS Anti-Semitic*, (May 17, 2019), <https://www.bbc.com/news/world-europe-48312928>, Accessed: December 4, 2025.
- Belling D. W. & İnce N., "The Effect of Fundamental Rights on Private Law Relations in Turkish-German Law", *Legal Hukuk Dergisi* (2014), 12(137), 3–59.
- United Nations, *International Covenant on Economic, Social and Cultural Rights (ICESCR)*, (December 16, 1966), <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>, Accessed: December 4, 2025.
- United Nations, *Universal Declaration of Human Rights (UDHR)*, Paris, 1948.
- United Nations, *Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)*, (December 18, 1979, New York), <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>, Accessed: December 4, 2025.
- United Nations, *International Covenant on Civil and Political Rights (ICCPR)*, (December 16, 1966),

- <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>, Accessed: December 2, 2025.
- Boycott, Divestment and Sanctions Movement, *Official BDS Website*, (July 2, 2025), <https://www.bdsmovement.net/>, (Accessed: December 4, 2025).
- Çelik, E., "The Place and Role of Human Dignity in Human Rights Law", *Hacettepe Hukuk Fakültesi Dergisi*, (2019), 9(2), 282–310.
- Deutscher Bundestag, *Printed Paper (Drucksache) 20/13627: Motion by the Parliamentary Groups of the SPD, CDU/CSU, Alliance 90/The Greens and FDP*, (November 5, 2024), <https://dserver.bundestag.de/btd/20/136/2013627.pdf>, (Accessed: December 4, 2025).
- DW, *Germany Passes Controversial Antisemitism Resolution*, (June 11, 2024, Germany), <https://www.dw.com/en/germany-passes-controversial-antisemitism-resolution/a-70715643>, (Accessed: December 4, 2025).
- Ergüne, E., "The Crimes of Inciting Hatred or Hostility and Insult in the Context of Endangerment Offences (Turkish Penal Code Art. 216)", *İstanbul Hukuk Mecmuası*, (2020), 78(3), 1675.
- European Legal Support Center (ELSC), *More and More German Courts Confirm the Right to BDS*, (2022), <https://elsc.support/more-and-more-german-courts-confirm-the-right-to-bds/>, Accessed: December 4, 2025.
- Ezelin v France* App no 57675/00 (ECtHR, 2001).
- German Foreign Policy, *Berlin and Antisemitism (II)*, (February 20, 2025), <https://www.german-foreign-policy.com/en/news/detail/9875>, Accessed: December 4, 2025.
- Gillan and Quinton v United Kingdom*, App no 4158/05 (ECtHR, January 2010).
- Handyside v United Kingdom*, (1976), ECtHR, <https://www.unesco.org/en/legal-affairs/recommendation-concerning-status-higher-education-teaching-personnel>, Accessed: December 4, 2025.
- International Holocaust Remembrance Alliance, *IHRA Working Definition of Antisemitism* (non-legally binding working definition), May 26, 2016, <https://holocaustremembrance.com/resources/working-definition-antisemitism>, Accessed: December 2, 2025.
- Irish News, *Ambassador Contacts German Officials After Irish Activist Was Punched in the Face by Police*, (August 2025, Berlin, Germany), <https://www.independent.ie/irish-news/ambassador-contacts-german-officials-after-irish-activist-punched-in-the-face-by-police-during-gaza-protest-in-berlin/a249856773.html>, Accessed: December 4, 2025.
- Jerusalem Declaration on Antisemitism, *Jerusalem Declaration on Antisemitism*, (March 25, 2021), <https://jerusalemdeclaration.org/>, Accessed: December 2, 2025.
- Karagözoğlu, C., "The Application of the Principle of Non-Refoulement within the Framework of the European Convention on Human Rights" (2023) 43(1) *Public and Private International Law Bulletin* 313–351, <https://doi.org/10.26650/ppil.2023.43.1203096>, Accessed: December 4, 2025.
- Landgericht Berlin, *Pressemitteilung*, (no date, Berlin, Germany), <https://www.berlin.de/gerichte/presse/pressemitteilungen-der-ordentlichen-gerichtsbarkeit/2024/pressemitteilung.1458546.php>, Accessed: December 4, 2025.
- Middle East Monitor (MEMO), *Germany: Federal Court Rules Anti-BDS Policy to Be "Unconstitutional"*, (January 26, 2022), <https://www.middleeastmonitor.com/20220126-germany-federal-court-rules-anti-bds-policy-to-be-unconstitutional/>, Accessed: December 4, 2025.

- Özen, E., "The Protection of Anti-Zionist Views under Freedom of Thought and Expression: The Employment Tribunal Judgment in *Miller v University of Bristol*", *Ankara Yıldırım Beyazıt Üniversitesi Hukuk Fakültesi Dergisi* (2025), 74, 911–945.
- Palestinian Prisoner Solidarity Network, *Samidoun Official Website*, <https://samidoun.net/>, Accessed: December 4, 2025.
- Perspektif, *Open Letter from Jewish Intellectuals: 'Not Every Criticism of Israel Is Antisemitism'*, (October 24, 2023), <https://perspektif.eu/2023/10/24/yahudi-aydinlardan-acik-mektup-her-israil-elestirisi-antisemitizm-degildir/>, Accessed: December 4, 2025.
- The Electronic Intifada, *Munich's Anti-BDS Policy Is Illegal, German Federal Court Rules*, (January 24, 2022, Munich, Germany), <https://electronicintifada.net/blogs/adri-nieuwhof/munich-anti-bds-policy-illegal-german-federal-court-rules>, Accessed: December 4, 2025.
- The Guardian, *German Architecture Award Rescinded Over British Artist's Vow to Boycott Israel*, (November 18, 2024), <https://www.theguardian.com/world/2024/nov/18/german-architecture-award-rescinded-british-artist-israel-boycott-vow-james-bridle>, Accessed: December 4, 2025.
- The Guardian, *German Court Convicts Activist for Leading "From the River to the Sea" Chant*, (August 6, 2024, Germany).
- The Irish Times, "Video Shows Irish Protester Assaulted by German Police During Gaza Demonstration", (2025, Berlin, Germany), <https://www.irishtimes.com/>, Accessed: December 4, 2025.
- Tulun TE, "An Assessment of the United Nations General Assembly Resolution on the Denial of the Holocaust", (Online Working Paper, February 15, 2022), <https://osf.io/preprints/osf/tc4gd>, Accessed: December 2, 2025.
- UNESCO, *Recommendation Concerning the Status of Higher-Education Teaching Personnel*, (November 1997).
- WELT, "Der Bundestag fasst Judenhasser endgültig nicht mehr mit Samthandschuhen an", (November 5, 2024), <https://www.welt.de/kultur/article254348936/Antisemitismus-Resolution-Bundestag-fasst-Judenhasser-nicht-mehr-mit-Samthandschuhen-an.html>, Accessed: December 4, 2025.
- WELT, "Gericht untersagt Verwendung der Parole 'From the river to the sea'", (September 25, 2024, Germany), <https://www.welt.de/politik/deutschland/article253707946/Antiisraelischer-Slogan-Gericht-untersagt-Verwendung-der-Parole-From-the-river-to-the-sea.html>, Accessed: December 4, 2025.

Online Sources

- <https://www.bundestag.de/dokumente/textarchiv/2024/kw45-de-juedisches-leben-1027708> (Accessed: December 2, 2025)
- <https://thinc-israel.org/articles/anti-bds-motion-passed-by-german-federal-parliament/> (Accessed: December 2, 2025)
- https://docs.google.com/document/d/1bAKcXP4rN7JuhzNpm_z4Pezb8cVGZ90E/edit (Accessed: December 2, 2025)
- <https://rm.coe.int/ecri-general-policy-recommendation-no-9-revised-on-preventing-and-comb/1680a64f20> (Accessed: December 2, 2025)
- <https://dejure.org/dienste/vernetzung/rechtsprechung?Gericht=VG%20D%FCsseldorf&Datum=25.09.2024&Aktenzeichen=18%20K%203322%2F24> (Accessed: December 2, 2025)

<https://www.rv.hessenrecht.hessen.de/bshe/document/LARE240000435> (Accessed: December 2, 2025)

<https://dejure.org/dienste/vernetzung/rechtsprechung?Text=502%20Kl%2021%2F24&Suche=502%20Kl%2021%2F24> (Accessed: December 2, 2025)

https://www.verwaltungsgericht.bremen.de/sixcms/media.php/13/24_1013_V_5.pdf?utm_source (Accessed: December 2, 2025)

<https://www.thecourieronline.co.uk/from-the-river-to-the-sea-freedom-of-speech-in-germany/> (Accessed: December 2, 2025)

<https://www.dw.com/en/germany-anger-over-cancelled-talks-by-un-special-rapporteur-for-palestinian-territories/a-71662122> (Accessed: December 2, 2025)

<https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-57499%22%5D%7D> (Accessed: December 3, 2025)

<https://www.irishtimes.com/world/europe/2025/08/30/ambassador-raises-concerns-with-german-authorities-after-irish-protester-assaulted-by-police/> (Accessed: December 3, 2025)

<https://elsc.support/elsc-files-criminal-complaint-against-police-officer-be-24111-who-beat-up-protestors-at-nakba-day-demo-in-berlin/> (Accessed: December 3, 2025)

<https://www.youtube.com/shorts/tKNkDj1f1lU>, August 2025 (Accessed: December 3, 2025)

<https://hudoc.echr.coe.int/tur#%7B%22itemid%22:%5B%22001-69630%22%5D%7D> (Accessed: December 3, 2025)

<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-elimination-all-forms-racial> (Accessed: December 4, 2025)

<https://hudoc.echr.coe.int/fre#%7B%22itemid%22:%5B%22001-83256%22%5D%7D> (Accessed: December 4, 2025)

<https://www.nytimes.com/2024/08/06/world/europe/germany-river-to-sea-chant-fine.html> (Accessed: December 4, 2025)

<https://peoplesdispatch.org/2023/10/23/germany-bans-public-grieving-and-solidarity-with-palestine/> (Accessed: December 4, 2025)

<https://www.972mag.com/berlin-palestinians-nakba-protest-police/> (Accessed: December 4, 2025)

<https://www.instagram.com/reel/DHZI-lvl4dM/?igsh=YjR1eHNhN3Zzbnlw> (Accessed: December 4, 2025)

<https://www.welt.de/politik/deutschland/article252308386/Heidelberg-Wenn-die-Uni-Rektorin-den-Polizei-Einsatz-beim-Anti-Israel-Protest-fuer-unerwuenscht-erklaert.html> (Accessed: December 4, 2025)

<https://www.instagram.com/reel/DMh1rQ4omSh/> (Accessed: December 4, 2025)

<https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-57675%22%5D%7D> (Accessed: December 4, 2025)

<https://www.ohchr.org/en/press-releases/2025/10/un-experts-urge-germany-halt-criminalisation-and-police-violence-against> (Accessed: December 4, 2025)

<https://globalfreedomofexpression.columbia.edu/wp-content/uploads/2020/05/12-O-12183-LG-Munich.pdf> (Accessed: December 4, 2025)

<https://www.alhaq.org/advocacy/16098.html> (Accessed: December 4, 2025)

<https://www.jns.org/fury-over-german-courts-anti-semitic-pro-bds-ruling/> (Accessed: December 4, 2025)

<https://www.gesetze-bayern.de/Content/Document/Y-300-Z-BECKRS-B-2023-N-16396?hl=true> (Accessed: December 4, 2025)

<https://www.hrw.org/report/2021/04/27/threshold-crossed/israeli-authorities-and-crimes-apartheid-and-persecution> (Accessed: December 4, 2025)

<https://www.amnesty.org/en/latest/press-release/2020/11/state-departments-attack-on-the-bds-movement-violates-freedom-of-expression-and-endangers-human-rights-protection/> (Accessed: December 4, 2025)

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The Tyranny of the Guilt Complex

The Dismantling of Freedoms in the Grip of Germany's Fight Against Antisemitism

Since 2023, policies implemented in Germany purportedly to combat antisemitism have transformed into a systemic mechanism restricting freedom of expression, assembly, and protest. The instrumentalization of historical sensitivities to silence peaceful advocacy against severe human rights violations in Gaza directly contradicts the rule of law. This restrictive climate actively fuels discriminatory practices against Muslim communities and human rights defenders. Consequently, it severely undermines the constitutional principle of equality.

This report documents how disproportionate law enforcement interventions, arbitrary detentions, and expanded surveillance systematically obstruct the exercise of fundamental rights. It provides a detailed legal scrutiny of practices that actively narrow the public sphere. These include the censorship of academic environments, the arbitrary cancellation of civil society events, and the penalization of peaceful political slogans.

These restrictive policies are notably formalized in Motion Nr. 20/13627 of the German Federal Parliament. This substantive legal assessment demonstrates that such measures constitute serious rights violations under both the German Basic Law (Grundgesetz) and the European Convention on Human Rights (ECHR). The protection of human dignity, equality, and free expression represents a multilayered obligation spanning domestic and international law. The report concludes with strategic legal recommendations aimed at restoring compliance with these binding global norms.



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