

May 21, 2024

Public Comment of the Foundation for Individual Rights and Expression
Re: Posts That Include “From the River to the Sea”
2024-004-FB-UA, 2024-005-FB-UA, 2024-006-FB-UA

The Foundation for Individual Rights and Expression (FIRE), a nonpartisan nonprofit dedicated to defending freedom of speech,¹ urges the Oversight Board to uphold Meta’s decision to leave up Facebook posts containing the phrase “From the river to the sea.” Reversing that decision and banning plainly political expression would be inconsistent with Meta’s commitment to free expression.

I. Meta’s commitment to free expression is “paramount”

FIRE takes no position on the Israeli-Palestinian conflict. We have long defended both pro-Palestinian and pro-Israeli speakers.²

We further recognize that Meta is a private entity with a First Amendment right of editorial freedom to moderate content on its platforms as it sees fit.³ However, Meta laudably commits to freedom of speech, calling itself a “service for more than 2 billion people to freely express themselves across countries and cultures.”⁴

To be sure, Meta also has Community Standards that limit certain kinds of speech it considers abusive or harmful. But Meta proclaims its “commitment to expression is paramount.”⁵ The

¹ More information about FIRE’s mission and activities is available at [thefire.org](https://www.thefire.org).

² See, e.g., Graham Prio, *FIRE seeks Indiana University records on cancellation of pro-Palestinian art exhibit*, FIRE (Feb. 20, 2024), <https://www.thefire.org/news/fire-seeks-indiana-university-records-cancellation-pro-palestinian-art-exhibit>; Jessie Appleby, *University of Southern California relegates professor to remote teaching for expressing anti-Hamas sentiments*, FIRE (Nov. 20, 2023), <https://www.thefire.org/news/university-southern-california-relegates-professor-remote-teaching-expressing-anti-hamas>; Press Release: *Pro-Israel group denied recognition by Williams College student government, administration’s response falls short*, FIRE (May 15, 2019), <https://www.thefire.org/news/pro-israel-group-denied-recognition-williams-college-student-government-administrations>; Sarah McLaughlin, *Victory: Bogus Sanctions Against Pro-Palestinian Group for ‘Political’ Speech Dropped at Montclair State*, FIRE (Oct. 13, 2014), <https://www.thefire.org/news/victory-bogus-sanctions-against-pro-palestinian-group-political-speech-dropped-montclair-state>.

³ See, e.g., *Miami Herald Pub. Co. v. Tornillo*, 418 U.S. 241 (1974).

⁴ *Facebook Community Standards*, META, <https://transparency.meta.com/policies/community-standards>.

⁵ *Id.*

“goal of [Meta’s] Community Standards is to create a place for expression and give people a voice. Meta wants people to be able to talk openly about the issues that matter to them, whether through written comments, photos, music, or other artistic mediums, even if some may disagree or find them objectionable.”⁶ To fulfill this commitment, Meta must err on the side of allowing speech, particularly on consequential, vigorously debated issues of public concern like the Israeli-Palestinian conflict—and especially where views may differ on the very meaning that language or messages may convey. To its credit, Meta recognizes as much, affirming that it intends to moderate content “in a way that gives free expression maximum possible range.”⁷

II. The expression “From the river to the sea” constitutes core political expression protected by Meta’s commitment to free speech

Banning posts simply for containing the political slogan “From the river to the sea” would suppress speech on one of the most hotly contested issues of our time and be inconsistent with Meta’s paramount commitment to free expression.

Many pro-Palestinian activists and politicians characterize the slogan as a peaceful call for Palestinian freedom and self-determination—an end to what they consider the Israeli government’s oppression of Palestinians. According to U.S. Representative Rashida Tlaib, “From the river to the sea is an aspirational call for freedom, human rights, and peaceful coexistence, not death, destruction, or hate.”⁸ British Member of Parliament Andy McDonald, whom the Labour Party suspended for saying “between the river and the sea” at a rally, later wrote, “These words should not be construed in any other way than they were intended, namely as a heartfelt plea for an end to killings in Israel, Gaza, and the occupied West Bank, and for all peoples in the region to live in freedom without the threat of violence.”⁹

The phrase stirs controversy because some hear it as a call for genocide or ethnic cleansing, particularly due to its association with Hamas, which committed the deadliest terrorist attack in Israel’s history and explicitly calls for the nation’s obliteration.¹⁰ But the phrase predates Hamas and holds different meanings depending on who is using it.¹¹

⁶ *Id.*

⁷ *Hard Questions: Where Do We Draw the Line on Free Expression?*, META, <https://about.fb.com/news/2018/08/hard-questions-free-expression>.

⁸ Laurie Kellman, ‘*From the river to the sea*’: Why these 6 words spark fury and passion over the Israel-Hamas war, AP (Nov. 10, 2023), <https://apnews.com/article/river-sea-israel-gaza-hamas-protests-d7abbd756f481fe50b6fa5c0b907cd49>.

⁹ Lydia Patrick, *Labour MP Andy McDonald suspended over ‘between the river and the sea’ Pro-Palestine speech*, INDEPENDENT (UK), <https://www.independent.co.uk/news/uk/politics/andy-mcdonald-suspended-labour-israel-palestine-b2438609.html>.

¹⁰ Bruce Hoffman, *Understanding Hamas’s Genocidal Ideology*, ATLANTIC, <https://www.theatlantic.com/international/archive/2023/10/hamas-covenant-israel-attack-war-genocide/675602>.

¹¹ Karoun Demirjian and Liam Stack, *In Congress and on Campuses, ‘From the River to the Sea’ Inflames Debate*, N.Y. TIMES (Nov. 12, 2023), <https://www.nytimes.com/2023/11/09/us/politics/river-to-the-sea-israel-gaza-palestinians.html>.

Context matters. As City University of New York professor Peter Beinart told *The New York Times*: “If it’s coming from an armed Hamas member, then yes, I would feel threatened. If it is coming from someone who I know has a vision of equality and mutual liberation, then no, I would not feel threatened.”¹² And as Ahmad Khalidi, a researcher at Oxford University who worked on Arab-Israeli peace negotiations during the 1990s, commented: “Is ‘free’ necessarily in itself genocidal? I think any reasonable person would say no. Does it preclude the fact that the Jewish population in the area between the sea and the river cannot also be free? I think any reasonable person would also say no.”¹³

Notably, Israeli Prime Minister Benjamin Netanyahu’s Likud Party used a similar slogan in its original platform in 1977: “between the Sea and the Jordan there will only be Israeli sovereignty.”¹⁴ Julie Rayman, managing director of policy and political affairs for the American Jewish Committee, is critical of the slogan but nevertheless concedes, “Probably it is true that most American college students, for example, who chant ‘from the river to the sea’ do not mean to evoke this idea of ethnic cleansing, do not mean to call for the erasure of Israel or the destruction of all Jews in that land.”¹⁵

Even if some intend the phrase to advocate abolition of Israel, that does not necessarily imply genocide or displacement of Israeli Jews but could be a call for a new state that unifies Jews and Arabs in Israel, Gaza, and the West Bank.¹⁶ Whatever the merits of that position, surely it should be within the necessarily wide bounds of political debate. As Meta’s Community Standards make clear, it does not restrict speech simply because some may disagree with it or find it objectionable.¹⁷

Meta rightly determined that, without additional context, it could not conclude that “From the river to the sea” incites violence, directly attacks individuals on the basis of protected characteristics, or expresses support for Hamas. Moreover, posts using the phrase fit squarely within Meta’s Community Standards’ general newsworthiness exception, which allows content that “gives voice to perspectives currently being debated as part of a political process”—here, perspectives on the ongoing Israel-Hamas war and the greater, long-running Israeli-Palestinian conflict—and does not present an imminent threat to public safety.¹⁸ An outright ban on the phrase would unnecessarily stifle legitimate political expression.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Joe Hernandez, *How interpretations of the phrase ‘from the river to the sea’ made it so divisive*, NPR (Nov. 9, 2023), <https://www.npr.org/2023/11/09/1211671117/how-interpretations-of-the-phrase-from-the-river-to-the-sea-made-it-so-divisive>.

¹⁶ Brishti Basu, *What does ‘From the river to the sea, Palestine will be free’ mean?*, CBC (Nov. 24, 2023), <https://www.cbc.ca/news/world/from-the-river-to-the-sea-palestine-1.7033881>.

¹⁷ *Facebook Community Standards*, *supra* note 4.

¹⁸ *Our approach to newsworthy content*, META, <https://transparency.meta.com/en-gb/features/approach-to-newsworthy-content>.

III. Educational institutions have restricted pro-Palestinian advocacy by censoring the phrase “From the river to the sea”

FIRE places a special emphasis on defending the free speech rights of college students and faculty. At public colleges and universities, the First Amendment protects students’ right to say, “From the river to the sea” (or the full version, “From the river to the sea, Palestine will be free”), as long as, under the circumstances, uttering the phrase does not cross the line into true threats, incitement to imminent unlawful action, or become part of a pattern of discriminatory harassment.¹⁹ Similar protections attach at the many private colleges that voluntarily adopt First Amendment-like standards. Yet, as FIRE’s case history shows, college students have repeatedly faced censorship and punishment for using the expression, likely chilling their speech and advocacy concerning the Israeli-Palestinian conflict. Meta should not extend the censorship (and accompanying controversies and problems) currently affecting educational institutions to its own platforms.

In March, Texas Governor Greg Abbott issued an executive order directing Texas state universities to “address the sharp rise in antisemitic speech,” including chants of “From the river to the sea, Palestine will be free.”²⁰ A University of Texas at San Antonio administrator enforced that directive by warning student protesters that the university would refer them to law enforcement if they used the phrase.²¹ Rockland Community College in New York suspended a student activist for saying, “From the river to the sea, Palestine will be free,” and “Jews for Palestine,” at a campus event.²² In April 2023, Pitzer College painted over pro-Palestinian artwork on a “free speech” wall, including the words, “From the River to the Sea, Palestine will be Free,” before apologizing after criticism from students and faculty.²³ A pro-Palestinian Pitzer student said the phrase is a common expression of support for Palestinian freedom.²⁴ Another student asserted the censorship was part of the college’s “long history of silencing student voices that are for Palestinian liberation.”²⁵

The censorship has reached K-12 public schools as well. Last October, a Minnesota high school suspended two students for chanting, “From the river to the sea, Palestine will be free” during

¹⁹ Jordan Howell, *Is saying ‘From the river to the sea, Palestine will be free’ protected speech under the First Amendment?*, FIRE (Dec. 19, 2023), <https://www.thefire.org/news/saying-river-sea-palestine-will-be-free-protected-speech-under-first-amendment>.

²⁰ GOVERNOR OF THE STATE OF TEX., EXEC. ORDER NO. GA-44 (2024), *available at* https://gov.texas.gov/uploads/files/press/EO-GA-44_antisemitism_in_institutions_of_higher_ed_IMAGE_03-27-2024.pdf.

²¹ @adamsteinbaugh, X (May 17, 2024, 8:38 PM), <https://x.com/adamsteinbaugh/status/1791629429040443442>.

²² Zach Greenberg, *Rockland Community College suspends student for pro-Palestinian advocacy*, FIRE (Nov. 13, 2023), <https://www.thefire.org/news/rockland-community-college-suspends-student-pro-palestinian-advocacy>.

²³ Harrison Rosenthal, *Pitzer College paints over pro-Palestinian artwork on ‘Free Wall,’ sparking free speech concerns*, FIRE (Apr. 18, 2023), <https://www.thefire.org/news/pitzer-college-paints-over-pro-palestinian-artwork-free-wall-sparking-free-speech-concerns>.

²⁴ Jake Chang, *Pitzer paints over pro-Palestinian artwork, messages on Free Wall*, STUDENT LIFE (Apr. 14, 2023), <https://tsl.news/pitzer-paints-over-pro-palestinian-artwork-messages-on-free-wall>.

²⁵ *Id.*

a student walkout.²⁶ In response, the Instagram account that organized the walkout posted, “Our intention was never to target any religious or ethnic group.” Jaylani Hussein, executive director of the Minnesota chapter of the Council on American-Islamic Relations, expressed concern that such incidents would lead to students feeling unable to express themselves.

Censoring expression like “From the river to the sea” because some interpret it as a call for genocide will likely have knock-on effects that dampen debate on matters of public concern.²⁷ After all, many people believe Israel’s invasion of Gaza constitutes genocide.²⁸ If Meta bans “From the river to the sea,” will it also remove posts that express support for the Israeli war effort? Doing so would severely limit expression of different perspectives on a complex political issue, whereas failing to do so would smack of political bias and hypocrisy. Either way, Meta’s integrity and commitment to free speech would rightly be called into question.

IV. Oversight Board precedent supports Meta’s original decision

In 2023, the Board overturned Meta’s decision to remove a Facebook post using a Farsi phrase that literally translates to “death to Khamenei,” Iran’s Supreme Leader, recognizing Iranians often use the protest slogan rhetorically to mean “down with Khamenei,” and that suppressing it would “shut people out of social movements and political debate.”²⁹ Allowing the phrase to be posted, the Board concluded, is “consistent with Meta’s commitment to voice, and the importance of protecting political discontent.” That reasoning applies with equal force to the pro-Palestinian protest slogan here. Users employ both phrases frequently in active political movements to succinctly convey political messages that, absent more, neither threaten nor incite violence.

V. Conclusion

Allowing the use of “From the river to the sea” does not render it immune from criticism. Facebook users would remain free to criticize its use in any context. Given its complex history and varied connotations, whether its use is ever appropriate is a matter of significant debate. But this is exactly the type of context in which free expression pays dividends, allowing diverse perspectives to enrich our understanding of an issue. Meta was right to let that occur.

FIRE urges the Board to affirm Meta’s commitment to free expression and uphold its decision to leave up posts containing the phrase “From the river to the sea.”

²⁶ Reid Forgrave, *Edina schools criticized for suspending students who used pro-Palestinian chant during walkout*, STAR TRIBUNE (Nov. 27, 2023), <https://www.startribune.com/edina-schools-criticized-suspending-palestinian-supporting-students-protest-antisemitic-islamophobia/600322696>.

²⁷ Will Creeley & Eugene Volokh, *Opinion: The trouble with Congress or college presidents policing free speech on campuses*, L.A. TIMES (Dec. 10, 2023), <https://www.latimes.com/opinion/story/2023-12-10/antisemitism-campus-speech-penn-president-liz-magill-resigns-harvard-mit>.

²⁸ Richard Luscombe, *More than one-third of Americans believe Israel is committing genocide, poll shows*, GUARDIAN (Jan. 24, 2024), <https://www.theguardian.com/us-news/2024/jan/24/americans-believe-israel-committing-genocide-poll>.

²⁹ *Iran Protest Slogan*, OVERSIGHT BOARD, <https://www.oversightboard.com/decision/fb-zt6ajs4x>.