

Response to query regarding a submission to the All-Party Parliamentary Group Against Antisemitism

1. You sent the link to a revised edition of the Equal Treatment Bench Book, dated November 2013, which you were told is the most recent revision. The covering letter to the revised edition is dated 4 November 2013, and is addressed to "Dear Colleagues". It is not clear in what medium and to whom this revision was distributed. I have been advised by one Upper Tribunal Immigration and Asylum Tribunal Judge that he and several of his colleagues were unaware of this revision.
2. You asked whether the 2004 version was only used in one instance. My reference to the Bench Book did not allude to it "being used in one instance". I simply stated that I had been informed by another senior Immigration and Asylum Judge approximately a year and a half ago that the 2004 version was the one in general use, and at that stage, it was the most up-to-date version.
3. You asked whether the revised version reassures me regarding judicial training in recognising antisemitism. After reading it through, I found no advance on the 2004 version in the understanding of antisemitism or other issues faced by Jews as a minority qualifying for protection under UK legislation. Mention of Jews in the revision is limited to the same background notes on history and elements of the faith, definition as both a religious and ethnic group, and how they take the oath in court. This is in contrast to the coverage (albeit sporadic) of concerns relating to other groups. There is also an entire new chapter devoted to gender re-assignment, including the difficulties and stigma experienced by transgender people.
4. The 2013 Bench Book is described at its outset as "separate pieces of guidance on equality and diversity brought together for ease of reading. However it is not a single document in reality and will be updated regularly" [Contents, p 2]. Due to this arrangement, the way the various religious, ethnic and other minorities are covered is somewhat ad hoc.

Example 1: a section in the chapter on Ethnicity, titled 'Attitudes and Prejudices', contains a paragraph on prejudice against Muslims, followed by related statistics of public attitudes. Readers are told that "Attitudes towards Muslim people appear to be particularly negative". [para 13, p 126]. Immigrants, asylum seekers, gypsies and travellers are also mentioned -- while Jews are excluded.

Example 2: also in the chapter on Ethnicity, a section titled 'Education' includes admonitions against stereotyping various groups. The text states that teachers "may also be overly concerned with South Asian Muslim boys' presumed fundamentalist beliefs, patriarchal orientation, and self-segregation, whilst seeing South Asian girls as passive and oppressed", and have different expectations of Chinese, Somalis and Black students.

5. Elsewhere, Jews are recognised as having both an ethnic and religious identity for the purpose of qualifying for protection against discrimination under the relevant legislation -- but there is no exposition whatsoever of what this entails in practice.
6. Despite the piecemeal approach, there are statements of principle in the following introductory paragraphs of the revised Bench Book which highlight an

overarching duty which should include the Jewish experience as much as the other referenced minorities.

Judgecraft: Introduction

Paragraph 3: *In a lecture given in September 1993 Lord Bingham attempted a modern paraphrase, never bettered: "A judge must free himself of prejudice and partiality and so conduct himself, in court and out of it, as to give no ground for doubting his ability and willingness to decide cases coming before him solely on their legal and factual merits, as they appear to him in the exercise of an objective, independent and impartial judgment".*

Paragraph 29: *Recognising and eliminating prejudices, including your own prejudices, is essential to prevent wrong decisions and to prevent erroneous assumptions being made about the credibility or actions of those with backgrounds different from our own.*

Paragraph 30: *Unconscious prejudice – demonstrating prejudice without realising it – is more difficult to tackle and may be the result of ignorance or lack of awareness.*

Paragraph 31: *Ignorance of the cultures, beliefs and disadvantages of others encourages prejudice; it is for judicial office - holders to ensure that they are properly informed and aware of such matters, both in general and where the need arises in a specific case.*

7. The Bench Book may be an imperfect vehicle for the complex issue of all the constituents of antisemitism -- but insofar as it does deal, for example, with the basic stereotyping of Muslims, it should also cover such foundational stereotypes as Jews 'controlling the world'; and their historic and current role in the Middle East and elsewhere in inciting hostility and violence against Jews.
8. The training of the relevant Home Office officials is also of enormous significance – in order to familiarise them what is required in the gathering and assessing of evidence on these issues, including the identification of experts in this field to counter those used by extremists in an attempt to refute the antisemitism of which they are accused.
9. An off-the-record discussion with yet another Senior Immigration and Asylum Judge illustrates the problem arising from Naik's statements. This Judge refused to acknowledge that any form of the declaration that Jews control institutions or countries could be antisemitic, because, in his words, such a statement was so absurd that no one would take it seriously. However, examples abound of such utterances being accepted as the literal truth throughout the Middle East. They have also filtered into incitement literature in the UK -- alongside their longstanding use by far-right groups.
10. The danger of attempts to reframe such discourse as legitimate has been tragically borne out since my submission. The Australian Muslim who recently held hostages in Sydney was previously tried for writing offensive letters to Jewish servicemen. He had asserted that "Some Jews who blame Hitler for violations of human rights are not much better than him".

Man Haron Monis added: "A Jewish man who kills innocent Muslims, civilians is not a pig. He's a thousand times worse. Some people don't eat the meat of pig but they are dirtier than pig. What's the point when some people don't eat pork while their behaviour is worse than dirty animals?" Lawyers for Monis and his co-accused, Amirah Droudis, who faced charges of aiding and abetting in sending the letters, dismissed the abuse as a legitimate political exchange.

Droudis's barrister David Bennett QC told the court: "Insults are a legitimate part of the political discourse".¹

Although these reported statements may not be as foundational as those in the 'Jewish control' category, the comments on this report by Deborah Lipstadt, defendant in the David Irving libel case, reflect a common concern. She remarked that "This is deeply disturbing. Not the threats. The attempt to dismiss his antisemitic threats as part of normal political discourse. Here his lawyers did it but I fully expect various apologists for this kind of extremism to do the same."²

¹ Miles Godfrey, Jewish soldier described as 'dirty animal', AAP, 23 August 2011.
<http://news.smh.com.au/breaking-news-national/jewish-soldier-described-as-dirty-animal-20110823-1j82i.html>

² Deborah E. Lipstadt, Facebook, 17 December 2014.
<https://www.facebook.com/deborah.e.lipstadt/posts/10152920367925903?pnref=story>