



THE LAW OF ANTISEMITISM

THIRD EDITION



CAMPAIGN AGAINST ANTISEMITISM

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JUSTICE, JUSTICE, YOU SHALL PURSUE

“Justice, justice you shall pursue.” These simple words from the Torah were radical: in a time when power was wielded through the sword and by wealth, the idea that justice should be the ultimate goal of every person and the worthiest form of power was bold and new. It goes to the essence of what civilisation is: without justice we cannot thrive or be considered civilised.

Antisemitism is known as “the oldest hatred.” It is no mere prejudice; it endures because it is an ideology. It presents itself as a form of justice. Whereas other forms of racism slur their victims to diminish them, antisemitism does the opposite. Jews are presented as conniving, corrupting, parasites who wield immense power to the detriment of society. Antisemites present themselves as agents of justice, freeing mankind from Jewish dominance.

Like all ideologies, antisemitism has its own antibodies. Every Jewish contribution to society is cast as a bid for power. Every person who does not adopt antisemitism is dismissed as weak and blind. Every opponent of antisemitism is discredited as being part of a Jewish conspiracy or in the pay of Jews. Call an antisemite antisemitic and they will insist that you are smearing them to stop them exposing Jewish power.

The struggle against antisemitism is not just the pursuit of justice; it is the struggle to define justice itself. Will society see “justice” as the protector of the few against the many, or will subverted “justice” be the

mechanism by which the few are persecuted and the many corrupted?

History’s golden ages have been times when “justice” has been the guarantor of equality and freedom, and history’s darkest ages have been those times when “justice” was subverted. One need not look back far to see the part that antisemitism has played in perverting justice and society.

Antisemitism never sleeps. It is powerful again and unravelling the fringes of society, seeping into the mainstream. It is our duty as individuals to ensure that justice prevails by reporting antisemitism and ensuring that the criminal justice system repels this disease that threatens society itself.

This guide has been prepared for Campaign Against Antisemitism by a team of eminent Queen’s Counsel so that you may personally play your part in the battle for justice. Should you need help or have questions, please contact us.

Already across Europe antisemitism is reaching levels that have caused Jewish citizens to leave their countries. Jews have been sought out and murdered. The forces of justice have responded too late and inadequately. It must not be so in Britain.

Justice, justice, we must pursue.

Gideon Falter
CHAIRMAN

INTRODUCTION

Antisemitism is a hateful ideology. If you have witnessed an antisemitic incident — or you have been a victim of antisemitism yourself — the chances are that you will want the perpetrator brought to justice. This guide tells you how the law can help. It applies only to England and Wales. We want this advice to be as accurate and up-to-date as possible. If you think we have made an error or missed some relevant information, please e-mail legal@antisemitism.uk.

WHAT YOU SHOULD DO

If the incident is still going on, your first concern should be for your personal safety and for the safety of those around you.

In an emergency, call the police on 999. The police have greater powers of arrest than you do, and more resources. In non-urgent cases, call your local police on 101.

If it is safe to do so, try to gather evidence of the incident. Perhaps you can take photos or record videos on your smartphone. If the incident is over, dictate what you can remember of it as soon as possible using your phone's audio or video app. Failing that, take written notes and make sure you include the date and time your notes were made. Be sure you know how to take a screenshot of your computer or phone so that you can preserve any pages or messages that might otherwise be deleted.

There is an app called Self Evident that can help you do this. It helps you record evidence on your phone and send reports to the police. It also helps victims and witnesses of hate crime to receive specialist support (but only in London and Sussex at the moment).

You should also report antisemitic incidents to the CST; as well to as Shomrim if the incident took place in Barnet or Hackney.

WHAT HAPPENS NEXT?

If an offender is to be brought to justice, you may have to make a statement to the police in due course. You may then be asked to give evidence in court. If the offender is found guilty, it will be for the court to pass sentence.

Instead of asking you to make a written statement, the police may interview you and record your evidence. If the offender is charged, your evidence will be passed to the defendant's lawyers and will be seen by the defendant. Your name will be included but not your address or other contact details.

IS ANTISEMITISM A CRIME?

Antisemitism, as such, is not a criminal offence. The law does not punish people for holding thoughts or beliefs, however

unpleasant these may be. The same applies to Holocaust denial and criticism of Israel.

It is only when people start to act on those thoughts or beliefs that the law steps in. It punishes actions rather than attitudes.

But the dividing line is not always clear and suspects may be allowed some leeway. A lot may depend on how prosecutors choose to exercise the discretion that the law gives them.

Some of the crimes committed by antisemites — such as assault — may be committed by anybody and for any reason. But if criminals are motivated by hatred of Jews, they may be punished more severely than other offenders. This guide looks at some of the charges that may be brought against people who commit antisemitic acts.

But we begin with a warning. Many crimes are never investigated by the police. Many of the crimes that the police investigate never get as far as a prosecution. Many prosecutions collapse without anyone being convicted. And many convicted offenders receive sentences that their victims regard as lenient. Even if you have been the victim of an offence listed in this guide, you may feel that justice has not been done in your case. Campaign Against Antisemitism helps victims and witnesses of antisemitic incidents to secure justice.

One more warning: the law is very complicated and this guide has tried to

make it easier to understand. In simplifying it, we have left out refinements and possible defences that may make all the difference in an individual case. We have shown you where to look for more information but you would be wise not to proceed without proper legal advice from a solicitor or barrister.

Next, we turn to how the law works. After that, we shall summarise the laws that can be used in cases of antisemitism.

HOW THE LAW WORKS

ARE YOU A VICTIM OR A WITNESS?

Was the antisemitic incident aimed at you personally? Did the perpetrator single you out, either by naming you publicly or by communicating with you directly? Or by attacking you? If so, you may be regarded as a victim of antisemitism.

Was the perpetrator stirring up hatred against Jews generally? In that case, you might be regarded as a witness.

Of course, all victims are witnesses to what they saw. And all Jews may be regarded as victims of antisemitism. But you will find this guide more helpful if you can decide which category fits the incident that concerns you.

THE POLICE

It's the job of the police to investigate crimes. There are different police forces covering different areas of England and Wales, as well as specialist forces such as the British Transport Police. An antisemitic incident should be reported to the police force responsible for the area where the incident took place. If you do not know where the perpetrator is — perhaps because you are reporting something on social media — tell the police force covering the area where you live and they will try to establish the suspect's location.

THE PROSECUTION

Decisions on whether a suspect should be brought to court are taken by the Crown Prosecution Service (CPS). It's for the CPS — not the police — to decide whether there is sufficient evidence to put before a court and whether a prosecution would be in the public interest. If the CPS decides that no charges should be brought, a victim can ask the CPS to look again at its decision.

THE TRIAL

If the CPS decides to bring charges, the defendant will be brought before a criminal court. Unless the defendant decides to plead guilty, the charges will have to be proved beyond reasonable doubt. It is at this point that you may have to go to court and give evidence.

At court, you may be cross-examined. Your evidence will normally be given in public, although special arrangements can usually be made for you to give evidence from behind a screen or by video link if you do not want to confront the defendant.

THE COURT

Most criminal cases are tried in a magistrates' court by a bench of lay justices or by a legally-qualified district judge. Their sentencing powers are limited.

The most serious cases must be tried in the Crown Court by a judge and jury.

If the defendant has admitted guilt or been found guilty, the sentence will be a matter for the court. In serious cases, however, the court may want to know what impact the crime has had on you. The police may ask you for a victim impact statement outlining how the incident affected you. Any comments you make may be referred to in court and the judge may take them into account when passing sentence.

Offenders may seek to appeal to a higher court, both against their convictions and the sentences they receive. All offenders have the right to appeal from the magistrates' court, although few do. It is much harder to appeal from the Crown Court.

OFFENCES

There are different charges that may be brought against those who commit antisemitic acts. This section summarises some of the offences and provides notes that may help you — or your lawyer — look them up.

The offences to which you may be a witness include attempts to stir up religious hatred. Offences of which you may be a victim include assaults of various kinds as well as criminal damage and harassment.

Most criminals convicted of assault or damage are not motivated by antisemitism. But in some case there will be a higher penalty for those who are. We shall deal with these first.

RELIGIOUSLY AGGRAVATED OFFENCES

As we'll see, there are certain offences that are religiously aggravated.

The word “aggravated” means “made more serious”. So a religiously aggravated offence is one that’s made more serious by the offender’s hostility to members of a religious group, such as Jews.

Under section 28 Crime and Disorder Act 1998 (as amended by Anti-terrorism, Crime and Security Act 2001):

(1) An offence is...religiously aggravated... if:

(a) at the time of committing the offence, or immediately before or after doing so, the offender demonstrates towards the victim of the offence hostility based on the victim’s membership (or presumed membership) of a... religious group; or

(b) the offence is motivated (wholly or partly) by hostility towards members of a... religious group based on their membership of that group.

(2) In subsection (1)(a) above

“membership”, in relation to a... religious group, includes association with members of that group;

“presumed” means presumed by the offender.

(3) It is immaterial for the purposes of paragraph (a) or (b) of subsection (1) above whether or not the offender’s hostility is also based, to any extent, on any other factor not mentioned in that paragraph.

(4) ...

(5) In this section “religious group” means a group of persons defined by reference to religious belief or lack of religious belief.

It was decided in the case of *Rogers [2007] 2 AC 62* that a religiously aggravated offence need not have been committed for religious motives.

It was decided in the case of *White [2001] 1 WLR 1352* that a religiously aggravated offence can be committed even if both the offender and the victim are of the same religion.

WHICH OFFENCES MAY BE RELIGIOUSLY AGGRAVATED?

Offences that may be religiously aggravated under section 28 Crime and Disorder Act 1998 include:

- some assaults
- criminal damage to property
- various public order offences, summarised below
- harassment and stalking

We shall deal with each of these in turn.

RELIGIOUSLY AGGRAVATED ASSAULTS

Some assaults may be religiously aggravated under section 29 Crime and Disorder Act 1998. They are:

- malicious wounding or grievous bodily harm (section 20 Offences Against the Person Act 1861)
- actual bodily harm (section 47 Offences Against the Person Act 1861)
- common assault (an offence under common law)

The list does not include causing grievous bodily harm with intent because the maximum penalty for this very serious offence is already life imprisonment under section 18 Offences Against the Person Act 1861.

RELIGIOUSLY AGGRAVATED CRIMINAL DAMAGE

Destroying or damaging property belonging to another is an offence under section 1 Criminal Damage Act 1971. Criminal damage may be religiously aggravated under section 30 Crime and Disorder Act 1998.

RELIGIOUSLY AGGRAVATED PUBLIC ORDER OFFENCES

The public order offences that may be religiously aggravated under section 31 Crime and Disorder Act 1998 are summarised as:

- fear or provocation of violence
- intentional harassment, alarm or distress
- behaviour likely to cause harassment, alarm or distress

We shall deal with each of these public order offences in turn before returning to the fourth category of religiously aggravated offences.

FEAR OR PROVOCATION OF VIOLENCE

Under section 4 Public Order Act 1986:

A person is guilty of an offence if he

(a) uses towards another person threatening, abusive or insulting words or behaviour, or

(b) distributes or displays to another person any writing, sign or other visible representation which is threatening, abusive or insulting

with intent to cause that person to believe that immediate unlawful violence will be used against him or another by any person, or to provoke the immediate use of unlawful violence by that person or another, or whereby that person is likely to believe that such violence will be used or it is likely that such violence will be provoked.

INTENTIONAL HARASSMENT, ALARM OR DISTRESS

Under section 4A Public Order Act 1986:

A person is guilty of an offence if, with intent to cause a person harassment, alarm or distress, he

(a) uses threatening, abusive or insulting words or behaviour, or disorderly behaviour, or

(b) displays any writing, sign or other visible representation which is threatening, abusive or insulting,

thereby causing that or another person harassment, alarm or distress.

BEHAVIOUR LIKELY TO CAUSE HARASSMENT, ALARM OR DISTRESS

Under section 5 Public Order Act 1986:

A person is guilty of an offence if he

(a) uses threatening or abusive words or behaviour, or disorderly behaviour, or

(b) displays any writing, sign or other visible representation which is threatening or abusive,

within the hearing or sight of a person likely to be caused harassment, alarm or distress thereby.

RELIGIOUSLY AGGRAVATED HARASSMENT AND STALKING

The fourth category of offences that may be religiously aggravated involves harassment and stalking under section 32 Crime and Disorder Act 1998.

Again, we shall deal with each of these in turn.

HARASSMENT

Under section 2 Protection from Harassment Act 1997:

It is an offence to pursue a course of conduct

(a) which amounts to harassment of another, and

(b) which the defendant knows or ought to know amounts to harassment of the other.

It is an offence to pursue a course of conduct

(a) which involves harassment of two or more persons, and

(b) which the defendant knows or ought to know involves harassment of those persons, and

(c) by which the defendant intends to persuade any person (whether or not one of those mentioned above)

(i) not to do something that he is entitled or required to do, or

(ii) to do something that he is not under any obligation to do.

STALKING

Under section 2A Protection from Harassment Act 1997:

It is an offence to pursue a course of conduct

(a) which amounts to harassment of another, and which the defendant knows or ought to know amounts to harassment of the other

(b) and the course of conduct amounts to stalking.

A person's course of conduct amounts to stalking of another person if

(a) it amounts to harassment of that person,

(b) the acts or omissions involved are ones associated with stalking, and

(c) the person whose course of conduct it is knows or ought to know that the course of conduct amounts to harassment of the other person.

Under section 4 Protection from Harassment Act 1997:

A person whose course of conduct causes another to fear, on at least two occasions, that violence will be used against him is guilty of an offence if he knows or ought to know that his course of conduct will cause the other so to fear on each of those occasions.

Under section 4A Protection from Harassment Act 1997:

A person (“A”) whose course of conduct

(a) amounts to stalking, and

(b) either

(i) causes another (“B”) to fear, on at least two occasions, that violence will be used against B, or

(ii) causes B serious alarm or distress which has a substantial adverse effect on B’s usual day-to-day activities,

is guilty of an offence if A knows or ought to know that A’s course of conduct will cause B so to fear on each of those occasions or (as the case may be) will cause such alarm or distress.

PUNISHMENTS FOR RELIGIOUSLY AGGRAVATED OFFENCES

Punishments vary according to the seriousness of the offence but the religiously aggravated form carries a higher maximum punishment than the basic version. So offenders are likely to receive a significantly heavier punishment than they would for similar actions that were not motivated by religious hostility.

If the offence is not one of those mentioned so far, there is no religiously aggravated version of the offence and so there can be no increase in the maximum penalty set by

parliament. Even so, an offender whose crime was religiously aggravated can expect a sentence that is closer to the maximum than an offender whose offence was not motivated by antisemitism. Judges will treat antisemitism as an aggravating factor when weighing up the seriousness of the defendant’s behaviour and comparing it with the behaviour of other offenders (section 145 Criminal Justice Act 2003).

INCITEMENT TO RELIGIOUS HATRED

There are a number of public order offences designed to deal with people who intend to “stir up religious hatred”.

Under section 29A Public Order Act 1986 as amended by the Racial and Religious Hatred Act 2006:

Religious hatred means hatred against a group of persons defined by reference to religious belief or lack of religious belief.

Under section 29B Public Order Act 1986:

A person who uses threatening words or behaviour, or displays any written material which is threatening, is guilty of an offence if he intends thereby to stir up religious hatred.

The maximum penalty, after a trial in the Crown Court, is seven years’ imprisonment.

It is a defence for the accused to prove that he was in a dwelling at the time that threatening words or behaviour were used or threatening material was displayed.

There is also an important exception designed to uphold free speech. Under section 29J Public Order Act 1986:

Nothing in this part [of the Act] shall be read or given effect in a way which prohibits or restricts discussion, criticism or expressions of antipathy, dislike, ridicule, insult or abuse of particular religions or the beliefs or practices of their adherents, or of any other belief system or the beliefs or practices of its adherents, or proselytising or urging adherents of a different religion or belief system to cease practising their religion or belief system.

This exception makes it clear that conduct which merely stirs up ridicule or dislike, or which simply causes offence, is not included. Hatred is a much stronger emotion than ridicule.

There are other other public order offences that involve an intention to stir up religious hatred. The free-speech exception applies to them too.

WRITTEN MATERIAL

Under section 29C Public Order Act 1986:

A person who publishes or distributes written material which is threatening is guilty of an offence if he intends thereby to stir up religious hatred...

PUBLIC PERFORMANCE OF A PLAY

Under section 29D Public Order Act 1986:

If a public performance of a play is given which involves the use of threatening words or behaviour, any person who presents or directs the performance is guilty of an offence if he intends thereby to stir up religious hatred...

PUBLIC SHOWING OF FILM OR VIDEO

Under section 29E Public Order Act 1986:

A person who distributes, or shows or plays, a recording of visual images or sounds which are threatening is guilty of an offence if he intends thereby to stir up religious hatred...

BROADCASTING

Under section 29F Public Order Act 1986:

If a programme involving threatening visual images or sounds is included in a programme service, each of the persons mentioned in subsection (2) is guilty of an offence if he intends thereby to stir up religious hatred...

(2) The persons are the person providing the programme service, any person by whom the programme is produced or directed, and any person by whom offending words or behaviour are used.

POSSESSION OF INFLAMMATORY MATERIAL

Under section 29G Public Order Act 1986:

A person who has in his possession written material which is threatening, or a recording of visual images or sounds which are threatening, with a view to

(a) in the case of written material, its being displayed, published, distributed, or included in a programme service whether by himself or another, or

(b) in the case of a recording, its being distributed, shown, played, or included in a programme service, whether by himself or another,

is guilty of an offence if he intends thereby to stir up religious hatred...

There are various defences.

INCITEMENT TO RACIAL HATRED

When the Race Relations Act was passed in 1986, it dealt only with racial hatred. Specific offences involving religious hatred were added later. When considering whether an antisemitic act amounts to an offence, it is obviously best to start with the laws that target religious hatred.

If there is no offence that matches the facts of the case, it's worth looking at offences that apply only to racial groups. These are

groups defined by reference to “race, colour, nationality (including citizenship) or ethnic or national origins” in section 28 Crime and Disorder Act 1998.

There are good pragmatic reasons for arguing that Jews are a race as well as a religion. If they come within the definition of a racial group, they have further protection under the law. Some Jewish people might take offence at the suggestion that there is a Jewish race. As the result of conversion and intermarriage, there are Jews from many races.

But the CPS takes the view that “the Jewish community can properly be considered both a race and a religion”. This opinion is apparently based on a ruling by the law lords in 1983 in the case of *Mandla v Dowell Lee [1983] 2 AC 548*. One of the judges, Lord Fraser of Tullybelton, approved a decision by the New Zealand Court of Appeal which decided that Jews were a group with common ethnic origins under the New Zealand race relations law.

The New Zealand judge said: “a group is identifiable in terms of its ethnic origins if it is a segment of the population distinguished from others by a sufficient combination of shared customs, beliefs, traditions and characteristics derived from a common or presumed common past, even if not drawn from what in biological terms is a common racial stock. It is that combination which gives them an historically determined social identity in their own eyes and in the eyes of those outside the group.” (Richardson J, *King-Ansell v Police [1979] 2 NZLR 531, 543*)

ACTS INTENDED OR LIKELY TO STIR UP RACIAL HATRED

Under section 18 Public Order Act 1986:

A person who uses threatening, abusive or insulting words or behaviour, or displays any written material which is threatening, abusive or insulting, is guilty of an offence if

(a) he intends thereby to stir up racial hatred, or

(b) having regard to all the circumstances racial hatred is likely to be stirred up thereby.

This offence can be committed by an offender who does not intend to stir up racial hatred, so long as racial hatred is likely to be stirred up. It can also be used by a person who uses words or displays material that is merely abusive or insulting. That makes it wider than the offence of stirring up religious hatred under section 29B Public Order Act 1986, which requires that a threat be made.

This offence refers to racial hatred, not religious hatred. But, under the *Mandla v Dowell Lee* principle, it is arguable that section 18 of the Public Order Act 1986 can be used against those who stir up antisemitic hatred. It appears to be CPS policy to consider using this offence when a suspect has referred to the Jewish community not just as a religious group but also as a racial group.

The same principles apply to the following offences:

- Publishing or distributing written material stirring up racial hatred (section 19 Public Order Act 1986)
- Public performance of play stirring up racial hatred (section 20 Public Order Act 1986)
- Distributing or showing a film or video stirring up racial hatred (section 21 Public Order Act 1986)
- Broadcasting a programme stirring up racial hatred (section 22 Public Order Act 1986)
- Possessing racially inflammatory material (section 23 Public Order Act 1986)

OTHER COMMUNICATIONS OFFENCES

There are other offences that can be committed by people who send antisemitic messages, either online, through social media, by telephone or in other ways.

SOCIAL MEDIA HATE CRIMES

The CPS code says that: “prosecutors must... have regard to whether the offence was motivated by any form of discrimination against the victim’s ethnic or national origin... religion or belief... or the suspect demonstrated hostility towards the victim based on any of those characteristics. The presence of any such motivation or hostility will mean that it is more likely that prosecution is required.”

Prosecutors are also advised in the CPS Guidelines on Prosecuting Social Media Cases to be particularly alert to the context of such communications — “for instance, a reference within the communication to a recent tragic event, involving many deaths of persons who share any of the protected characteristics”. The guidance says that such references “may sometimes elevate a communication that would otherwise not meet the high threshold to one that, in all the circumstances, can be considered grossly offensive”.

SOLICITATION OF MURDER

One of the most extreme examples of antisemitism is to encourage people to kill Jews, perhaps by targeting particular individuals online. In 2011, Bilal Zaheer Ahmad, 23, from Wolverhampton, was sentenced to 12 years in prison after he admitted soliciting the murder of MPs who had voted in favour of the Iraq war and posting their contact details online. He was also convicted of publishing written material with intent to stir up religious hatred.

Under section 4 Offences Against the Person Act 1861:

Whosoever shall solicit, encourage, persuade, or endeavour to persuade, or shall propose to any person, to murder any other person... shall be guilty of an offence, and being convicted thereof shall be liable to imprisonment for life.

THREATS TO KILL

Under section 16 Offences Against the Person Act 1861:

A person who without lawful excuse makes to another a threat, intending that that other would fear it would be carried out, to kill that other or a third person shall be guilty of an offence and liable on conviction on indictment to imprisonment for a term not exceeding 10 years.

THREATS OF VIOLENCE

In the case of *Ireland [1998] AC 147 (HL)* it was held that:

An assault is committed when a person intentionally or recklessly causes another person to apprehend immediate and unlawful violence. A fear of possible violence caused by words alone may suffice.

GROSSLY OFFENSIVE COMMUNICATIONS

Under section 127 Communications Act 2003:

A person is guilty of an offence if he

(a) sends by means of a public electronic communications network a message or other matter that is grossly offensive or of an indecent, obscene or menacing character; or

(b) causes any such message or matter to be so sent.

Although this law, first enacted in 1935, was designed to protect female switchboard operators who connected telephone calls that could not be dialled direct, it now covers tweets and similar electronic messages. However, it was decided in the case of *Chambers v DPP [2012] EWHC 2157* that a message that does not create fear or apprehension in those who see it cannot be regarded as menacing.

Garron Helm, a neo-nazi from Merseyside, admitted sending an antisemitic message to Luciana Berger MP and was sent to prison for four weeks in 2014 after being convicted under this law.

However, it is possible for messages to be antisemitic but not covered by this law.

In the case of *Karsten v Wood Green Crown Court [2014] EWHC 2900*, a Jewish businessman received a series of anonymous phone calls. He could hear a former employee talking in the background to the person who was making the call. The former employee said: "Ask if he is Jewish. Ask him if he's eating kosher." Although the former employee was convicted, he was cleared on appeal.

In his decision, Lord Justice Laws said: "The Crown Court found that the words were not grossly offensive; they were certainly offensive: a nasty, malicious antisemitic comment of which the appellant should be thoroughly ashamed, but they were not menacing. The courts need to be very careful not to criminalise speech which, however contemptible, is no more

than offensive. It is not the task of the criminal law to censor offensive utterances."

Under section 1 Malicious Communications Act 1988:

Any person who sends to another person

(a) a letter, electronic communication or article of any description which conveys

(i) a message which is indecent or grossly offensive;

(ii) a threat; or

(iii) information which is false and known or believed to be false by the sender; or

(b) any article or electronic communication which is, in whole or part, of an indecent or grossly offensive nature,

is guilty of an offence if his purpose, or one of his purposes, in sending it is that it should, so far as falling within paragraph (a) or (b) above, cause distress or anxiety to the recipient or to any other person to whom he intends that it or its contents or nature should be communicated.

Guidance from the CPS says that "no prosecution should be brought under section 1 of the Malicious Communications Act 1988 or section 127 of the Communications Act 2003 unless it can be shown on its own facts and merits to be both necessary and proportionate."

TERRORISM OFFENCES

Some antisemitic acts may be covered by anti-terrorism legislation.

At the last count (July 2016), 70 international terrorist organisations had been proscribed (in other words, banned) under the Terrorism Act. They include National Action, Islamic State (under its various names) as well as “ Hamas Hamas Izz al-Din al-Qassem Brigades”, the “ Hizballah military wing” and other groups which target Jews.

MEMBERSHIP

Under section 11 of the Terrorism Act 2000:

A person commits an offence if he belongs or professes to belong to a proscribed organisation.

The maximum penalty is ten years’ imprisonment and an unlimited fine.

SUPPORT

Under section 12 of the Terrorism Act 2000:

(1) A person commits an offence if he invites support for a proscribed organisation, and the support is not, or is not restricted to, the provision of money or other property.

(2) A person commits an offence if he arranges, manages or assists in arranging or managing a meeting which he knows is to support a proscribed organisation, to

further the activities of a proscribed organisation, or to be addressed by a person who belongs or professes to belong to a proscribed organisation.

(3) A person commits an offence if he addresses a meeting and the purpose of his address is to encourage support for a proscribed organisation or to further its activities.

The maximum penalty is ten years’ imprisonment and an unlimited fine.

DISPLAYS AND CLOTHING

Under section 13 of the Terrorism Act 2000:

A person in a public place commits an offence if he wears an item of clothing — or wears, carries or displays an article — in such a way or in such circumstances as to arouse reasonable suspicion that he is a member or supporter of a proscribed organisation.

It follows that anyone who wears or carries a flag or other emblem in support of one of these organisations may be committing an offence. The maximum penalty is six months’ imprisonment and a fine of up to £5,000.

However, protestors have claimed that their support was confined to the “political” wings of these organisations, which they argued were separate and so not covered by the ban. We are not aware of any cases in which that excuse has been upheld in court.

OTHER OFFENCES

FOOTBALL OFFENCES

Under section 3 Football (Offences) Act 1991:

It is an offence to engage or take part in chanting of an indecent or racist nature at a designated football match. For this purpose

(a) “chanting” means the repeated uttering of any words or sounds (whether alone or in concert with one or more others); and

(b) “of a racist nature” means consisting of or including matter which is threatening, abusive or insulting to a person by reason of his colour, race, nationality (including citizenship) or ethnic or national origins.

Although this offence does not apply specifically to antisemitic chanting, it is arguable that Jews are covered by the term “ethnic origins” (see *Mandla v Dowell Lee*).

AGGRAVATED TRESPASS

Under section 68 Criminal Justice and Public Order Act 1994:

A person commits the offence of aggravated trespass if he trespasses on land and, in relation to any lawful activity which persons are engaging in or are about to engage in on that or adjoining land, does there anything which is intended by him to have the effect

(a) of intimidating those persons or any of them so as to deter them or any of them from engaging in that activity,

(b) of obstructing that activity, or

(c) of disrupting that activity.

Activity on any occasion on the part of a person or persons on land is “lawful” for the purposes of this section if he or they may engage in the activity on the land on that occasion without committing an offence or trespassing on the land.

Under section 69 Criminal Justice and Public Order Act 1994:

If the senior police officer present at the scene reasonably believes

that a person is committing, has committed or intends to commit the offence of aggravated trespass on land; or

that two or more persons are trespassing on land and are present there with the common purpose of intimidating persons so as to deter them from engaging in a lawful activity or of obstructing or disrupting a lawful activity,

he may direct that person or... those persons... to leave the land.

OBSTRUCTING A CLERGYMAN

This offence is very rarely charged. It would seem to protect a rabbi and perhaps also a lay person leading a Jewish service

Under section 36 Offences Against the Person Act 1861:

Whosoever shall, by threats or force, obstruct or prevent or endeavour to obstruct or prevent, any clergyman or other minister in or from celebrating divine service or otherwise officiating in any church, chapel, meeting house, or other place of divine worship, or in or from the performance of his duty in the lawful burial of the dead in any churchyard or other burial place, or shall strike or offer any violence to, or shall, upon any civil process, or under the pretence of executing any civil process, arrest any clergyman or other minister who is engaged in, or to the knowledge of the offender is about to engage in, any of the rites or duties in this section aforesaid, or who to the knowledge of the offender shall be going to perform the same or returning from the performance thereof, shall be guilty of a crime, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years.

However, the Law Commission recommended in November 2015 that the offence should be abolished, arguing that sufficient protection is provided by more general crimes.

CAMPAIGN AGAINST ANTISEMITISM

Campaign Against Antisemitism is a volunteer-led charity dedicated to exposing and countering antisemitism through education and zero-tolerance enforcement of the law.

Everything that we do, including producing this guide, is done by people who volunteer their time, using donations contributed by members of the public.

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