

# Submission to the All-Party Parliamentary Group against Antisemitism

## Summary

In the call for submissions, John Mann MP declares that:

“We must learn some lessons to ensure that Middle East tensions do not play out on the streets at home”.

To this end, I submit that there is a need for a review of awareness and education regarding fundamental antisemitic tropes -- particularly those emanating from the Middle Eastern context. The awareness and education is required at the highest levels of civil society, (see q 5 of the Terms of Reference) including the Judiciary and the Home Office officials responsible for the presentation of evidence before the courts.

The judgments in the Zakir Naik<sup>1</sup> and Raed Salah<sup>2</sup> cases reflect the inability of the courts to properly grasp the import of certain fundamental antisemitic tropes. Further, the officers representing the Home Office failed to assist the Judges in this regard by presenting expert evidence to explain the history and resonance of such tropes, or to effectively challenge the narratives of the appellants and their experts.

## Training Materials

While there is said to be some coverage of antisemitism in judicial training courses, it has not been possible to establish the depth and nuance of such material. As far as training of Immigration Tribunal judges is concerned, as of approximately eight years ago, the Induction course only referred to the contents of the Equal Treatment Bench Book. The 2004 version of the Bench Book had not been updated and was still in use a year ago.

The Preface of the Bench B states that it is aimed at all judges, in all courts and tribunals, whether new or with considerable experience. The Preface includes this note:

“Never underestimate the influence which our cultural background may have on our judgments and perceptions, no matter how open minded we may consider ourselves to be. We should be well-informed about the differing realities of life for all peoples of diverse backgrounds.”

There are chapters on racism covering stop and search of black youths, and religious discrimination such as attacks against Muslims after 9/11 -- but nothing about attacks against Jews, or anything at all about Jews, in this section. The section on victims of racially aggravated offences does not list Jews in the breakdown of statistics. Half the book consists of a rudimentary overview of belief systems from Bahai to Zoroastrianism, including Judaism.

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<sup>1</sup> <http://www.bailii.org/ew/cases/EWCA/Civ/2011/1546.html>

<sup>2</sup> <http://www.judiciary.gov.uk/judgments/ait-decision-mahajna/>

The Bench Book as it stands is certainly not up to the task of informing and raising judicial awareness of the issues affecting British Jews.

## The Naik judgment

Although the decision to exclude Naik was upheld by the Court of Appeal, not all the statements relied upon by the Secretary of State were found by the court to fall within the Prevent Policy.

Naik's statements encouraging Muslims to be terrorists, or comparing Americans to pigs, were found clearly to fall within the policy. However, Carnwath LJ finds "other statements are more open to argument", such as Statement 7:

"Today, America is controlled by the Jews, whether it be the banks, whether it be the money, whether it be the power. Nobody can become a president of the USA without walking the Star of David." [Appendix A of judgment]

This, says the learned judge,

"though strongly expressed, may be thought within the bounds of legitimate political comment." [70]

Lord Justice Gross concurred, in even more certain terms:

"I am content, as Carnwath LJ has done (at [70] above) to treat Statement 7, whether or not unhappily worded, as not straying beyond legitimate political comment." [102 (iii)]

There is a failure to recognise that far from being legitimate discourse, this is a conspiracy theory which along with deicide and the blood libel, has been a key instigator of orchestrated hatred and violence against Jews through the ages -- the nadir of its expression being the Protocols of the Elders of Zion.

As William Nicholls, an Anglican Minister, writes in his magisterial work, *Christian Antisemitism: A History of Hate*:

"... there is no doubt that the Protocols continue to exert their pernicious influence wherever people wish to think ill of Jews, including the whole Arab world."  
[pg 341, 2004 edition]

Many examples point to the pervasiveness of the Protocols in the UK. One such example is illustrated by the language used by the Muslim Brotherhood spiritual leader, Yusuf al-Qaradawi, during his visit to Britain - and the effect this language had on a researcher:<sup>3</sup>

"Listening to one of Qaradawi's fatwa council meetings in Watford in 2004, Steven Merley nearly fell off his stool when he discovered that the Protocols had been introduced in the proceedings as a serious reference source."

<sup>3</sup> <http://standpointmag.co.uk/node/5082/full>

More alarming is that this discourse is being considered 'legitimate' within mainstream civil society, up to the highest levels.

### **The Salah judgments and the absence of countervailing expert evidence**

The interpretation of Salah's poem containing references to monkeys, and a speech by Salah referring to the blood libel, was key. Yet the government's only witness was a senior UKBA case worker who conceded he lacked expertise in this area. Without the transcript, it is not possible to assess the extent, if any, to which the expertise, credibility and arguments of the applicant's expert witnesses were challenged by the Home Office counsel. There was ample evidence in the public domain to challenge their credentials, but the court accepted their status uncritically.

The court found no evidence that the reference in the poem to monkeys was to Jews. Such a link is extensively documented:

"There is no lack of polemic literature attacking the Christians and occasionally also the Jews...The language of abuse is often quite strong. The conventional epithets are apes for Jews and pigs for Christians." Bernard Lewis, *The Jews of Islam*, p. 33.

Where was the expert witness for the HO to put this before the court?

The BBC's investigative journalist John Ware writes:<sup>4</sup>

"I understand the Treasury Solicitors had several examples of other alleged Jewish libels by Salah but, for whatever reason, chose not to put them before the court."

The UT found that the intemperate language in the blood libel speech was mitigated by more benign messages: Salah refers to the caliphate being established in Jerusalem and then the synagogues will be protected, etc. The judge concludes: "So, the sermon was not all fire and brimstone."

Where was the expert witness to provide the historical context of what 'protection' under the Caliphates entailed for peoples of non-Muslim Dhimmi status, mainly Jews? No explanation was offered about the practice of Dhimmi protection: it was at times benign, but always precarious, and subject to a rigidly inferior apartheid status which included violence and ritual humiliation. At other times, the treatment of Dhimmis escalated into massacres and rapes, and forced conversions.

However, the most disturbing finding of the UT is the acknowledgement that the blood libel had been enunciated by Salah, but was nonetheless dismissed as not being "at the heart of the applicant's message".

<sup>4</sup> <http://www.thejc.com/comment-and-debate/comment/66585/blood-libel-not-bad-enough-uk-court>

Although the judge paid lip service to the fact that the blood libel is deeply offensive to Jews and closely associated with their persecution over centuries, he failed to appreciate how deeply this strikes at the heart of the Jewish experience.

Despite finding that the reference to the blood libel and one call to martyrdom had the potential to foster hatred and lead to inter-community violence (even finding that the 'more moderate language' and positive statements about synagogues and the fraught circumstances in which the speech was made were not enough to negate the blood libel comment), the judge is still able to quarantine the libel and thus distinguish Salah from Naik, whom he considers to have had a "clear agenda in his public pronouncements that was pervasive and potentially offensive or dangerous." [para 79]

A greater measure of judicial awareness is crucial, to grasp that embracing the blood libel cannot but pervade every aspect of the speaker's discourse.

The judge found that the blood libel element in the sermon has to be read in the context that "the sermon was given on a somewhat turbulent day when the appellant had been refused permission to pray at one of the holy sites of his religion, one that he genuinely fears is under threat from the Israeli authorities".

No evidence was provided to demonstrate that the call to defend Al Aqsa, because 'Al Aqsa is in danger', is a slogan which made its first appearance almost a century ago -- causing immense problems for the British Mandatory authorities. It was deployed as far back as the 1920s by the Grand Mufti of Jerusalem -- as a rallying cry to commit pogroms against, not Israelis (there was no Israel, or Jewish control of Al Aqsa then), but Jews. The 1929 pogrom in Hebron, for example, was a direct result of the fabricated slogan.

The awareness of this trope has gained tragic urgency after the Har Nof Synagogue massacre, whose repercussions threaten a spike in attacks against Diaspora Jews today. This is the extreme case of Middle Eastern tensions, which in John Mann's words, threaten "to play out on the streets at home."