



The Boğaziçi Law Review

ISSN: 3023-4611

Journal homepage: <https://dergipark.org.tr/tr/pub/blr>

Controlling the Narrative Through Terrorism Laws: Case of United Kingdom

Terörizm Yasaları Aracılığıyla Anlatıyı Kontrol Etme: Birleşik Krallık Örneği

Polona Florijančič

To cite this article: Polona Florijančič, ‘Controlling the Narrative Through Terrorism Laws: Case of United Kingdom’ (2025) 3(1) The Boğaziçi Law Review 28.

Submission Date: 27 January 2025

Acceptance Date: 27 June 2025

Article Type: Research Article



© 2025 Polona Florijančič. Published with license by Boğaziçi University Publishing



Published online: June 2025



Submit your article to this journal [↗](https://dergipark.org.tr/tr/pub/blr)

Full Terms & Conditions of access and use can be found at
<https://dergipark.org.tr/tr/pub/blr>

CONTROLLING THE NARRATIVE THROUGH TERRORISM LAWS: CASE OF UNITED KINGDOM

TERÖRİZM YASALARI ARACILIĞIYLA ANLATIYI KONTROL ETME: BİRLEŞİK KRALLIK ÖRNEĞİ

Polona Florijančić 

Dr., independent legal scholar.

ABSTRACT

Narratives of terrorism are often used and misused for political goals. This has never been as blatantly apparent as in the UK and the West in general after the 7 October raid where even genocide is being legitimised as self-defence against terrorism. The hypocrisy of presenting resistance fighters as terrorists while entirely disregarding the state terrorism of the oppressor is nothing new. This article looks back at British narratives surrounding apartheid South Africa and the liberation movement fighting against it to draw parallels with the current hypocritical branding of Palestinian resistance fighters as terrorists while ignoring blatant state terrorism perpetrated by the occupier. The paper further analyses the use and abuse of the UK Terrorism Act in the current context, which reveals a severe assault on freedom of expression with the apparent goal of not merely manufacturing consent for the genocide but also forcefully concealing the lack of such consent and the outright rejection of the terrorism narrative in a large part of the general public. Finally, the paper briefly outlines how the UK terrorism narrative has infiltrated the International Criminal Court (ICC) through the language chosen by its British Prosecutor.

Key words: terrorism laws, proscription regimes, freedom of expression, Palestine, Israel, United Kingdom

ÖZET

Terörizme dair anlatılar çoğu zaman siyasi amaçlar doğrultusunda kullanılmakta ve suistimal edilmektedir. Bu, özellikle 7 Ekim baskınından sonra, Birleşik Krallık ve genel olarak Batı'da, soykırımın terörizme karşı kendini savunma olarak meşrulaştırıldığı bir biçimde, hiç olmadığı kadar açık bir şekilde görülmüştür. Zalimin devlet terörizmini tamamen göz ardı ederken direniş savaşçıları terörist olarak sunma ikiyüzlülüğü yeni bir şey değildir. Bu makale, Birleşik Krallık'ın apartheid Güney Afrika'sı ve buna karşı savaşan kurtuluş hareketi etrafındaki anlatıları geriye dönük inceleyerek, Filistinli direniş savaşçılarının terörist olarak etiketlenmesi ve işgalciler tarafından gerçekleştirilen açık devlet terörizminin göz ardı edilmesi konusundaki ikiyüzlülük ile paralellikler kurmaktadır. Makale, ayrıca Birleşik Krallık Terörizm Yasası'nın mevcut bağlamdaki kullanımını ve kötüye kullanımını analiz etmekte, bu durumun, sadece soykırım için onay üretme amacı taşımakla kalmayıp, aynı zamanda böyle bir onayın yokluğunu ve geniş halk kitlelerinin terörizm anlatısını açıkça reddetmesini zorla gizlemeyi hedefleyen ciddi bir ifade özgürlüğü saldırısını ortaya koyduğunu göstermektedir. Son olarak makale, Birleşik Krallık terörizm anlatısının Uluslararası Ceza Mahkemesi'ne (UCM) İngiliz Savcı tarafından seçilen dil aracılığıyla nasıl sızdığını kısaca özetliyor.

Anahtar kelimeler: Terörizm yasaları, yasaklama rejimleri, ifade özgürlüğü, Filistin, İsrail, Birleşik Krallık

1. INTRODUCTION

As Edward Said aptly described, the images of *terrorism* and *fundamentalism* are two gigantic reductions which derive entirely from the concerns and intellectual factories in metropolitan centers like Washington and London and serve to reorient international social discourse and process.¹ They ‘are fearful images that lack discriminate contents or definition, but they signify moral power and approval for whoever uses them, moral defensiveness and criminalization for whomever they designate’.² The label ‘terrorist’ has furthermore become largely actor-centric instead of act-centric, turning a blind eye to state-terrorism and terrorism in the pursuit of the *status quo* as opposed to that which challenges it, thereby ignoring the most fundamental aspect of terrorism, that is the intention to create and manipulate the psychological state of terror through the use or threat of violence in pursuit of political ends.³

The word ‘terror’ derives from the Latin word ‘terrere’ (to frighten) and appeared in late Middle English as ‘terrour’ to describe intense or overwhelming fear or dread.⁴ It first became associated with political violence in the context of the extreme state repression and thousands of political executions following the French Revolution from about March 1793 – June 1794, when the Jacobins led by Robespierre, openly embraced ‘terror’ as a necessary tool to deliver justice and defend democracy.⁵ After Robespierre’s fall the period began to be referred to as ‘la Terreur’, translated into English as the ‘Reign of Terror’. The term terror has furthermore been used to refer to state violence in a number of other examples, particularly for the political executions and extreme intimidation of the population by communist and other regimes (‘Red Terror’, ‘Great Terror/Great Purge’ and ‘White Terror’).⁶ However, since

¹ Edward W Said, *Culture and Imperialism* (Vintage Books 1994) 310.

² *ibid.*

³ Simon Taylor, ‘Status Quo Terrorism: State-Terrorism in South Africa during Apartheid’ (2021) 35 *Terrorism and Political Violence* 304, 305.

⁴ Merriam-Webster Dictionary, ‘terror’, Word History <https://www.merriam-webster.com/dictionary/terror#h1> accessed 27 June 2025; Oxford English Dictionary, ‘terror’, Meaning and Use https://www.oed.com/dictionary/terror_n?tl=true#202674584 accessed 27 June 2025.

⁵ See statement given by Robespierre at the National Convention on February 1794: ‘We must smother the internal and external enemies of the Republic or perish with it; now in this situation, the first maxim of your policy ought to be to lead the people by reason and the people’s enemies by terror.

If the spring of popular government in time of peace is virtue, the springs of popular government in revolution are at once *virtue and terror*: virtue, without which terror is fatal; terror, without which virtue is powerless. Terror is nothing other than justice, prompt, severe, inflexible; it is therefore an emanation of virtue; it is not so much a special principle as it is a consequence of the general principle of democracy applied to our country’s most urgent needs. It has been said that terror is the principle of despotic government. Does your government therefore resemble despotism? Yes, as the sword that gleams in the hands of the heroes of liberty resembles that with which the henchmen of tyranny are armed. Let the despot govern by terror his brutalized subjects; he is right, as a despot. Subdue by terror the enemies of liberty, and you will be right, as founders of the Republic. The government of the revolution is liberty’s despotism against tyranny. Is force made only to protect crime? And is the thunderbolt not destined to strike the heads of the proud?’, ‘Maximilien Robespierre: Justification of the Use of Terror’, Fordham University, Modern History Sourcebook, <https://sourcebooks.fordham.edu/mod/robespierre-terror.asp> accessed 27 June 2025.

⁶ Oxford English Dictionary (n 4); Robert Conquest, *The Great Terror* (Oxford University Press 1968).

the 19th century the use of the term began gradually shifting from state repression to mainly non-state violence with the Western branding of 20th century anti-colonial movements as terrorist representing a key turning point in the change.

In the decades that followed the international community struggled to reach a united definition of terrorism facing a fundamental split between those countries that pushed for an exclusion of state actions from the label and those that in turn sought the exclusion of liberation movements from the term as well as the recognition of terrorism perpetrated by colonial, repressive, racist and alien powers. Unsurprisingly, despite well over a hundred definitions proposed thus far, the international community has to this day been unable to agree on one. Instead of a universal definition we are thus left with domestic definitions and proscription regimes largely based on self-interest and alliances in foreign policy with a disregard for internationally recognized norms, such as the right of self-determination and the corresponding right to resist colonial domination, alien occupation and racist regimes, including through armed resistance. Both the General Assembly and the UN Commission on Human Rights have sought to limit the term terrorism solely to activity aimed at the destruction of democracy or the destabilising of 'legitimately constituted Governments' and 'pluralistic civil society', yet such constraints have not been included in domestic definitions.⁷

In *Suresh v Canada* the Canadian Supreme Court rightly called terrorism a term open to politicised manipulation, conjecture and polemical interpretation; '[e]ven amongst those who agree on the definition of the term, there is considerable disagreement as to whom the term should be attached'.⁸ The so-called proscription regimes, dictated by geopolitical interests more than any objective criteria, are purportedly designed to simply fight criminality yet they negatively impact everything from peace negotiations to war crimes documentation and humanitarian aid.⁹ They furthermore entirely delegitimise certain struggles and censor debate around them including discussion about underlying causes of a conflict.¹⁰ This has been the exact effect that the UK terrorism laws and proscription regime have had after 7 October 2023 on debate surrounding Palestinian resistance and anti-apartheid/occupation/genocide speech in general where a plethora of expressions have been interpreted as support for a proscribed terrorist organisation and therefore treated as terrorist offences in and of themselves.

From the perspective of international law, the entirety of the conversation and legal analysis of the 7 October raid, its aftermath and resistance in general should be conducted within the clear parameters succinctly outlined below by the UN Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel in its June 2024 Report,

⁷ Mark Muller QC, 'Terrorism, Proscription and the Right to Resist in the Age of Conflict' (2008) 22 *Denning Law Journal* 111, 120.

⁸ *Suresh v. Canada (Minister of Citizenship and Immigration)* [2002] 1 SCR 3, 2002 SCC 1, paras. 94-95.

⁹ Sara Elizabeth Dill, 'Sanctions, Terrorist Designations, and Social Media Content Moderation: The Challenges for Peace Negotiations, War Crimes Documentation, and Humanitarian Aid in the Gaza War' (The Situation in Palestine: Emerging Domestic and International Jurisprudence, Maynooth University, Ireland, 9 July 2024) <https://www.youtube.com/watch?v=kwFZaZE2bIA> accessed 27 June 2025.

¹⁰ Muller (n 7) 128.

[T]he Israeli occupation of Palestinian territory is unlawful. Palestinians therefore have a right to oppose that unlawful occupation but in doing so they must act in accordance with international law, including international humanitarian law and international human rights law. The unlawfulness of the Israeli occupation does not justify unlawful action by Palestinians in resistance. Equally, unlawful action by Palestinians opposing the occupation does not justify unlawful action by Israel.¹¹

While resistance movements waging just wars against occupation/aggression, colonialism or another form of systemic oppression of a people, such as apartheid, can nevertheless commit war crimes, just as they were committed on 7 October, the use of the words *terrorism* and *terrorist organisation* in this context serves nothing but an attempt to delegitimize the entire struggle and paint the oppressed people as barbaric, incomprehensible and inhuman, driven by irrational hatred and sadism, while providing the oppressor with a *carte blanche* to continue its ethnic cleansing and genocide against them. Anyone not falling in line with such distortion of reality poses a danger to the carefully curated image of legitimacy and justifiability of the genocide and can thus arbitrarily be subjected to political persecution through terrorism laws employed to forcibly sustain the desired narrative. The injustice and discriminatory nature of this persecution are particularly glaring in light of the blatantly terrorist methods and aims used by the Zionist entity, not merely during the current genocide, but since its very inception. Yet professing support for Israel is more than allowed in the UK; it is nothing short of dogmatic for its establishment and what appears to be an odd status symbol for the ruling elite.

In their 2021 Report,¹² the Campaign against Criminalising Communities (CAMPACC) describe the deep colonial roots of the UK terrorism laws and how they build on the body of knowledge and expertise gained through repressing self-determination within the British Empire. CAMPACC trace the first formalisation of many of the current features of the anti-terrorism laws back to the Defence of India Ordinance of 1914, later replaced with the Anarchical and Revolutionary Crimes Act 1919 which was invoked during the now infamous Jallianwallah Bagh massacre, where 379 unarmed civilians were killed and over 1,200

¹¹ UN Human Rights Council, Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, 'Detailed findings on attacks carried out on and after 7 October 2023 in Israel' (2024) UN Doc A/HRC/56/CRP.3, 54; See also International Court of Justice, *Advisory Opinion on the Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem* (19 July 2024) paras. 89-94, confirming previous findings of the Commission on the question of the occupation of Gaza stating that 'Israel remained capable of exercising, and continued to exercise, certain key elements of authority over the Gaza Strip, including control of the land, sea and air borders, restrictions on movement of people and goods, collection of import and export taxes, and military control over the buffer zone, despite the withdrawal of its military presence in 2005.' While the court does not clarify whether it considers this a full or partial occupation, it states in paragraph 95 that 'Israel's withdrawal from the Gaza Strip has not entirely released it of its obligations under the law of occupation. Israel's obligations have remained commensurate with the degree of its effective control over the Gaza Strip.'

¹² Campaign Against Criminalising Communities (CAMPACC), *20 Years of Terrorism Acts: 20 Years of Injustice* (June 2021).

injured by the British during a peaceful gathering.¹³ These counter-terrorism laws were then exported to other British colonies and since the so-called 'war on terror' have returned home to Britain, to be used against the same communities and nations that were targeted during colonial rule.¹⁴ The aim is to isolate them and deter them from political protest against oppressive regimes abroad allied with the UK government in a bid to legitimise said regimes and UK's own global military interventions in pursuit of global domination.¹⁵ In the words of CAMPACC, 'By blurring any distinction between liberation movements and terrorism, and likewise between civil resistance and violence, the UK impedes a political route to conflict resolution abroad, while persecuting those who oppose oppressive regimes'.¹⁶

In section one, this paper will look back at British narratives surrounding apartheid South Africa (SA) and the liberation movement fighting against it to draw parallels with the current hypocrisy of branding Palestinian resistance fighters as terrorists while ignoring blatant state terrorism perpetrated by the occupier. In section two, the paper will analyse how, in the aftermath of 7 October, this narrative is being forcefully imposed in the UK using its draconian terrorism laws against anti-occupation/apartheid/genocide activists, intellectuals and independent journalists. In the last section, the paper will then briefly outline how the UK terrorism narrative has also infiltrated the so-called International Criminal Court (ICC) through the language chosen by its British Prosecutor both in his public statements and in his choice of legal characterisations of alleged criminality committed by Palestinian and Israeli individuals in his Request for Arrest Warrants issued in May.

2. TURNING A BLIND EYE TO STATE TERRORISM - SOUTH AFRICA AND ISRAEL

During apartheid South Africa, the African National Congress (ANC), *i.e.* the national liberation movement fighting against the apartheid, was routinely labelled a terrorist organisation not just by SA itself but by much of the Western international community, including the UK. Ideologically aligned, the Soviet Union provided extensive financial, military, and intelligence support to the ANC, assisted it in working out its 'strategy and tactics' at every turn of its struggle and helped the ANC 'occupy a respected and prominent place in the international arena' thereby crucially contributing to the so-called 'South African miracle' that took the country from apartheid to democracy.¹⁷ In the UK, on the other hand, Margaret Thatcher dismissed the ANC as a 'typical terrorist organisation' while other British politicians felt comfortable even calling for Mandela's execution.¹⁸ Ironically, as MP Dennis

¹³ *ibid* 21.

¹⁴ *ibid*.

¹⁵ *ibid*.

¹⁶ *ibid* 22.

¹⁷ Irina Filatova and Apollon Davidson, *The Hidden Thread: Russia and South Africa in the Soviet Era*, (Jonathan Ball Publishers 2013) Postscript, para 1.

¹⁸ Julian Borger, 'The Conservative Party's Uncomfortable Relationship with Nelson Mandela' *The Guardian* (London, 6 Dec 2013), <https://www.theguardian.com/politics/2013/dec/06/conservative-party-uncomfortable-nelson-mandela> accessed 27 June 2025.

Skinner later remarked, when Mandela came to deliver a speech at Westminster Hall ‘the first four rows of seats were occupied by all the Tory Members of Parliament who had wanted to hang, draw and quarter him’.¹⁹

Yet merely the branding of liberation or resistance movements as terrorist is not enough for their vilification. The other necessary condition is that the terrorism of the oppressor is ignored. In her now infamous 1986 speech, Nelson Mandela’s wife, Winnie Madikizela-Mandela stated that, ‘Together, hand in hand, with our boxes of matches and our necklaces we will liberate this country.’ She was referring to a gruesome technique whereby a tire filled with gasoline would be placed around a person who was believed to be a collaborator and set alight. The image is often invoked as proof of the terrorist nature of the ANC. What is less known, however, is that the state itself was intentionally fuelling this practice by creating the false perception that certain innocent people were apartheid collaborators in order for their comrades to lynch them and for the general public and the international community to be under the impression that innocent people were being targeted in irrational black on black terror.²⁰ Moreover, to protect the *status quo*, the state did not only systematically use orthodox terrorism tactics, such as bombings and targeted killings, but also violence which due to its aims should equally be recognized as terrorism, including abductions; murder of the abducted; burying of bodies of the abducted in such a way as to make the liberation movement appear incompetent or make it look as if the individual was a victim of black on black violence; the displaying of bodies as propaganda; detentions without trial; torture, including to death, and more.²¹ The Truth and Reconciliation Commission (TRC) estimated that there were over 50.000 cases of torture between 1960 and 1990 and the state even paid for police officers to travel to Europe and South America to learn new torture techniques.²² Torture was also used to turn those abducted against their comrades, transforming them into so-called *askaris*, i.e. informants/collaborators with the state, who would then play a key role in the state’s use of targeted entrapment killings by posing as members of the liberation movements to lure youths to their deaths by supplying them with faulty weapons such as grenades that would detonate immediately or by staging ambushes.²³ Similarly to the testimonies of several other operatives, a former commander of Vlakplaas,²⁴ explained the aim of their extra-judicial killings as follows, ‘It scared off other supporters and potential supporters, it created distrust and demoralization among cadres. It gave white voters confidence that the security forces were in control and winning the fight against communism and terrorism’.²⁵ Taylor thus concludes that the aim was to manipulate

¹⁹ Dennis Skinner, HC Deb 14 February 1997, vol 290, col 531 <<https://publications.parliament.uk/pa/cm199697/cmhansrd/vo970214/debtext/70214-03.htm>> accessed 27 June 2025.

²⁰ Taylor (n 3) 313-314.

²¹ *ibid* 306, 314.

²² *ibid* 316.

²³ *ibid* 314, 315. As the TRC noted, ‘entrapment operations... really engender a sense of revulsion and horror because they target not trained military cadres, but callow township youth who were perceived to be threats to the state because of their political beliefs.’

²⁴ Vlakplaas was the undercover counterinsurgency division of the apartheid police.

²⁵ *ibid* 307.

through violence both the activists and the white voters, all the while framing the killings as a fight *against* terrorism.²⁶

Much as how the label terrorist was reserved for the ANC liberation movement, it was used in Namibia against the South West Africa People's Organisation (SWAPO) who waged a guerrilla war against SA occupation forces after 1966. SA consistently refused demands from the UN and the International Red Cross to consider captured SWAPO members as prisoners of war, and instead treated them as terrorists.²⁷ Here SA also used mass arrests and torture against suspected members, and applied the draconian Terrorism Act of 1967 which allowed for retroactive application and indefinite detentions without trial.²⁸ A report of the United Nations Council for Namibia indicated that hundreds were detained²⁹ while Amnesty International reported dozens of convictions.³⁰ Commenting on one of the controversial trials against four SWAPO members under the Terrorism Act, the International Commission of Jurists described it as an 'oppressive and highly unsatisfactory, judicial process'.³¹

Just as its approach to apartheid South Africa was hypocritical, the UK government entirely ignores the terrorist nature of the Israeli state, despite terrorism being a constant and indispensable companion of the Zionist project. Back in December of 1947 Ben Gurion explicitly approved the idea of random violent action against Palestinians and their infrastructure that would 'terrify' them and 'render help from the Arab world useless'.³² The day after uttering these words, he wrote in a letter that the goal of such action would be to assure that the population understood they were at the Zionists' mercy and anything the Jews wanted could be done to them, including 'starving them to death'.³³ The words are particularly chilling to revisit in light of the current deliberate starvation of the population of Gaza.³⁴

²⁶ *ibid* 308.

²⁷ UN, 'Decolonization, No. 9, Dec. 1977: Issue on Namibia' (Revised edn, United Nations Department of Political Affairs, Trusteeship and Decolonization 1977), <https://www.un.org/dppa/decolonization/sites/www.un.org.dppa.decolonization/files/decon_num_9-2_0.pdf> 22, accessed 27 June 2025.

²⁸ *ibid* 23-26.

²⁹ Official Records of the General Assembly, Thirty-first Session, Supplement No 24 (A/31/24), Vol I para 308.

³⁰ Amnesty International, *Briefing: Namibia* (Briefing Paper No 10, April 1977) <<https://www.amnesty.org/en/documents/afr42/004/1977/en/>> accessed 27 June 2025.

³¹ UN, 'Decolonization, No. 9, Dec. 1977: Issue on Namibia' (n 27) 24.

³² Ilan Pappé, *The Ethnic Cleansing of Palestine* (One World 2006) 54.

³³ *ibid*.

³⁴ Already on 9 October 2023 the then Israeli Defense Minister, Yoav Gallant, announced a complete siege of Gaza stating that, 'There will be no electricity, no food, no fuel, everything is closed'. Emanuel Fabian, 'Defense minister announces "complete siege" of Gaza: No power, food or fuel' *Times of Israel* (9 October 2023) <https://www.timesofisrael.com/liveblog_entry/defense-minister-announces-complete-siege-of-gaza-no-power-food-or-fuel/> accessed 27 June 2025; on 2 March 2025, after 17 months of a relentless genocide, Israel reimposed a ban on the entry of aid, leading to famine and starvation-related deaths particularly among children. Meanwhile fishermen going out to sea as well as people standing in line for food or water are routinely targeted and are acutely aware they are risking their lives every time they seek out food. Amnesty International 'Israel/OPT: Two months of cruel and inhumane siege and further evidence of Israel's genocidal intent in Gaza' (2 May 2025) <<https://www.amnesty.org/en/latest/news/2025/05/israel-opt-two-months-of-cruel-and-inhumane-siege-are-further-evidence-of-israels-genocidal-intent-in-gaza/>> accessed 27 June 2025.

It is well known that in the 1940s the Haganah, Irgun and Stern Gang (Lehi) used terrorism both against the Palestinians and the British to achieve their political goals. This terrorism was at the core of the idea of Israel and both tactically and strategically significant in the founding of a Jewish state.³⁵

With regards to their attacks against the British, the insurgents sought to legitimise it as self-defence through a well-organised propaganda campaign which characterised Britain's Palestine policy and behaviour as illegal (particularly limits on Jewish immigration in violation of the terms of the mandate) and akin to Nazism and anti-semitism.³⁶ Regardless of their justifications, the British would often use the terms 'Jewish terrorism' and 'Zionist terrorism' to refer to them.³⁷ Particularly Irgun and Lehi were considered terrorists and dealt as such by the British courts. Churchill even referred to their members as 'a new set of gangsters worthy of Nazi Germany' that made him rethink his 'dreams for Zionism.'³⁸ The situation was slightly different for the Haganah which focused on infrastructure only when attacking the British, avoiding casualties. The label terrorist was rarely directly applied to them, instead they were rather characterised as a Jewish 'self-defense' group or 'illegal Jewish resistance organisation' that at worst cooperated with the terrorists and shared their objectives.³⁹ However the label terrorist did not entirely evade them either.⁴⁰

In its relation to the Palestinians, the Haganah was less considerate than towards the British. To ethnically cleanse the land, they used a systematic campaign of intimidation against Palestinian villagers, called *hasiyar ha-alim* or 'violent reconnaissance' whereby they would enter defenceless villages firing randomly at houses and killing at will to terrorise the population into abandoning their homes.⁴¹ With the same aim, in 1948 Irgun and Lehi militants committed the brutal Deir Yassin massacre of at least 107 villagers, riddling corpses with batons and disembowelling pregnant women to maximise the shock and fear.⁴²

³⁵ See David A Charters, 'Jewish Terrorism and the Modern Middle East' (2007) 27 *Journal of Conflict Studies* 80, see also John Louis Peeke, *Jewish-Zionist Terrorism and the Establishment of Israel* (U.S. Naval Postgraduate School 1977).

³⁶ Charters (n 35) 85.

³⁷ Maher Charif, 'Policy Paper: The Roots Of Zionist Terrorism' (Institute for Palestine Studies, 13 December 2023) <<https://www.palestine-studies.org/sites/default/files/attachments/policypapers/Maher%20Charif%20Issue%20013%20Fixed.pdf>> 2 accessed 27 June 2025.

³⁸ HC Deb 17 November 1944, vol 404, col 2242 <<https://api.parliament.uk/historic-hansard/commons/1944/nov/17/palestine-terrorist-activities>> accessed 27 June 2025.

³⁹ See Prime Minister Attlee justifying raids and arrests targeting the Jewish Agency for their links to the Haganah and the latter's links to the Irgun, 'Attlee Accuses Jew Underground; Vast Cache of Munitions Found' *The Montreal Gazette* (2 July 1946) 1.

⁴⁰ On 12 April 1948, following the Deir Yassin massacre, led by Irgun and Lehi, Earl Winterton posed the following question: 'how [is it] that one set of Jewish terrorists claim credit, if it is credit, for this, and another set of Jewish terrorists, mainly the Haganah, controlled by the Jewish Agency, regret it? Is it fact that these two sets of thugs are fighting each other, instead of the Arabs?' HC Deb 12 April 1948, vol 449, col 629 <<https://api.parliament.uk/historic-hansard/commons/1948/apr/12/palestine-outrages>> accessed 27 June 2025.

⁴¹ Pappé (n 32) 56.

⁴² Murat Sofuoglu, 'A Lookback at the Zionist Terrorism that led to Israel's Creation' *TRTWorld* (undated) <<https://www.trtworld.com/magazine/a-lookback-at-the-zionist-terrorism-that-led-to-israels-creation-15767166>> accessed 27 June 2025.

Ironically, while Israel accuses the Palestinian resistance of having committed systematic rape on 7 October, despite there being no evidence for such claims, it was exactly rapes that were used by the Zionist terrorists to instil terror and drive out the indigenous population in the 1940s. It is believed that the terror of rapes and the subsequent intentional spreading of news about them through so-called 'whispering campaigns', aka psychological warfare, were the primary drive behind the decision of many to flee.

It was British officer and Christian religious fanatic, Orde Wingate, who instructed the Haganah in the use of terrorism. Recently Michael Oren, a Knesset member, called Wingate the father of the Israeli Defence Forces (IDF). He proclaimed that, '[t]he IDF today remains Wingatean in terms of its tactics'.⁴³ From the testimonies of countless former IDF soldiers, we know this to be true.⁴⁴ The main goal of their activities is still the creation of fear and the manipulation of that fear in the Palestinian population. It is for that reason that Palestinians are being detained in the thousands without any due process and routinely tortured and raped in the detention facilities. Life-threatening rape of detainees is even presented by top politicians as a legitimate means of ensuring the 'security of the state' while the lawyers of one of the perpetrators characterised it as 'self-defence', implicitly recognising that the practice is meant to terrorise into submission not just the raped individuals but the wider audience.⁴⁵ Israel also systematically uses the raiding of houses, particularly at night, with the aim of creating a sense of persecution,⁴⁶ while the 'whole thing' about checkpoints, as one former soldier explained, is to send the message to the Palestinians that, 'We're here, fear us, we're in control here'.⁴⁷ The IDF army furthermore protects settler terrorism and pogroms against Palestinians in the West Bank while the Israeli justice system acts as a

⁴³ Hillel Kuttler, '75 Years After His Death, why Orde Wingate Remains a Hero in Israel' *Times of Israel* (23 March 2019) <<https://www.timesofisrael.com/75-years-after-his-death-why-orde-wingate-remains-a-hero-in-israel/#:~:text=%E2%80%9CWingate%20was%20the%20father%20of,optioned%20but%20hasn't%20produced>> accessed 27 June 2025.

⁴⁴ Rona Segal, *Mission: Hebron* (2020) <https://www.imdb.com/title/tt13721328/> accessed 27 June 2025; see also testimonies and reports from Breaking the Silence, a group founded by Israeli veterans to expose the crimes of the IDF. Their most recent report *The Perimeter* contains testimonies of soldiers deployed to Gaza since October 2023. Breaking the Silence, *The Perimeter: Soldiers' testimonies from the Gaza Buffer Zone 2023-2024* (Breaking the Silence, 2025) <https://www.breakingthesilence.org.il/inside/wp-content/uploads/2025/04/Perimeter_English-2.pdf> accessed 27 June 2025.

⁴⁵ Simon Speakman Cordall, 'Everything is Legitimate: Israeli Leaders Defend Soldiers Accused of Rape' *Aljazeera* (9 Aug 2024), <https://www.aljazeera.com/news/2024/8/9/everything-is-legitimate-israeli-leaders-defend-soldiers-accused-of-rape> accessed 27 June 2025; 'Rape as Self-Defense? Israeli Soldiers Accused of Gang Raping Palestinian Defended as "Heroes"' *Mintpress News* (1 August 2024) <<https://www.mintpressnews.com/rape-self-defense-israeli-soldiers-gang-rape-palestinian-defended-as-heroes/288019/>>.

⁴⁶ *A Life Exposed: Military Invasions of Palestinian Homes in the West Bank* (Yesh Din, Physicians for Human Rights Israel, Breaking the Silence, 2020) <https://life-exposed.com/wp-content/uploads/2020/11/Exposed_Life_EN_FINAL.pdf> 68 accessed 27 June 2025; Breaking the Silence, 'How to create a sense of being pursued' <<https://www.breakingthesilence.org.il/testimonies/videos/24744?sg=1>> accessed 27 June 2025.

⁴⁷ Breaking the Silence, 'The Controller and the Controlled' <<https://www.breakingthesilence.org.il/testimonies/database/782670>> accessed 27 June 2025.

shield for both the settlers and the army.⁴⁸ These examples are just the tip of the iceberg of the terrorism committed or supported by the state of Israel. There is an endless list of other acts designed to spread terror amongst the population, from the ‘mowing of the lawn’, to the sniping of children or people waving white flags, to the targeting of schools, hospitals and refugee camps, to systematically dismembering the bodies of toddlers and emptying their skulls by dropping multi-ton bombs on densely populated areas, to burning people alive, to stealing the bodies of the dead and desecrating them, to erasing entire families from existence; there is precious little Israel has not tried in order to terrify the Palestinian people into leaving their land.

While the IDF were born out of the Haganah, the Irgun first morphed into the Herut and later the Likud political party. Menachem Begin, the effective commander of Irgun during the King David Hotel bombing, the Deir Yassin Massacre and the Altalena incident, became Prime Minister in 1977 after Likud won the majority of seats in the Knesset. While the Irgun was recognized as a terror group by the UN, the US and the UK, no such sanction has been applied to it after it had transformed into a political movement and adopted a more politically correct phrasing of its goals, despite the continuity in terms of its membership, leadership and its core agenda of expanding the territory of the Jewish state by any means necessary.⁴⁹ With the IDF under its command and the unwavering military support of the US, UK, Germany and others, the Likud has taken state terrorism against Palestinians to an unprecedented level.⁵⁰

Yet Israel also uses the creation of fear for political manipulation against its own population, namely through the indoctrination of its youth into perceiving themselves as the ultimate and perpetual victims. By inundating children with stories and images of the holocaust, a state of paranoia is created which is then purposely channelled into fear and hatred of the Palestinians who are presented as an existential threat, justifying mass violence and

⁴⁸ *Unwilling and Unable, Israel's Whitewashed Investigations of the Great March of Return Protests* (B'Tselem, Palestinian Centre for Human Rights, December 2021) https://www.btselem.org/sites/default/files/publications/202112_unwilling_and_unable_eng.pdf accessed 27 June 2025; see also *Genuinely Unwilling: An Update The Failure of Israel's Investigative and Judicial System to Comply with the Requirements of International Law, with particular regard to the Crimes Committed during the Offensive on the Gaza Strip (27 December 2008 – 18 January 2009)* (Palestinian Centre for Human Rights, August 2010).

⁴⁹ Brandon Sellers, ‘The Irgun Zvai Leumi: From Terrorists to Politicians’ (2013) 7-9 Schemata, PSCI 362 <<https://www.lycoming.edu/schemata/pdfs/sellers.pdf>> 7 accessed 27 June 2025.

⁵⁰ A rare moment of disapproval by the British was expressed in 2006 when a 2-day celebration of the bombing of King David hotel was held in Tell Aviv, sponsored by Irgun veterans and the Menachem Begin Heritage Centre. The British Ambassador to the city and the Consul-General in Jerusalem demanded the removal of the plaque commemorating the attack which was unveiled during the celebration. They stated that it was not ‘right for an act of terrorism, which led to the loss of many lives, to be commemorated’. On the other hand, Benjamin Netanyahu, speaking at the event, denied that this was an act of terrorism, calling it a legitimate military action and claiming that Irgun were ‘freedom fighters’ governed by morals, as opposed to ‘terror groups’ such as Hamas or Hezbollah. Ned Parker and Stephen Farrell, ‘British Anger at Terror Celebrations’ *The Times* (20 July 2006), <<https://www.indybay.org/newsitems/2006/07/20/18290072.php>> accessed 27 June 2025.

genocide against them.⁵¹ It is no coincidence, that in the UK, the Prime Minister recently declared that according to his plan '[s]tudying the Holocaust will become a critical, vital part of every single student's identity'.⁵² It appears the idea is to also traumatise British children in order to manufacture their support for the current and any future genocide, land grab and war crimes by the Israeli state on the basis of perceived perpetual Jewish victimhood. This author struggles to conceive of any other interpretation of Starmer's chilling plan whereby the Holocaust is to become part of the British children's 'identity'.

Terrorism was also used as a tool for convincing Jews living in Arab states that they could not be safe unless they abandoned their homelands and moved to Israel. In his memoir, Israeli-British historian of Iraqi Jewish descent, Avi Shlaim uncovers proof that Mossad was behind the vast majority of the attacks on the Iraqi Jewish community in Baghdad between 1950-1951. Shlaim describes the purpose of one of the operative's actions as 'not to kill but to frighten hesitant Jews and to prod them to register to cancel their Iraqi citizenship... The grenades, the explosives and the instructions were all carefully calibrated to terrorise and not kill'.⁵³ This prompted the transfer of 110,000 Jews to Israel, providing it with the numbers it desperately needed for achieving the 'Jewish majority' as well as with the supposed justification of its existence, i.e. the narrative that Jews could not be safe anywhere else, particularly not among Arabs. Once in Israel, Arab Jews have been forced to assimilate and abandon their cultural identities through the educational system which systematically seeks to erase their Arab heritage and their history of peaceful and prosperous coexistence with the Muslims.⁵⁴

To sum up, the state of Israel came into existence and is able to continue its occupation, apartheid and perpetual acquisition of land precisely because of terrorism, yet the term and the proscription regimes are reserved exclusively for the Palestinian resistance groups. Amongst a plethora of other negative impacts this has had, it also creates blatant discrimination in terms of freedom of expression, particularly in the UK where anti-apartheid/occupation/genocide activists as well as intellectuals and independent journalists are being threatened with draconian punishments and subjected to intrusive investigations and bail conditions under the terrorism legislation, while there are no sanctions for expressing support for a state that enacts a policy of terrorism on a mass scale.

⁵¹ Max Blumenthal, *Goliath: Life and Loathing in Greater Israel* (Nation Books 2013) Chapter 2 'The Army of God'; see also: Noam Chayut, *The Girl Who Stole My Holocaust* (Verso Books 2013).

⁵² Rachel Fink, "'We Won't Look the Other Way': U.K. Starmer Unveils Mandatory Holocaust Education Curriculum Amid Antisemitism Spike', *Haaretz* (17 September 2024) <<https://www.haaretz.com/world-news/europe/2024-09-17/ty-article/.premium/u-k-s-starmer-unveils-mandatory-holocaust-education-curriculum-amid-antisemitism-spike/00000191-ffb9-dea8-a595-ffbdb0010000>> accessed 27 June 2025 (emphasis added).

⁵³ Avi Shlaim, *Three Worlds: Memoirs of an Arab-Jew* (Oneworld Publications, 2024) Chapter 7 'Baghdad Bombshell' paras. 47, 60.

⁵⁴ Nurit Peled-Elhanan, *Palestine in Israeli School Books: Ideology and Propaganda in Education* (I.B. Tauris 2012).

3. THE UK TERRORISM NARRATIVE AND THE USE OF THE TERRORISM ACT TO IMPOSE IT ON THE GENERAL PUBLIC

The military raid carried out by Hamas and other resistance groups on 7 October 2023 was a watershed moment that seismically shifted perceptions on Israel's invincibility. It also provided many Palestinians with a sense of hope in the context of a complete denial of their rights for over a century.⁵⁵ At the same time, the Israeli and Western narrative constructed around the raid, which has included a plethora of falsehoods and the inevitable brand of 'terrorism', has been used to justify the unwavering military and political support for the ensuing assault on Gaza, from the very beginning entirely devoid of the principles of proportionality and distinction. Infamously, the now Prime Minister of the UK, Keir Starmer, in an early statement decried 7 October as terrorism and when asked about Israel withholding power and water from the entire population of Gaza, simply replied that Israel had the 'right to defend herself'.⁵⁶ In other words, merely by invoking terrorism this esteemed human rights lawyer felt confident enough to express support for the war crime of collective punishment as well as ignore Israel's duty as an occupier to ensure essential resources for the population of Gaza and the fact that intentionally preventing access to them at a minimum amounted to a war crime⁵⁷ and in the context at hand an act of genocide.⁵⁸ Furthermore

⁵⁵ A poll conducted in March 2024 by the Palestinian Center for Policy and Survey Research showed that three quarters of the Palestinian responders believed the offensive put the Palestinian-Israeli issue at the center of attention after years of neglect at the regional and international levels. The same poll conducted in late May and early June showed an increase in that belief to 82%.

In March a vast majority of the polled Palestinians, i.e. 71% thought Hamas' decision to launch an offensive was correct, whereas in May/June this dropped to 57%. It is important to note that support for this attack, does not necessarily mean support for Hamas and does not mean support for any killings or atrocities committed against civilians. Palestinian Center for Policy and Survey Research (PSR): Survey Research Unit 4, Public Opinion Poll No (92) (12 June 2024) <[https://pcpsr.org/sites/default/files/Poll%2092%20English%20press%20release%2012%20June2024%20\(003\).pdf](https://pcpsr.org/sites/default/files/Poll%2092%20English%20press%20release%2012%20June2024%20(003).pdf)> 4, 8 accessed 27 June 2025.

In its own poll, the Arab Center for Research and Policy Studies found that 90% of Arabs polled from 16 Arab countries viewed the raid as a legitimate resistance operation; 19% said it was legitimate but somewhat flawed; 3% said it was legitimate but involved heinous acts; and only 5% believed it was an illegitimate operation. Arab Center for Research and Policy Studies, 'Arab Public Opinion about the Israeli War on Gaza' (10 January 2024) <<https://arabindex.dohainstitute.org/EN/Pages/APOIsWarOnGaza.aspx>> accessed 27 June 2025.

⁵⁶ 'Israel-Palestine war: Keir Starmer Supports Israel's 'Right' to Cut Gaza's Water and Power', *Middle East Eye*, (11 October 2023) <<https://www.middleeasteye.net/news/israel-palestine-war-keir-starmer-criticised-right-cut-gaza-water-power>> accessed 27 June 2025.

⁵⁷ International humanitarian law both in terms of customary law and The Geneva Conventions prohibits the deprivation of civilian populations of essential resources, see: Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) (adopted 8 June 1977, entered into force 7 December 1978) 1125 UNTS 3, Art. 51 prohibiting the targeting of civilian objects including essential infrastructure, Art. 54 prohibiting the destruction of objects indispensable to the survival of the civilian population, Art. 55 placing on the occupying power the duty of ensuring food and medical supplies to the population to the fullest extent of the means available.

⁵⁸ Under Art.II (b) of the Convention on the Prevention and Punishment of the Crime of Genocide (adopted 9 December 1948, entered into force 12 January 1951) 78 UNTS 277, acts of genocide include deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part

he entirely ignored the fact that Israel's right to self-defence as an occupying power is at the very least controversial if not non-existent.⁵⁹ Over a year later, Starmer now as Prime Minister, again simply invoked 7 October when MP Ayoub Khan asked him to 'share his definition of genocide' if he did not consider the Israeli assault to amount to one. Starmer's shocking response was that, '[i]t would be wise to start a question like that by reference to what happened in October of last year', implying again that those events automatically make any standards of international law inapplicable to Israeli actions, even when they fit the definition of genocide.

Of course, the 7 October raid easily meets the statutory definition of terrorism under section 3 of the UK Terrorism Act (TA) 2000 in that it included actions involving serious violence against persons and serious damage to property and that the actions were designed to influence a government⁶⁰ and/or intimidate the public⁶¹ with the purpose of advancing a political cause. Yet as the UK Independent Reviewer of Terrorism Legislation (IRTL) himself noted, '[t]he terrorism definition applies just as well to the anti-Apartheid actions

⁵⁹ In the Legal Consequences of the Construction of the Wall in the Occupied Palestinian Territory (Advisory Opinion) [2004] ICJ Rep 136, para 139, the ICJ noted that Article 51 of the UN Charter recognizes the existence of an inherent right of self-defence in the case of armed attack by one State against another State. However, Israel does not claim that the attacks against it are imputable to a foreign State. The Court also notes that Israel exercises control in the Occupied Palestinian Territory and that, as Israel itself states, the threat which it regards as justifying the construction of the wall originates within, and not outside, that territory. The situation is thus different from that contemplated by Security Council resolutions 1368 (2001) and 1373 (2001), and therefore Israel could not in any event invoke those resolutions in support of its claim to be exercising a right of self-defence. Consequently, the Court concludes that Article 51 of the Charter has no relevance in this case.

Some have interpreted this rather ambiguous paragraph as generally precluding a right to self-defence in situations of occupation. Following 7 October Russia's ambassador to the UN, Vasily Nebenzya was one of the first to raise that argument, while calling out the hypocrisy of the West:

We are witnessing horrific destruction in Gaza. Greater than all that the West criticizes in other regions. Greater by many orders of magnitude. We are seeing strikes on humanitarian objects, including hospitals, thousands of children dying, horrific suffering inflicted on civilians under the conditions of a total blockade and yet the West remains silent. The only thing they can muster is continued pronouncements about Israel's supposed right to self-defence, although, as an occupying power, it does not have that power as confirmed by the advisory opinion of the ICJ handed down in the year 2004.

General Assembly session on the International Criminal Court and Israel and Palestine (1 November 2023) <<https://www.youtube.com/watch?v=s2TAZDfRY1I&t=5538s>> min. 1.31.52 accessed 27 June 2025.

The preclusion of a right to self-defence also stems from UNGA Resolution 3314, Article 3 (a) which characterises as an act of aggression 'The invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof.' UNGA Res 3314(XXIX) (14 December 1947).

In line with the above Ralph Wilde denies that Israel's current actions in Gaza could fall under the right to self-defence and instead characterises 7 October itself as an act of self-defence against a continuous illegal use of force by Israel, albeit violating *ius in bello*. See: Ralph Wilde, 'Israel's War in Gaza is Not a Valid Act of Self-defence in International Law', *Opinio Juris* (9 Nov 2023) <<https://www.ejiltalk.org/does-israel-have-the-right-to-defend-itself/>> accessed 27 June 2025.

⁶⁰ By section 1 (4) (d) this includes any overseas government.

⁶¹ By section 1 (4) (c) this includes the public overseas.

of Nelson Mandela..., as to the terrorist attacks on 7 October 2023'.⁶² Setting aside the hypocrisy of recognising only the former as actions against apartheid, the statement reflects the fact that there are no exceptions to the UK definition of terrorism that would take into account any right to resist apartheid, occupation or any other form of oppression.

In contrast, taking a step back from the terrorism narrative and instead applying international law, one would look at the 7 October raid in terms of two types of actions. Roughly, on the one hand, the breaching of the wall, the attacks on military targets and the killings of combatants and on the other, attacks on civilians. The distinction is important since the former fall squarely under the right to resist illegal occupation (or even self-defence against a perpetual crime of aggression). In other words, there was nothing illegal *per se* in the breaching of the wall nor was there anything illegal in attacking the military bases of the belligerent occupier nor in the killing of its combatants nor in the capturing of prisoners of war. On the other hand, the killings of civilians and soldiers *hors de combat*, as well as the various forms of mistreatment and abduction of civilians and the desecrations of corpses, clearly fall under the category of war crimes. Ignoring this distinction, the terrorism narrative effectively lumps all the acts as well as all the casualties together, referring even to the combatants killed as 'innocent civilians.'⁶³ What is more, the expression of any other point of view is *de facto* being criminalised in the UK as described below.

3.1. IMPOSING THE DESIRED NARRATIVE THROUGH TERRORISM LAWS

Since the very beginning of the genocidal assault on Gaza, people in the UK have been taking to the streets of the UK in their hundreds of thousands to protest and demand a ceasefire. Despite up to half a million people marching at a time, the protests have been overwhelmingly peaceful with no threat of major public disorder. The Metropolitan Police (MPS) issued a statement in February 2024 confirming that 'the vast majority of those joining protests have done so in a lawful and peaceful way'.⁶⁴ Apparently dissatisfied with the low levels of arrests and the message of solidarity spread through the protests, legislators quickly sought to amend the terrorism legislation in order to make it even more draconian and more useful in suppressing speech supportive of Palestinian liberation. The IRTL was however not in favour of expanding the current provisions noting that '[t]here is a general risk of

⁶² Jonathan Hall, KC, Independent Reviewer of Terrorism Legislation, 'Report on Terrorism Legislation and Protests' (2023) para 13.

⁶³ Going even further, on 7 May 2024, at the US Holocaust Remembrance Ceremony US President Joe Biden painted the picture of nothing short of a genocide: 'Driven by ancient desire to wipeout the Jewish people off the face of the Earth, over 1,200 innocent people – babies, parents, grandparents – [were] slaughtered in their kibbutz, massacred at a musical festival, brutally raped, mutilated, and sexually assaulted.' Joe Biden, 'Remarks by President Biden at the U.S. Holocaust Memorial Museum's Annual Days of Remembrance Ceremony' (US Capitol, Washington DC, 7 May 2024) <<https://bidenwhitehouse.archives.gov/briefing-room/speeches-remarks/2024/05/07/remarks-by-president-biden-at-the-u-s-holocaust-memorial-museums-annual-days-of-remembrance-ceremony/>> accessed 27 June 2025.

⁶⁴ Donna Ferguson and Sammy Gecsoyler, 'Thousands Join Pro-Palestine Marches in London and Edinburgh', *The Guardian* (3 Feb 2024), <<https://www.theguardian.com/uk-news/2024/feb/03/hundreds-of-thousands-expected-at-pro-palestine-march-in-london>> accessed 27 June 2025.

legislating in response to one set of protests because of the risk of unintended consequences when new legislation comes to be applied to other protests'.⁶⁵ This statement openly acknowledges the desire of the UK regime to target the protesters on a discriminatory basis and warns of the danger of more strict criminalisation potentially then applying also to those protesters which the UK likes, such as Iranian royalists.⁶⁶ In his Report on Terrorism Legislation and Protest, the Reviewer indirectly recognizes how, fortunately, the terrorism legislation already allows for such discrimination through its reference to the proscription regime which ensures that speech is sanctioned not along objective standards, but along such lines as the UK is currently geopolitically comfortable with. In his own words, the link to proscribed organisations avoids inviting 'legitimate "whataboutery" (Nelson Mandela, William Wallace, etc.)' and 'is essential because it creates a quality control on groups who may be praised, applying only to groups who have been assessed by the government to be concerned in terrorism at the time of proscription and meriting proscription *as a matter of discretion*, subject to Parliamentary oversight'.⁶⁷

The Reviewer has since been proven right on there being no need for further adaptation of the law to achieve the desired effect, as countless arrests have been made under the Terrorism Act not only of anti-genocide protesters but also of activists and journalists for opinions expressed online. The police themselves have even branded this clear political persecution 'Operation Incessantness'.⁶⁸ While the statistics are not publicly available, it is estimated that there have been scores of people arrested and raids of properties carried out in conjunction with seizures of electronic devices and passports for an indefinite period. The police have furthermore imposed draconian bail conditions on those being investigated while leaving them in limbo for months on end as to whether they will ever be charged, repeatedly and unjustifiably extending the investigations. Lawyers defending such clients have by and large adopted a strategy of no publicity since this seems to be more favourable for individual clients; however this regrettably obscures the scale of the persecution. In conversations with lawyers this author has heard of the police being overwhelmed with the witch hunt and wishing they could focus on actual crimes instead. Unfortunately certain well known Zionist groups keep pushing the focus of the police in this direction. After the arrest of a Professor following his anti-genocide speech (discussed below), the MPS spo-

⁶⁵ Hall (n 62) para 4.

⁶⁶ See Jonathan Hall KC, 'Written Evidence Submitted by Jonathan Hall KC Independent Reviewer of Terrorism Legislation, in reply to Letter of 21 December 2023' <<https://committees.parliament.uk/writtenevidence/127502/pdf/>> paras. 16-17 accessed 27 June 2025. In response to a question on the potential criminalisation of 'hateful extremism' as suggested by Dame Sara Khan and Sir Mark Rowley in their 2021 Report, the Reviewer states that the definition of the concept is too imprecise and it might imperil legitimate activities and speech. As an example, he gives an Iranian political exile who supports the restoration of the Shah, protests outside of the Iranian embassy and directs hostility at the current regime.

⁶⁷ Hall (n 62) para 59 (emphasis added).

⁶⁸ The name was mentioned in a letter handed to Asa Winstanley by the police in connection to the raiding of his home. 'British State Ramps up War on Independent Journalism' *Jewish Voice for Labour* (17 October 2024) <<https://www.jewishvoiceforlabour.org.uk/article/british-state-ramps-up-war-on-independent-journalism/>> accessed 27 June 2025.

keswoman described it as ‘a constant balancing act’.⁶⁹

Apart from direct references to Hamas *any* reference made to 7 October is particularly used as an excuse for persecution, at times under section 1 of the TA 2006 which deals with *glorification* and *encouragement* of terrorism, and section 2 TA 2006 which deals with *disseminating terrorist publications*, but more commonly under sections 12(1) and (1A) of the TA 2000, which deal with *deliberately inviting* or *recklessly encouraging support* for a proscribed organisation, and even section 13 TA 2000, which applies to wearing or displaying an article that might *arouse reasonable suspicion* that one is a member or supporter of a proscribed organisation. The latter two provisions are thus *de facto* also being used as glorification offences. While the maximum sentence for section 13 is 6 months, section 12 carries a staggering potential sentence of up to 14 years’ imprisonment and sections 1 and 2 even up to 15 years.

In October 2024, researcher and journalist Mohamed Elmaazi submitted multiple freedom of information (FOI) requests regarding the statistics on the arrests, charges and convictions specifically under Section 12(1A) TA (2000), the most controversial and draconian of the provisions, to the Crown Prosecution Service of England and Wales (CPS), MPS, National Police Chiefs’ Council (NPCC), and the UK Home Office, in order to uncover the scale of the persecution.⁷⁰ One set of FOI’s requests sought the relevant statistics from 12 April 2019 (when the provision came into force) up to 6 October 2023 and the other for information from 7 October 2023 until 10 October 2024. However, following a lengthy back and forth with the relevant governmental bodies, he has thus far received merely partial responses to his requests.

In terms of Section 12(1A) prosecutions the data received shows a dramatic increase from only one in the four years leading up to 6 October 2023 to 11 prosecutions between 7 October 2023 and 6 October 2024. In terms of the number of arrests under Section 12(1A), The National Police Chief’s Council confirmed that their records show 12 people arrested, yet importantly, they also noted that it is at ‘the officer’s discretion’ as to what details they provide for the ‘reason for arrest’ implying that fully accurate statistics may not even exist. On the other hand, the MPS is relying on irrelevant exemptions and unsound justifications in order to justify withholding the information they hold on the number of arrests, including that the release of such information could jeopardise national security, prejudice police investigations, prejudice the detection and prevention of crime and breach the data privacy of individuals. Elmaazi has twice appealed their decision, most recently to the Information Commissioner’s Office (ICO), meanwhile the precise data continues to be kept from the public in what can only be understood as a deliberate attempt to conceal the abuses of the law and prevent public outrage about it.

When we speak of expression referencing 7 October potentially falling under the scope

⁶⁹ ‘Exclusive: Prof Haim Bresheeth’s Anti-Genocide Speech before he was Arrested for “Terrorism”’ *The Skwawkbox* (3 Nov 2023), <<https://skwawkbox.org/2024/11/03/exclusive-prof-haim-bresheeths-anti-genocide-speech-before-he-was-arrested-for-terrorism/>> accessed 27 June 2025.

⁷⁰ The correspondence is not in the public domain. All files mentioned in this context on file with Mohamed Elmaazi.

of sections 12 and 13 of the TA (2000), it is not relevant whether the raid itself or specific actions within that raid fall under the UK definition of terrorism or one of the core international crimes. Rather the only relevant question is whether the actors involved are considered by the UK Parliament to be members of proscribed terrorist organisations or not.⁷¹ This makes an open and honest discussion about this seismic event extremely difficult if not impossible, aggressively stifling the expression of a crucial part of public sentiment.

In February 2024, three women were convicted under section 13(1) for displaying small print-out sketches of paragliders attached to their clothes and to a poster during a protest.⁷² The prosecutor told the court that the images displayed could have been viewed as ‘celebrating the use of the paragliders’ tactic’.⁷³ At this point one might legitimately ask why the tactic should not have been celebrated. Why should it be a crime to celebrate a humble paraglider defeating the oppressive wall of the brutal occupier and overcoming one of the most internationally supported militaries in the world in a stand up fight? According to the prosecution, that would mean celebrating Hamas *per se* and creating a *risk* of others supporting Hamas and since Hamas is a proscribed organisation under UK law, this makes it a terrorist crime. The three women were indeed found guilty despite the judge concluding that there was no evidence that any of the defendants were supporters of Hamas or were seeking to show support for them. But they did find that the women were ‘carrying or displaying’ *as per* section 13(1) an article in such a way as to *arouse reasonable suspicion* that they were supporting a proscribed organisation. In short, supporting an entirely legitimate and legal act of resistance was determined to be a terrorist crime in itself.

Similarly, Tony Greenstein, an anti-Zionist Jew and founding member of the Palestine Solidarity Campaign, was arrested in December 2023 under section 12 for the following tweet, ‘I support the Palestinians that is enough and I support Hamas against the Israeli army’.⁷⁴ Again, clearly not expressing support for any attack on civilians, nor Hamas *per se*, but only for the group’s legitimate and legal attacks against the Israeli army. As he had noted, all his views are in the public domain, yet the police had nevertheless confiscated all his computers indefinitely in what was clearly a fishing expedition.⁷⁵ This seems to be stan-

⁷¹ For example the Al-Qassam Brigades have been proscribed as a terrorist organisation since March 2001 under the Terrorism Act 2000, while the entirety of Hamas was proscribed in November 2021. The Terrorism Act 2000 (Proscribed Organisations) (Amendment) (No3) Order 2021.

Needless to say, not the state of Israel nor its military have ever suffered such proscription, despite the systematic terrorism they inflict on the Palestinian population.

⁷² Crown Prosecution Service, ‘Three Women Convicted of Displaying Paraglider Stickers at Protest’ (13 February 2024) <<https://www.cps.gov.uk/cps/news/three-women-convicted-displaying-paraglider-stickers-london-protest>> accessed 27 June 2025.

⁷³ ‘Pro-Palestinian Protests: Paraglider Badge Wearers Found Guilty’ *BBC News* (13 Feb 2024) <https://www.bbc.co.uk/news/uk-england-london-68286945> accessed 27 June 2025.

⁷⁴ The tweet was a response to another tweet stating ‘Just tweet I support Hamas! 3 words is all you have to tweet and then we know where you stand.’ This context further makes it clear that Greenstein did not express support for Hamas *per se* but only their engagement in lawful resistance.

⁷⁵ ‘Greenstein Takes Police to Court the Week for Return of Seized Electronics’ *The Skwawkbox* (14 April 2024) <<https://skwawkbox.org/2024/04/14/greenstein-takes-police-to-court-this-week-for-return-of-seized-electronics/>> accessed 27 June 2025.

dard practice with such raids and arrests. He was left in limbo and under bail conditions for nearly an entire year before finally being charged, for that one tweet, under section 12(1A) on 23 November 2024.⁷⁶

Similarly, Mick Napier, founder of the Scottish Palestine Solidarity Campaign, was arrested for stating during a speech at a protest, ‘I agree with the Palestinian right to resist by means that they choose’.⁷⁷ He was charged on religiously aggravated offences morphed into the terrorist offence of support for a proscribed terrorist organisation, i.e. Hamas, despite not mentioning the group in any way and speaking of the right to resist in an abstract manner. Napier spent less time in limbo, however, as the terrorism charges were soon later dropped.⁷⁸

Recently Prof. Haim Bresheeth, a child of Holocaust survivors, was arrested after a speech he had given against the genocide. When apprehending Bresheeth, the policeman is clearly heard stating that he was being arrested under the TA 2000 for quote ‘making a hate speech’. Yet hate speech is not covered by the TA and it seems at some later point the official reasons for his arrest were changed into ‘expressing support for a proscribed organisation’ as per section 12(1A) TA.⁷⁹ What exactly in the speech allegedly qualified for the offence has not been clarified but some have speculated that the police are referring to the following words, ‘[Israel] cannot win against Hamas. They cannot win against Hezbollah. They cannot win against the Houthis. They cannot win against the united resistance to the genocide that they have started’.⁸⁰ Again, this is far from an expression of support for any of the enumerated organisations as such or any attacks on civilians perpetrated by them. It is however an expression of opinion on the current military situation and at ‘worst’ an expression of support for resistance to genocide which all these groups are indisputably engaged in.

3.2. ATTACKS ON JOURNALISTS

Recent months have also seen a rise in the use of counter-terror legislation against several prominent journalists, namely Richard Medhurst and Sarah Wilkinson, both arrested for alleged offences under section 12(1A) TA (2000), as well as Asa Winstanley who is being investigated for possible offences under sections 1 and 2 of TA (2006). The arrests and raids conducted at their properties have included seizures of journalistic material and devices, including microphones, cameras, computers and telephones.

⁷⁶ Jo Wadsworth, ‘Tony Greenstein Charged with Terrorism Offence’ *Brighton and Hove News* (29 November 2024) <https://www.brightonandhovenews.org/2024/11/29/tony-greenstein-charged-with-terrorism-offence/#google_vignette> accessed 27 June 2025.

⁷⁷ Asa Winstanley, ‘“Anti-terror” Arrests in UK over Support for Palestinian Resistance’ *The Electronic Intifada*, (22 Dec 2023) <<https://electronicintifada.net/blogs/asa-winstanley/anti-terror-arrests-uk-over-support-palestinian-resistance>> accessed 27 June 2025.

⁷⁸ ‘Terrorism Charges against SPSC Campaigner Dropped’ *Scottish Palestine Solidarity Campaign* (26 Jan 2024) <<https://www.scottishpspc.org.uk/analysis/latest-news/254-info/about-pspc/statements/2077-terrorism-charge-dropped-against-pspc-campaigner>> accessed 27 June 2025.

⁷⁹ This author could not confirm definitively whether section 12(1) or 12(1A) was cited.

⁸⁰ *The Skwawkbox* (n 69).

The National Union of Journalists has condemned the trend as an ‘intimidatory measure’ harmful to press freedom and spoke of a ‘concerning police culture where the rights of journalists and their ability to ensure the safety of sources is placed at risk’.⁸¹ As far as this author is aware, none of the three journalists were informed by the constabularies of the exact statements they had allegedly made that warranted their arrests/raids on their properties, having only been given general explanations such as arrest for ‘content posted online’. However, it is speculated by the Jewish News that in the case of Wilkinson it may have been her characterisation of the 7 October raid as an ‘incredible infiltration’.⁸² By any objective interpretation this is simply a statement of fact. Her arrest was conducted by the counter-terrorism police in a particularly egregious manner that puts a shameful stain on the UK counter-terrorism police which will be hard to rectify. Among the several intimidation techniques used on the day, the officers, who never showed their IDs, went as far as desecrating the ashes of her late mother, withholding lifesaving medications, and driving her in the opposite direction of the police station in order to create the illusion of a kidnapping.⁸³ Most concerning, however, Wilkinson was requested to give up the locations of her contacts in Palestine.

3.3. TREATING PALESTINE ACTION AS TERRORISTS

In an unprecedented move, in August 2024 the police also used powers under the TA to detain for seven days without charge 10 members of Palestine Action⁸⁴ who participated in a raid on an Elbit Systems arms factory in Bristol causing over £1 million in damages.⁸⁵ They were later charged with non-terror offences and remanded to prison.⁸⁶ However, a month later the co-founder of the group, Richard Barnard, was charged under section 12(1A) for ‘expressing an opinion that is supportive of a proscribed organisation’ in relation to a speech he had made on 8 October 2023. It is difficult to comment on the specific charge as the content of the speech has not been made available online, however the prosecution

⁸¹ ‘NUJ Condemns Abuse of Counter-Terror Legislation as Harmful to Media Freedom, *National Union of Journalists*’ (21 Oct 2024) <<https://www.nuj.org.uk/resource/nuj-condemns-abuse-of-counter-terror-legislation-as-harmful-to-media-freedom.html>> accessed 27 June 2025.

⁸² Lee Harpin, ‘Palestine Activist who Praised “Incredible Oct 7 Infiltration” Arrested by Counter-Terrorism Police’ *Jewish News* (29 Aug 2024) <https://www.jewishnews.co.uk/pro-palestine-activist-who-had-praised-incredible-oct-7-infiltration-arrested-by-terror-cops/?utm_source=substack&utm_medium=email> accessed 27 June 2025.

⁸³ For full account of the arrest see ‘UK Journalist under House Arrest on Terrorism Charges’ *The Crispin Flintoff Show* (2 Sep 2024), <https://www.youtube.com/watch?v=WjwycG_9Ujo> accessed 27 June 2025.

⁸⁴ Palestine Action is a protest group that has been using direct action tactics against UK-based operations providing weapons to Israel. Juries have been accepting the group’s defence arguments in that their actions are being committed in order to prevent harm to civilians and property in Palestine, thus there have been a series of hung juries and acquittals for the actionists. However, steps are now being taken to prevent juries from acquitting on account of their conscience. ‘Statement of Solidarity with Palestine Action’ *Cage International* (5 Nov 2024) <<https://www.cage.ngo/articles/statement-of-solidarity-with-palestine-action>> accessed 27 June 2025.

⁸⁵ ‘Palestine Action Co-founder Back in Court Again. Here’s Where and When’ *The Canary* (3 Oct 2024) <<https://www.thecanary.co.uk/news/2024/10/03/palestine-action-barnard-court/>> accessed 27 June 2025.

⁸⁶ Areeb Ullah, ‘UK Police Charge Co-founder of Palestine Action under Terrorism Act’ *Middle East Eye* (30 Aug 2024) <<https://www.middleeasteye.net/news/uk-police-charge-co-founder-palestine-action-under-terrorism-act.>> accessed 27 June 2025.

points to a wider campaign of using the TA against Palestine Action due to their impressive successes in disrupting Elbit System operations. This includes closing down several Elbit Systems factories, forcing 10 large businesses to cut ties with the weapons manufacturer and reportedly costing the company tens of millions of pounds in losses in the last year alone.⁸⁷ In November counter-terrorism police arrested and raided the homes of 10 more people in relation to the action in Bristol. Clare Rogers, the mother of one of the activists, has stated,

It does feel like Zoe is being branded a terrorist and treated under the Terrorist Act because her actions were pro-Palestinian... labelling someone who is trying to uphold international law a “terrorist” just beggars belief and it is our country who should be calling Israel terrorists.⁸⁸

On the 23 June 2025, two days after activists spray-painted two military planes red, the Home Secretary Yvette Cooper announced that she would be seeking the proscription of Palestine Action.⁸⁹

3.4. OVERBROAD DEFINITIONS AND THEIR INTERPRETATION IN PRACTICE

Looking at the definitions of the above-mentioned provisions of the TA and how they have been interpreted, it is essential to understand just how broad they are to begin with. Firstly, the criminalised ‘support’ under s. 12 does not mean monetary support or any other kind of tangible support and it furthermore does not need to incite violence or encourage terrorism.⁹⁰ Mere intellectual support suffices.⁹¹ In other words, simply an expression of an opinion can fall under *support*.

In terms of *mens rea*, s. 12(1) requires that the person knowingly solicits such support. The section therefore crucially does not cover expressions of personal belief or personal approval, or even inviting someone else to share that opinion or belief, nor is it an offence oneself to give moral support for a proscribed organisation.⁹² Yet s. 12(1A) then entirely disregards common sense and the principal of minimal criminalisation by including in the realm of terrorism *recklessly* creating a *risk* that encouragement of others to support a proscribed organisation will occur. In other words one need only be aware of a sufficient likelihood that support *may* be encouraged, automatically criminalising the expression of *any* supportive belief or opinion, not only invitations to support.

⁸⁷ *Cage International* (n 84).

⁸⁸ ‘If you Protest for Palestinian Rights in the UK you Could be Arrested under Antiterrorism Laws’ *AJ+* (28 Nov 2024) <https://www.instagram.com/reel/DC4lP-SM6GN/?utm_source=ig_web_button_share_sheet> accessed 27 June 2025.

⁸⁹ Imogen James and Ellie Price, ‘Palestine Action Group to be Banned, Home Secretary Confirms’ *BBC* (23 June 2025) <<https://www.bbc.co.uk/news/articles/c4g83l33wdeo>> accessed 27 June 2025.

⁹⁰ *R v Choudary and Rahman* [2016] EWCA Crim 61 [40, 46, 89]

⁹¹ See *R v Choudary and Rahman* [2016] EWCA Crim 61 [46] Court of Appeal endorsing trial judge’s ruling which found that inviting someone else to provide encouragement to or intellectual support for a proscribed organisation, allowing it to grow stronger and more determined, was enough.

⁹² *ibid* para 48.

In his Report, the IRTL states that as a matter of proof it must be shown that the expressed supportive belief is supportive of the proscribed organisation itself not merely of actions carried out by them.⁹³ Yet just a few paragraphs prior he states that recklessness as to creating the risk ‘inevitably means that the opinion or belief, even if not expressly supportive of the organisation (for example, praise for terrorist acts on 7 October 2023), must be known by the speaker and his audience to have sufficient connection to a proscribed group’⁹⁴ and again later that ‘praise for events with which Hamas were obviously involved, might demonstrate a sufficient likelihood or encouraging support for Hamas as an organisation’.⁹⁵ The equation of support of particular acts of a group with the group itself, is precisely what leads to the problem described above where references to legitimate acts of resistance have been interpreted as terrorism in itself.

Even worse, in terms of *mens rea*, s. 13 is a strict liability offence, with the only standard to be met being a potential *reasonable suspicion* aroused that someone is a supporter of a proscribed group. They do not even need to be reckless towards any risk of potential encouragement of others occurring, nor do they need to be actual supporters of the group.

When it comes to encouragement of terrorism *per se* under s. 1 TA (2006), there is no need for any connection to proscribed organisations. It rather applies to any statement which is ‘likely’ to be understood as a direct or indirect ‘encouragement’ to the commission, preparation, or instigation of ‘acts of terrorism’, i.e. attacks. What is *likely*, depends on the context⁹⁶ and the Independent Reviewer speculated in his Review that in the current context consideration might be given to whether ‘people were travelling from the UK to commit terrorist acts in Israel or the Occupied Palestinian Territories’ similarly to how they were travelling to Syria and Iraq to fight with ISIS.⁹⁷ Yet despite no such travel taking place, s. 1 has been used against Asa Winstanley for example, as described above. It is hard to analyse what exactly the police considered to have created such a risk, since they have not told the suspect which statements of his they deem potentially criminal. A statement which *glorifies* (in any way praises or celebrates)⁹⁸ the commission or preparation of a terrorist act is considered *likely to encourage* only if members of the public could reasonably be expected to infer that the person is implying the act should be emulated by them in the existing circumstances.⁹⁹ In terms of *mens rea* recklessness again suffices as to whether others will be encouraged, i.e. the person is aware of the *risk* that they might be.

With regards to section 2 TA (2006), the offence applies to disseminating publications that either assist or encourage terrorism. In practice it is mostly used for the latter category which applies to publications which are likely ‘to be understood by a reasonable person as a direct or indirect encouragement or other inducement... to the commission, preparation

⁹³ Hall (n 62) para 50.

⁹⁴ *ibid* para 44.

⁹⁵ *ibid* para 51.

⁹⁶ Terrorism Act 2006 s. 1(4).

⁹⁷ Hall (n 62) para 84.

⁹⁸ Terrorism Act 2006 s. 20(2).

⁹⁹ Terrorism Act 2006 s. 1(3).

or instigation of acts of terrorism'. This includes publications that glorify terrorism, if it can reasonably be inferred that the glorification seeks for the acts to be emulated in the existing circumstances.¹⁰⁰

From certain case law, it appears the publications do not need to include an inherently encouraging meaning or message as mere depictions or descriptions of terrorism or interviews with known terrorists will suffice, if they are seen to normalise terrorism, or cast it in a positive or sympathetic light.¹⁰¹ Again, it is also irrelevant whether the publication actually encourages anyone and recklessness suffices for the *mens rea*.¹⁰² A defence, however, is available, i.e. if the publication neither expressed the defendant's views nor had his endorsement and it was clear in all the circumstances that this was not the case.¹⁰³

To sum up, none of these provisions require proof that anyone was actually encouraged either to support a proscribed organisation or to commit an act of terrorism as a result of the expression, contrary to the principle that criminalisation of speech acts should be limited to expressions that would be directly causally responsible for increasing the actual likelihood of a terrorist act occurring.¹⁰⁴

Furthermore, in practice, the existence of a *risk* under these provisions has been taken for granted whenever a statement or image is seen as supporting a proscribed terrorist organisation or glorifying an act that has been deemed terrorist, rendering this particular caveat entirely meaningless. Commenting on potential law reform removing the *risk* caveat under sections 12(1) or 1(A) the Reviewer stated that,

the impacts would be severe. It would be practically impossible to express the view that a group should no longer be proscribed (even though the Terrorism Act 2000 enables members of the public to apply for description). It would prevent neutral or justifiable views being expressed in public or private (for example, " Hamas has done the right thing to agree to lay down its arms!").¹⁰⁵

He was equally as critical of section 1 TA (2006) potentially applying in circumstances where there would be no reason to believe that anyone would end up being encouraged.¹⁰⁶ Yet, looking at the above described cases, in practice, we have already reached this stage.

3.5. DRACONIAN, DISCRIMINATORY AND HARMFUL TO DEMOCRACY

¹⁰⁰ Terrorism Act 2006 s. 2(4).

¹⁰¹ Andrew Cornford, 'Terrorist Precursor Offences: Evaluating the Law in Practice' (2020) 8 *Criminal Law Review* 663, 672; *R v Mohammed* [2008] EWCA Crim 1465, *R v Iqbal* [2010] EWCA Crim 3215; *R v Ali* [2018] EWCA Crim 547, [2018] 1 WLR 6105.

¹⁰² Terrorism Act 2006 s. 2(8)

¹⁰³ Terrorism Act 2006 s. 2(9)-(10)

¹⁰⁴ Report of the Secretary-General, 'The Protection of Human Rights and Fundamental Freedoms while Countering Terrorism' (28 August 2008) UN Doc A/63/337 para 61.

¹⁰⁵ Hall (n 66) para 10.

¹⁰⁶ *ibid*.

In 2017, Amnesty International published a comparative study of security laws in which it declared the UK laws as some of the most draconian in Europe, highlighting among other issues the inclusion of controversial offences related to direct and indirect forms of encouragement, including the ‘glorification’ of terrorism and the permission of proscription for organisations based on conduct that ‘encourages’ or ‘glorifies’ terrorism.¹⁰⁷ Due to its overbreadth and incompatibility with the harm principle, a broad coalition of actors and legal instruments find criminalisation of glorification of ‘terrorist acts’ to be unjustifiable altogether, including academic commentators, non-governmental organisations, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, other international bodies and relevant EU-Directives.¹⁰⁸ In 2008 a UN Secretary-General report stated clearly that glorification should not be criminalised at all due to the vagueness and uncertain scope of terminology such as ‘glorifying’ or ‘promoting’.¹⁰⁹ Encouragement offences in general suffer from such overbreadth. According to Human Rights Committee, General Comment No. 34, freedom of expression can be restricted when the State can ‘demonstrate in a specific and individualised fashion the precise nature of the threat, and the necessity and proportionality of the specific action taken, in particular by establishing a direct and immediate connection between the expression and the threat’.¹¹⁰ The threat here should be to an enumerated purpose, e.g. harm to others, national security or public order.¹¹¹ In other words, only acts of speech that are likely to be causally responsible for actual violence should be justifiably criminalised, whereas the justification for laws criminalising glorification mainly rests on the assumption that the state in which such expression is left unsuppressed is more conducive to terrorist violence, regardless of how imperceptibly small the contribution of any one such expression may be.¹¹² While this risk may be small or even illusory, the social value of the conduct constituting the alleged encouragement may be great.¹¹³ Criminalising it might furthermore create chilling effects on political and religious speech.¹¹⁴ Thus even if we accept in theory that there is room for offences extending beyond direct incitement of terrorism, we must carefully weigh their

¹⁰⁷ Terrorism Act 2006 s. 1; Terrorism Act 2000, s. 3 <<http://www.legislation.gov.uk/ukpga/2000/11/section/3>> (see amendments at 3(5)A-C in particular: <<http://www.legislation.gov.uk/ukpga/2000/11/section/3#reference-c16757481>>). The case of *R v Faraz* itself highlights the extremely complex considerations required in terms of intent and directness in order for criminal proceedings to correctly consider whether a publication or the expression of a view was in fact intended to ‘encourage’ terrorism. See *R v Faraz* [2012] EWCA Crim 2820; Edward Craven, ‘Case comment: *R v Faraz* – Terrorist publications and free speech in the Court of Appeal’ (10 January 2013), <<https://inform.wordpress.com/2013/01/10/case-comment-r-v-faraz-terrorist-publications-and-free-speech-in-the-court-of-appeal-edward-craven/>> accessed 27 June 2025.

¹⁰⁸ See Ilya Sobol, ‘Glorification of Terrorist Violence at the European Court of Human Rights’ 24 *Human Rights Law Review* 1, 1-28.

¹⁰⁹ Report of the Secretary-General (n 104).

¹¹⁰ Human Rights Committee, ‘General Comment No 34: Article 19: Freedoms of opinion and expression’ (12 September 2011) UN Doc CCPR/C/GC/34, para 34.

¹¹¹ *Shin v Republic of Korea*, Communication No 926/2000, UN Doc CCPR/C/80/D/926/2000 paras 7-8.

¹¹² Sobol (n 108) 9.

¹¹³ Cornford (n 101) 17.

¹¹⁴ *R v Khan* [2015] EWCA Crim 1341.

benefits against their costs.¹¹⁵

As Cornford accurately puts it, encouragement offences requiring only a potential encouraging effect, curtail a range of freedoms,

most obviously, the freedoms to discuss controversial topics openly, and to share moral, political, and religious opinions. Arguably, there is value simply in being free to engage in such expression, unrestricted by others' potential wrongdoing. But more significantly, such expression can itself be valuable. The potential value of depictions or account of terrorism is obvious: not least of all, in understanding and thus combating terrorism itself. And even glorification and justification of terrorism should not automatically be assumed to be worthless. Again, we must bear in mind here the statutory definition of terrorism: this encompasses politically-motivated violence against any government of any kind. Encouraging terrorism thus includes encouraging justified freedom-fighting against illegitimate regimes.¹¹⁶

Not to mention, that in the context of resistance groups vis-à-vis the IDF, a causal link could much more easily be established between the all-pervasive intellectual and military support for Israel and the IDF and subsequently UK citizens joining the genocidal machine, than between UK citizens joining Hamas as a response to some individual's tweets or some tinny images displayed during a protest.¹¹⁷ But of course, this is irrelevant since it is not even illegal for British dual nationals to join the IDF, an armed force 'legitimately recognised' by the UK, as has officially been confirmed by the Foreign, Commonwealth and Development Office on 13 December 2023 showing no concern or interest over the numbers of those that had already travelled to join by that time.¹¹⁸

Implicitly recognizing the absurdity of convictions without any harm or even risk of harm present, in practice other harms have been attached to justify arrests and conviction in the case of encouragement provisions. In April a man was convicted for supporting a prosc-

¹¹⁵ Cornford (n 101) 17.

¹¹⁶ *ibid* 18.

¹¹⁷ Declassified has reported that by November 2023 hundreds of Britons had joined the IDF. Phil Miller, 'British Fighters in Israel's Military: is it Legal?' *Declassified UK* (13 November 2023) <<https://www.declassifieduk.org/british-fighters-in-israels-military-is-it-legal/>> accessed 27 June 2025.

¹¹⁸ Andrew Mitchell, UK Parliament, Written Questions, Answers and Statements, 'Israel Defense Forces: British Nationals Abroad' Question for Foreign, Commonwealth and Development Office, 22 December 2023 <<https://questions-statements.parliament.uk/written-questions/detail/2023-12-13/6894>> accessed 27 June 2025:

We are aware of reports of UK citizens travelling to fight for the Israel Defence Force (IDF), but the Government does not estimate the numbers of those who have done so. The UK recognises the right of British nationals with additional nationalities to serve in the legitimately recognised armed forces of the country of their other nationalities. The IDF is a recognised armed force and British nationals are both able to volunteer into the IDF and eligible for national service. For Israel, one does not have to be Israeli to serve in the IDF.

Section 4 of the Foreign Enlistment Act 1870 makes it an offence for a British subject to enlist in the military of a foreign state at war with another foreign state with which the UK is at peace, however the UK does not recognise Palestine as a state and the prohibition furthermore does not apply to enlistment in a foreign government's forces which are engaged in combating terrorism, which is what the UK characterises the current assault on Gaza as.

ribed organisation simply for wearing a green headband with the inscription of the *shahada*, a statement of faith for any Muslim, because it allegedly resembled the headbands worn by Hamas. Despite no need for actual harm to be established, under s. 13 TA 2000, the Judge nevertheless claimed that serious harm was done. However, by serious harm the Judge not referring to someone potentially joining Hamas as a result or even being encouraged to commit a 'terrorist act'. She was instead referring to 'significant distress' that would have been caused. In other words, feelings would have been hurt. Yet, as mentioned, the provision is not meant to be tackling such harm but the harm of people potentially becoming supporters through being exposed to positive publicity for a proscribed organisation.¹¹⁹ Also, The European Court of Human Rights (ECtHR) has on several occasions emphasised that freedom of expression was not only applicable to 'information' or 'ideas' that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb; stating that such are the demands of that pluralism, tolerance and broadmindedness without which there is no 'democratic society'.¹²⁰

Arguably, the core of the unjustifiability of these provisions is their effect on the Overton window along racist and colonialist lines which protect the coloniser and the 'superior' race from 'distress' whereas the dehumanised people enjoy no protection against such distress. There is no sanction against support or praise for the IDF nor the glorification of their terror, war crimes, or acts of genocide, regardless of how much distress such praise may cause those who have directly experienced brutality at their hands or those, who are merely helpless witnesses to the unspeakable sadism committed against the Palestinian people. In fact the latter cannot even mitigate their distress by expressing themselves honestly in response. Any limitations placed on freedom of expression should respect the principle of equality and non-discrimination, yet the lack of recognition of state terrorism makes these provisions extremely discriminatory as they only apply to activists on the anti-occupation/genocide/apartheid side. This discrimination also disproportionately affects individuals of Arab and Muslim background as well as Jews, since the latter represent a large part of the most vocal intellectuals speaking out against the occupation and genocide.

The safeguard of 'necessary in a democratic society', as stipulated by Article 10 of the European Convention of Human Right, requires States to demonstrate that there is a pressing social need and that the limitations placed on freedom of expression do not merely have a legitimate aim,¹²¹ but are proportionate to that aim, strike a fair balance between dif-

¹¹⁹ Hall (n 62) para 69.

¹²⁰ *Handyside v the United Kingdom* App no 5493/72 (ECtHR, 7 December 1976) para 49; *Observer and Guardian v United Kingdom*, App no 13585/88 (ECtHR, 26 November 1991) para 59; *Ligens v Austria* App no 9815/82 (ECHR, 8 July 1986) para 41; *Castells v Spain*, App no 11798/85 (ECtHR, 23 April 1992) para 42.

¹²¹ *Bayev and Others v Russia*, App nos. 67667/09 and 2 others (ECtHR, 20 June 2017) para 64, 83; *Morice v France*, App no 29369/10 (ECtHR, 23 April 2015) para 170; *Perinçek v Switzerland*, App no 27510/08 (ECtHR, 15 October 2015) paras 146-154; *Stroll v Switzerland*, App no. 69698/01 (ECtHR, 10 December 2007) para 54; *Open Door and Dublin Well Woman v Ireland*, App no 14234/88 (ECtHR, 29 October 1992) para 63; *Kilin v Russia*, App no 10271/12 (ECtHR, 11 August 2021) paras 63-66.

ferent rights and interests and do not impair the democratic functioning of society itself.¹²² Considering the above discussion, TA encouragement offences cannot be said to either be necessary or proportionate. Furthermore, in light of the numerous prominent independent journalists being persecuted through their use, it is clear that the offences pose another, even more direct threat to the democratic functioning of society. Being informed on key events is critical to the public's ability to participate meaningfully in democratic processes, such as elections and public debate; to hold politicians accountable for their actions and policies; and to ensure democratic institutions are operating transparently and effectively. In *Tromsø and Stensaas* the ECtHR stressed that an extensive freedom of expression must apply to discussion on matters of general public interest¹²³ and that the national margin of appreciation is circumscribed by the interest of democratic society in enabling the press to exercise its vital role of 'public watchdog' in imparting information of serious public concern.¹²⁴ Furthermore in *Lingens v Austria* the Court recognized that 'freedom of political debate is at the very core of the concept of a democratic society'¹²⁵ and that freedom of the press 'affords the public one of the best means of discovering and forming an opinion of the ideas and attitudes of political leaders'.¹²⁶

In the context of 7 October and the genocide in Gaza, independent investigative journalism has been crucial in debunking widespread misinformation and bringing essential facts to the public. Journalist Asa Winstanley is associate editor of the Electronic Intifada, which was one of the first outlets to debunk the 7 October rape allegations, the crown jewel of the disinformation efforts to manufacture consent for a disinhibited assault on Gaza.¹²⁷ The night before the raid on his home and the seizure of his devices, Winstanley shot a video uncovering another crucial piece of information that the mainstream media has ignored, which is the vast number of Israelis killed on 7 October by their own army.¹²⁸ The timing of the raid points to an attempt to silence this reporting.¹²⁹ It has recently come to light that on 9 September 2024 a month before Winstanley's home was raided by the Counter-Terror Command (SO15), the Attorney General's Office sent their contact details and those of the Crown Prosecution Service to the Israeli embassy, raising questions as to whether the raid

¹²² *Handyside v the United Kingdom*; *Stoll v Switzerland* para 101; *Morice v France* para 124; *Pentikäinen v Finland*, App no. 11882/10 (ECtHR, 20 October 2015) para 87.

¹²³ *Tromsø and Stensaas v Norway*, 21980/93 (ECHR, 20 May 1999) 35.

¹²⁴ *ibid* para 58. see also *Goodwin v United Kingdom* App no 17488/90 (ECHR, 27 March 1996) para 39.

¹²⁵ *Lingens v Austria* (n 120) para 42, see also *Castells v. Spain* (n 120) para 43. Concurring Opinion of Judge De Meyer 'Mr Castells was prosecuted and convicted for having written and published his views on a question of general interest; in a "democratic society" it is not acceptable that a citizen be punished for doing this.'

¹²⁶ *Lingens v Austria* (n 120) para 42.

¹²⁷ Fank Lunz a pollster for the Israeli lobby conducted a series of polls and found that the allegation that made the polled participants most support Israel's assault on Gaza were those of rape. Max Blumenthal, 'Leaked Israel Lobby Presentation Urges US Officials to Justify War on Gaza with " Hamas rape " Claims' *The Grayzone* (6 March 2024) <<https://thegrayzone.com/2024/03/06/leaked-israel-lobby-officials-war-gaza-mass-rape/>> accessed 27 June 2025.

¹²⁸ 'How Israel Killed Hundreds of its own People on 7 October, with Asa Winstanley and Ali Abunimah' *The Electronic Intifada*,= (19 October 2024) <https://www.youtube.com/watch?v=_gr_j0JKcfY> accessed 27 June 2025.

¹²⁹ Asa Winstanley, 'Did British Police Raid me for This? Palestine is Still the Issue' (31 Oct 2024) <<https://asawinstanley.substack.com/p/did-british-police-raid-me-for-this>> accessed 27 June 2025.

was prompted by them.¹³⁰

States do not merely have a negative obligation not to interfere with freedom of expression beyond what the test of necessity requires, but they also have a positive obligation that necessitates them to take steps to secure the effective enjoyment of the right.¹³¹ By allowing the police to pursue their witch hunt through the use and abuse of the TA, the UK fails both obligations.

4. TERRORISM NARRATIVE INFECTING THE ICC

Considering the manipulative nature of the use of the term ‘terrorism’ and ‘terrorist’ in the context of resistance movements, it is regrettable that it has also been used by the Prosecutor of the International Criminal Court, Karim Khan, who referred to Hamas and other resistance groups as terror organisation¹³² despite the Rome Statute clearly not containing any crime of terrorism. As Ahmed Abofoul, legal advisor with Al-Haq, has noted, ‘legally speaking, this term has no place at the ICC’ yet Khan has ‘used [it] once before, in the highly controversial decision to ‘de-prioritize’ US personnel crimes in Afghanistan’.¹³³ While regrettable, it is not surprising that the Prosecutor is bringing a British narrative to the conflict considering he himself is British and furthermore is quite intent on surrounding himself purely with British advisors and experts. Khan has not only referred to the Palestinian resistance groups as ‘terror organisations’ but has also adopted in his May request for extradition warrants the approach amongst the Western political discourse and its mainstream media, whereby he reserved excessive outrage for the actions of the resistance on 7 October, while he used no such outraged for the genocidal actions of Israel in his request for

¹³⁰ Haroon Siddique, ‘Police and prosecutors’ details shared with Israel during UK protests inquiry, papers suggest’ *The Guardian* (29 April 2025) <<https://www.theguardian.com/uk-news/2025/apr/29/police-and-prosecutors-details-shared-with-israel-during-uk-protests-inquiry-papers-suggest>> accessed 27 June 2025.

¹³¹ See *Dink v Turkey*, App no 2668/07 and others (ECHR, 14 September 2010) para 137 which established that states have a positive obligation, under Article 10, to create a favourable environment for participation in public debate by all persons, enabling them to express their opinions without fear (the ‘Dink principle’), confirmed in *Uzeyir Jafarov v Azerbaijan* App no 54204/08 (ECHR, 29 January 2015) para 68; *Huseynova v Azerbaijan* App no 10653/10 (ECHR, 13 April 2017) para 120; *Khadija Ismayilova v Azerbaijan* App no 65286/13 and 57270/14 (ECtHR, 10 January 2019) para 159; *Haji and Others v Azerbaijan* App no 3503/10 and others (ECtHR, 1 October 2020) para 218; *Tagiyeva v Azerbaijan* App no 72611/14 (ECtHR, 7 July 2022) para 78; *Gaši and Others v Serbia* App no 24738/19 (ECHR, 6 September 2022) para 78; Katie Pentney, ‘States’ Positive Obligation to Create a Favourable Environment for Participation in Public Debate: a Principle in Search of a Practical Effect’ 16 *Journal of Media Law* 146, 146; see also Vladislava Stoyanova, *Positive Obligations under the European Convention on Human Rights: Within and Beyond Boundaries* (Oxford University Press 2023); Laurens Lavrysen, *Human Rights in a Positive State: Rethinking the Relationship between Positive and Negative Obligations under the European Convention on Human Rights* (Interstitia 2016); Alistair Mowbray, *The Development of Positive Obligations under the European Convention on Human Rights by the European Court of Human Rights* (Hart Publishing 2004).

¹³² ICC, Statement, ‘ICC Prosecutor, Karim A. A. Khan KC, concludes first visit to Israel and State of Palestine by an ICC Prosecutor: “We must show that the law is there, on the front lines, and that it is capable of protecting all”’ (3 Dec 2023) <<https://www.icc-cpi.int/news/icc-prosecutor-karim-khan-kc-concludes-first-visit-israel-and-state-palestine-icc-prosecutor>> accessed 27 June 2025.

¹³³ Maureen Clare Murphy, ‘ICC’s Karim Khan Centers Israelis in Palestine Investigation’ *The Electronic Intifada* (6 Dec 2023) <<https://electronicintifada.net/blogs/maureen-clare-murphy/iccs-karim-khan-centers-israelis-palestine-investigation>> accessed 27 June 2025.

arrest warrants.¹³⁴ In fact he does not even use the qualification of genocide.

In terms of the actions of the resistance, he spoke of a 'shocked world', 'unconscionable crimes' and 'unfathomable pain' inflicted through 'calculated cruelty'.¹³⁵ He made no mention of a framework of legitimate resistance to Israeli occupation or Israel's widespread criminality spanning decades which he himself has been entirely ignoring until now and continues to ignore in large part by excluding from his request for arrest warrants the lines of inquiry that formed the basis of the opening of the investigation by his predecessor Fatou Bensouda, including illegal settlements in the West Bank and the transfer of people into and out of the occupied territories. In his statement, the Prosecutor also made no mention of the thousands of Palestinian hostages and the crimes committed against them. Instead, he presented the actions of the resistance as something purely wicked, out of the blue and beyond human comprehension.¹³⁶

In contrast, when referring to alleged crimes committed by Netanyahu and Gallant, he began by giving justifications for them saying they were doing this to eliminate Hamas and to secure the return of the hostages.¹³⁷ Only as a third reason he alleged collective punishment of the Palestinians, which although more accurate than the first two, still intentionally obfuscates the real motive for the indiscriminate slaughter and destruction, which is to ethnically cleanse the land through terror and genocide.¹³⁸ The Prosecutor ignores the characterisation of genocide, even though the genocidal *mens rea* has been clearly displayed through the *modus operandi* of the IDF and through numerous statements made by Israeli officials already recognised as genocidal by a number of UN Special Rapporteurs and other experts which was highlighted by the ICJ as contributing to the plausibility of South Africa's claims in its genocide case against Israel.¹³⁹

In fact, the goal of ethnic cleansing has been part and parcel of the Zionist project from

¹³⁴ Karim A.A. Khan KC, ICC, 'Statement of ICC Prosecutor Karim A.A. Khan KC: Applications for arrest warrants in the situation in the State of Palestine' (20 May 2024) <<https://www.icc-cpi.int/news/statement-icc-prosecutor-karim-aa-khan-kc-applications-arrest-warrants-situation-state>> accessed 27 June 2025.

¹³⁵ *ibid.*

¹³⁶ *ibid.*

¹³⁷ *ibid.*

¹³⁸ *ibid.*

¹³⁹ See International Court of Justice, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v Israel)*, Request for the Indication of Provisional Measures, Order of 26 January 2024 [2024] ICJ Rep, para 52 where the Court took note of a number of statements made by senior Israeli officials, in particular on 'fighting human animals', on 'the entire nation out there [being] responsible' and on the civilian population of Gaza not to receive a drop of water 'until they leave the world'. In paragraph 53 the Court further took note of the alarm raised over 'discernibly genocidal and dehumanising rhetoric coming from senior government officials' referring to a press release of 16 November 2023, issued by 37 Special Rapporteurs, Independent Experts and members of Working Groups part of the Special Procedures of the United Nations Human Rights Council. In the same paragraph the Court further took note of the concern expressed by the United Nations Committee on the Elimination of Racial Discrimination 'about the sharp increase in racist hate speech and dehumanization directed at Palestinians since 7 October'. In provisional measure number (3) the Court instructed Israel to take all measures within its power to prevent and punish the direct and public incitement to commit genocide in relation to members of the Palestinian group in the Gaza Strip.

the very beginning. Ezra Danin, the man responsible for identifying individuals for summary execution by the Hagana, quoted Ben-Gurion as saying at a certain point that there was no need anymore for distinguishing between the ‘innocent’ and the ‘guilty’ and that the time had come for inflicting collateral damage on the Arabs. By collateral damage he meant that ‘every attack had to end with occupation, destruction and expulsion’.¹⁴⁰ Ethnic cleansing is a *sine qua non* of a Jewish ethno-state on the land of historic Palestine and terrorising the civilian population has been the main *modus operandi* at achieving this goal. To feign ignorance about it at this stage, when the terrorism and ethnic cleansing have morphed into a full-blown genocide, is hypocritical to say the least yet is not surprising considering the financial and other restraints placed on the functioning of the ICC, rendering it a court incapable of delivering anything but partial justice, which in fact is no justice at all.

It is the lack of any accountability for Israeli crimes be it at the ICC or in domestic courts and the unwavering support it receives in its perpetual ethnic cleansing campaign against the Palestinian people that drives individuals to join resistance movements more than anything else. It is the feeling of complete lawlessness when it comes to Israel that is the biggest recruiter to political violence and not someone in London displaying an image of a paraglider on a barely visible piece of paper. In their publication, *Our Narrative*, Hamas clearly pointed out the failure of the ICC as one of the main reasons for their recourse to 7 October raid,

Palestine is a member-state of the International Criminal Court (ICC) and it acceded to its Rome Statute in 2015. When Palestine asked for investigation into Israeli war crimes committed on its territories, it was faced by Israeli intransigence and rejection, and threats to punish the Palestinians for the request to ICC. It is also unfortunate to mention that there were great powers, which claim to be holding values of justice, completely sided with the occupation narrative and stood against the Palestinian moves in the international justice system. These powers want to keep “Israel” as a state above the law and to ensure it escapes liability and accountability.¹⁴¹

There is not a single lie in this statement. If anything, it is being kind to the institution. Raji Sourani, director of the Palestinian Center for Human Rights and one of the most prominent figures fighting for Israeli accountability at the ICC, recently made a speech at a conference in which he touched upon the attitude of the court towards Palestine.¹⁴² During the questions and answers session he shared with the audience his shocking experience with the first prosecutor of the court, Moreno Ocampo. Frustrated with Sourani who kept insisting that the Prosecutor stop dismissing Palestinian victims and start investigating Israeli crimes, Ocampo finally lost his temper and retorted, ‘Read my lips: if the United States do

¹⁴⁰ Pappé (n 32) 64.

¹⁴¹ *Our Narrative, Operation Al-Aqsa Flood* Hamas Media Office (Jan 2024) 11.

¹⁴² Raji Sourani, ‘Gaza: The Graveyard of International Law?’, (The Situation in Palestine: Emerging Domestic and International Jurisprudence, Maynooth University, Ireland 9 July 2024) <<https://www.youtube.com/watch?v=74KvICH1vsU>> accessed 27 June 2025.

not tell me to investigate a case, I will not investigate a case!¹⁴³

5. CONCLUSION

When discussing the possibility for further expansion of liability under section 12(1A) TA by removing even the mental element of recklessness, the UK IRTL stated,

[in that case] a person who expressed a supportive opinion or belief would commit an offence if it was likely that another person might be encouraged to support the proscribed organisation – whether he appreciated that risk or not... this would be a profound interference with freedom of expression... [and would raise] the spectre of individuals having to self-regulate their expression in public and in private on topics of major interest and debate. They would risk prosecution as terrorists, subject to the major penalty that applies to section 12(1A), despite having no appreciation of any terrorist risk.¹⁴⁴

Yet this is exactly where we already are. Individuals merely providing political commentary or expressing support for entirely legitimate acts of resistance, legal under international law, are being treated as terrorists. Even worse, independent journalists are being targeted simply for reporting the truth about crucial events in the conflict. Yet it is not merely through the attempted silencing of journalists but also through the suppression of the political expression of millions of ordinary citizens, who form public opinion that the politicians should be responsive to, that this kind of political persecution directly and negatively impacts democracy. The persecution is, furthermore, highly discriminatory, targeting exclusively activists against the occupation, the apartheid and the genocide, while activists supporting a genocidal and apartheid occupier face no threat of criminal prosecution, invasions of their privacy, confiscation of their electronics, and other possible consequences.¹⁴⁵

¹⁴³ There is no recording of this quote and has been reproduced here to the best of this author's recollection.

¹⁴⁴ Hall (n 62) paras 55-56.

¹⁴⁵ The present author categorically denies the appreciation of any terrorist risk resulting from this writing. They furthermore wish to clarify that they do not wish to encourage anyone to support any organisation proscribed as terrorist by the UK.

BIBLIOGRAPHY

Table of Cases

- Bayev and Others v Russia* App nos. 67667/09 and 2 others (ECtHR, 20 June 2017)
- Castells v Spain* App no 11798/85 (ECtHR, 23 April 1992)
- Dink v Turkey* App no 2668/07 and others (ECHR, 14 September 2010)
- Gaši and Others v Serbia* App no 24738/19 (ECHR, 6 September 2022)
- Goodwin v United Kingdom* App no 17488/90 (ECHR, 27 March 1996)
- Haji and Others v Azerbaijan* App no 3503/10 and others (ECtHR, 1 October 2020)
- Handyside v the United Kingdom* App no 5493/72 (ECtHR, 7 December 1976)
- Huseynova v Azerbaijan* App no 10653/10 (ECHR, 13 April 2017)
- International Court of Justice, *Advisory Opinion on the Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem* (19 July 2024)
- International Court of Justice, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v Israel), Request for the Indication of Provisional Measures, Order of 26 January 2024* [2024] ICJ Rep
- International Court of Justice, *Legal Consequences of the Construction of the Wall in the Occupied Palestinian Territory (Advisory Opinion)* [2004] ICJ Rep 136
- Khadija Ismayilova v Azerbaijan* App no 65286/13 and 57270/14 (ECtHR, 10 January 2019)
- Kilin v Russia* App no 10271/12 (ECtHR, 11 August 2021)
- Ligens v Austria* App no 9815/82 (ECHR, 8 July 1986)
- Morice v France* App no 29369/10 (ECtHR, 23 April 2015)
- Observer and Guardian v United Kingdom* App no 13585/88 (ECtHR, 26 November 1991)
- Open Door and Dublin Well Woman v Ireland* App no 14234/88 (ECtHR, 29 October 1992)
- Pentikäinen v Finland* App no. 11882/10 (ECtHR, 20 October 2015)
- Perinçek v Switzerland* App no 27510/08 (ECtHR, 15 October 2015)
- R v Ali* [2018] EWCA Crim 547, [2018] 1 WLR 6105
- R v Choudary and Rahman* [2016] EWCA Crim 61
- R v Faraz* [2012] EWCA Crim 2820
- R v Iqbal* [2010] EWCA Crim 3215
- R v Khan* [2015] EWCA Crim 1341
- R v Mohammed* [2008] EWCA Crim 1465
- Shin v Republic of Korea* Communication No 926/2000, UN Doc CCPR/C/80/D/926/2000
- Stroll v Switzerland* App no. 69698/01 (ECtHR, 10 December 2007)
- Suresh v. Canada (Minister of Citizenship and Immigration)* [2002] 1 Supreme Court Reports 3, 2002 Supreme Court of Canada
- Tagiyeva v Azerbaijan* App no 72611/14 (ECtHR, 7 July 2022)
- Tromsø and Stensaas v Norway* 21980/93 (ECHR, 20 May 1999)
- Uzeyir Jafarov v Azerbaijan* App no 54204/08 (ECHR, 29 January 2015)

Table of Legislation

Terrorism Act 2000

Terrorism Act 2006

The Terrorism Act 2000 (Proscribed Organisations) (Amendment) (No3) Order 2021

Convention on the Prevention and Punishment of the Crime of Genocide (adopted 9 December 1948, entered into force 12 January 1951) 78 UNTS 277

Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) (adopted 8 June 1977, entered into force 7 December 1978) 1125 UNTS 3

Table of Treaties, Resolutions, Sessions and Official Papers

Hall KC J, 'Written Evidence Submitted by Jonathan Hall KC Independent Reviewer of Terrorism Legislation, in reply to Letter of 21 December 2023' <<https://committees.parliament.uk/writtenevidence/127502/pdf/>> paras. 16-17 accessed 27 June 2025

Hall KC J, Independent Reviewer of Terrorism Legislation, 'Report on Terrorism Legislation and Protests' (2023)

HC Deb 12 April 1948, vol 449 <<https://api.parliament.uk/historic-hansard/commons/1948/apr/12/palestine-outrages>> accessed 27 June 2025

HC Deb 14 February 1997, vol 290 <<https://publications.parliament.uk/pa/cm199697/cmhansrd/vo970214/debtext/70214-03.htm>>

HC Deb 17 November 1944, vol 404 <<https://api.parliament.uk/historic-hansard/commons/1944/nov/17/palestine-terrorist-activities>> accessed 27 June 2025

Human Rights Committee, 'General Comment No 34: Article 19: Freedoms of opinion and expression' (12 September 2011) UN Doc CCPR/C/GC/34

Report of the Secretary-General, 'The Protection of Human Rights and Fundamental Freedoms while Countering Terrorism' (28 August 2008) UN Doc A/63/337 para 61

UN General Assembly session on the International Criminal Court and Israel and Palestine (1 November 2023) <<https://www.youtube.com/watch?v=s2TAZDfRY1I&t=5538s>> min. 1.31.52 accessed 27 June 2025

UN Human Rights Council, Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, 'Detailed findings on attacks carried out on and after 7 October 2023 in Israel' (2024) UN Doc A/HRC/56/CRP.3

UN Official Records of the General Assembly, Thirty-first Session, Supplement No 24 (A/31/24) vol I

UN, 'Decolonization, No. 9, Dec. 1977: Issue on Namibia' (Revised edn, United Nations Department of Political Affairs, Trusteeship and Decolonization 1977) <https://www.un.org/dppa/decolonization/sites/www.un.org.dppa.decolonization/files/decon_num_9-2_0.pdf> accessed 27 June 2025

UNGA Res 3314(XXIX) (14 December 1947)

Bibliography

'Attlee Accuses Jew Underground; Vast Cache of Munitions Found' *The Montreal Gazette*, (2 July 1946) 1

'British State Ramps up War on Independent Journalism' *Jewish Voice for Labour* (17 October 2024) <<https://www.jewishvoiceforlabour.org.uk/article/british-state-ramps-up-war-on-independent-journalism/>> accessed 27 June 2025

'Exclusive: Prof Haim Bresheeth's Anti-Genocide Speech before he was Arrested for "Terrorism"' *The*

- Skwawkbox* (3 Nov 2023) <<https://skwawkbox.org/2024/11/03/exclusive-prof-haim-bresheeths-anti-genocide-speech-before-he-was-arrested-for-terrorism/>> accessed 27 June 2025
- 'Greenstein Takes Police to Court the Week for Return of Seized Electronics' *The Skwawkbox* (14 April 2024) <<https://skwawkbox.org/2024/04/14/greenstein-takes-police-to-court-this-week-for-return-of-seized-electronics/>> accessed 27 June 2025
- 'How Israel Killed Hundreds of its own People on 7 October, with Asa Winstanley and Ali Abunimah' *The Electronic Intifada*,= (19 October 2024) <https://www.youtube.com/watch?v=_gr_j0JKcfY> accessed 27 June 2025
- 'If you Protest for Palestinian Rights in the UK you Could be Arrested under Antiterrorism Laws' *AJ+* (28 Nov 2024)
- 'Israel-Palestine war: Keir Starmer Supports Israel's 'Right' to Cut Gaza's Water and Power', *Middle East Eye*, (11 October 2023) <<https://www.middleeasteye.net/news/israel-palestine-war-keir-starmer-criticised-right-cut-gaza-water-power>> accessed 27 June 2025
- 'NUJ Condemns Abuse of Counter-Terror Legislation as Harmful to Media Freedom, *National Union of Journalists*' (21 Oct 2024) <<https://www.nuj.org.uk/resource/nuj-condemns-abuse-of-counter-terror-legislation-as-harmful-to-media-freedom.html>> accessed 27 June 2025
- 'Palestine Action Co-founder Back in Court Again. Here's Where and When' *The Canary* (3 Oct 2024) <<https://www.thecanary.co/uk/news/2024/10/03/palestine-action-barnard-court/>> accessed 27 June 2025
- 'Pro-Palestinian Protests: Paraglider Badge Wearers Found Guilty' *BBC News* (13 Feb 2024) <<https://www.bbc.co.uk/news/uk-england-london-68286945>> accessed 27 June 2025
- 'Rape as Self-Defense? Israeli Soldiers Accused of Gang Raping Palestinian Defended as "Heroes"' *Mintpress News* (1 August 2024) <<https://www.mintpressnews.com/rape-self-defense-israeli-soldiers-gang-rape-palestinian-defended-as-heroes/288019/>> accessed 27 June 2025
- 'Statement of Solidarity with Palestine Action' *Cage International* (5 Nov 2024) <<https://www.cage.ngo/articles/statement-of-solidarity-with-palestine-action>> accessed 27 June 2025
- 'Terrorism Charges against SPSC Campaigner Dropped' *Scottish Palestine Solidarity Campaign* (26 Jan 2024) <<https://www.scottishpspc.org.uk/analysis/latest-news/254-info/about-pspc/statements/2077-terrorism-charge-dropped-against-pspc-campaigner>> accessed 27 June 2025
- 'UK Journalist under House Arrest on Terrorism Charges' *The Crispin Flintoff Show* (2 Sep 2024), <https://www.youtube.com/watch?v=WjwycG_9Ujo> accessed 27 June 2025
- A Life Exposed: Military Invasions of Palestinian Homes in the West Bank* (Yesh Din, Physicians for Human Rights Israel, Breaking the Silence, 2020) <https://life-exposed.com/wp-content/uploads/2020/11/Exposed_Life_EN_FINAL.pdf> 68 accessed 27 June 2025
- Amnesty International 'Israel/OPT: Two months of cruel and inhumane siege and further evidence of Israel's genocidal intent in Gaza', (2 May 2025) <<https://www.amnesty.org/en/latest/news/2025/05/israel-opt-two-months-of-cruel-and-inhumane-siege-are-further-evidence-of-israels-genocidal-intent-in-gaza/>> accessed 27 June 2025.
- Amnesty International, Briefing: Namibia (Briefing Paper No 10, April 1977) <<https://www.amnesty.org/en/documents/afr42/004/1977/en/>> accessed 27 June 2025
- Arab Center for Research and Policy Studies, 'Arab Public Opinion about the Israeli War on Gaza' (10 January 2024) <<https://arabindex.dohainstitute.org/EN/Pages/APOIsWarOnGaza.aspx>> accessed 27 June 2025
- Biden J, 'Remarks by President Biden at the U.S. Holocaust Memorial Museum's Annual Days of Remembrance Ceremony' (US Capitol, Washington DC, 7 May 2024) <<https://bidenwhitehouse.archives.gov/briefing-room/speeches-remarks/2024/05/07/remarks-by-president-biden-at-the-u-s>>

- holocaust-memorial-museums-annual-days-of-remembrance-ceremony/> accessed 27 June 2025
- Blumenthal M, 'Leaked Israel Lobby Presentation Urges US Officials to Justify War on Gaza with " Hamas rape" Claims' *The Grayzone* (6 March 2024) <<https://thegrayzone.com/2024/03/06/leaked-israel-lobby-officials-war-gaza-mass-rape/>> accessed 27 June 2025
- Blumenthal M, *Goliath: Life and Loathing in Greater Israel* (Nation Books, 2013) Chapter 2 'The Army of God'
- Borger J, 'The Conservative Party's Uncomfortable Relationship with Nelson Mandela' *The Guardian* (6 Dec 2013) <<https://www.theguardian.com/politics/2013/dec/06/conservative-party-uncomfortable-nelson-mandela>> accessed 27 June 2025
- Breaking the Silence, 'How to create a sense of being pursued' <<https://www.breakingthesilence.org.il/testimonies/videos/24744?sg=1>> accessed 27 June 2025.
- Breaking the Silence, 'The Controller and the Controlled' <<https://www.breakingthesilence.org.il/testimonies/database/782670>> accessed 27 June 2025.
- Breaking the Silence, *The Perimeter: Soldiers' testimonies from the Gaza Buffer Zone 2023-2024* (Breaking the Silence, 2025) <https://www.breakingthesilence.org.il/inside/wp-content/uploads/2025/04/Perimeter_English-2.pdf> accessed 27 June 2025
- Campaign Against Criminalising Communities (CAMPACC), *20 Years of Terrorism Acts: 20 Years of Injustice* (June 2021)
- Charif M, 'Policy Paper: The Roots Of Zionist Terrorism' (Institute for Palestine Studies, 13 December 2023) <<https://www.palestine-studies.org/sites/default/files/attachments/policypapers/Maher%20Charif%20Issue%20013%20Fixed.pdf>> accessed 27 June 2025
- Charters DA, 'Jewish Terrorism and the Modern Middle East' (2007) 27 *Journal of Conflict Studies* 80
- Chayut N, *The Girl Who Stole My Holocaust* (Verso Books, 2013)
- Conquest R, *The Great Terror* (Oxford University Press 1968)
- Cordall SS, 'Everything is Legitimate: Israeli Leaders Defend Soldiers Accused of Rape' *Aljazeera* (9 Aug 2024), <<https://www.aljazeera.com/news/2024/8/9/everything-is-legitimate-israeli-leaders-defend-soldiers-accused-of-rape>> accessed 27 June 2025
- Cornford A, 'Terrorist Precursor Offences: Evaluating the Law in Practice' 8 *Criminal Law Review* 663
- Craven E, 'Case comment: R v Faraz – Terrorist publications and free speech in the Court of Appeal' (10 January 2013) <<https://inform.wordpress.com/2013/01/10/case-comment-r-v-faraz-terrorist-publications-and-free-speech-in-the-court-of-appeal-edward-craven/>> accessed 27 June 2025.
- Crown Prosecution Service, 'Three Women Convicted of Displaying Paraglider Stickers at Protest' (13 February 2024) <<https://www.cps.gov.uk/cps/news/three-women-convicted-displaying-paraglider-stickers-london-protest>> accessed 27 June 2025
- Dill SE, 'Sanctions, Terrorist Designations, and Social Media Content Moderation: The Challenges for Peace Negotiations, War Crimes Documentation, and Humanitarian Aid in the Gaza War' (The Situation in Palestine: Emerging Domestic and International Jurisprudence, Maynooth University, Ireland, 9 July 2024) <<https://www.youtube.com/watch?v=kWFZaZE2bIA>> accessed 27 June 2025
- Fabian E, 'Defense minister announces "complete siege" of Gaza: No power, food or fuel' *Times of Israel* (9 October 2023) <https://www.timesofisrael.com/liveblog_entry/defense-minister-announces-complete-siege-of-gaza-no-power-food-or-fuel/> accessed 27 June 2025
- Ferguson D and Gecsoyler S, 'Thousands Join Pro-Palestine Marches in London and Edinburgh', *The Guardian* (3 Feb 2024), <<https://www.theguardian.com/uk-news/2024/feb/03/hundreds-of-thousands-expected-at-pro-palestine-march-in-london>> accessed 27 June 2025
- Filatova I and Davidson A, *The Hidden Thread: Russia and South Africa in the Soviet Era*, (Jonathan Ball

- Publishers 2013)
- Fink R, “We Won’t Look the Other Way”: U.K. Starmer Unveils Mandatory Holocaust Education Curriculum Amid Antisemitism Spike’, *Haaretz* (17 September 2024) <<https://www.haaretz.com/world-news/europe/2024-09-17/ty-article/.premium/u-k-s-starmer-unveils-mandatory-holocaust-education-curriculum-amid-antisemitism-spike/00000191-ffb9-dea8-a595-ffbdb0010000>> accessed 27 June 2025
- Genuinely Unwilling: An Update The Failure of Israel’s Investigative and Judicial System to Comply with the Requirements of International Law, with particular regard to the Crimes Committed during the Offensive on the Gaza Strip* (27 December 2008 – 18 January 2009) (Palestinian Centre for Human Rights, August 2010)
- Harpin L, ‘Palestine Activist who Praised “Incredible Oct 7 Infiltration” Arrested by Counter-Terrorism Police’ *Jewish News* (29 Aug 2024) <https://www.jewishnews.co.uk/pro-palestine-activist-who-had-praised-incredible-oct-7-infiltration-arrested-by-terror-cops/?utm_source=substack&utm_medium=email> accessed 27 June 2025
- ICC, Statement, ‘ICC Prosecutor, Karim A. A. Khan KC, concludes first visit to Israel and State of Palestine by an ICC Prosecutor: “We must show that the law is there, on the front lines, and that it is capable of protecting all” (3 Dec 2023), <<https://www.icc-cpi.int/news/icc-prosecutor-karim-khan-kc-concludes-first-visit-israel-and-state-palestine-icc-prosecutor>> accessed 27 June 2025
- James I and Price E, ‘Palestine Action Group to be Banned, Home Secretary Confirms’ *BBC* (23 June 2025) <<https://www.bbc.co.uk/news/articles/c4g83l33wdeo>> accessed 27 June 2025
- Katie Pentney, ‘States’ Positive Obligation to Create a Favourable Environment for Participation in Public Debate: a Principle in Search of a Practical Effect’ 16 *Journal of Media Law*, 146
- Khan KC AA, ICC, ‘Statement of ICC Prosecutor Karim A.A. Khan KC: Applications for arrest warrants in the situation in the State of Palestine’ (20 May 2024) <<https://www.icc-cpi.int/news/statement-icc-prosecutor-karim-aa-khan-kc-applications-arrest-warrants-situation-state>> accessed 27 June 2025
- Kuttler H, ‘75 Years After His Death, why Orde Wingate Remains a Hero in Israel’ *Times of Israel* (23 March 2019) <<https://www.timesofisrael.com/75-years-after-his-death-why-orde-wingate-remains-a-hero-in-israel/#:~:text=%E2%80%9CWingate%20was%20the%20father%20of,optioned%20but%20hasn't%20produced>> accessed 27 June 2025
- Lavrysen L, *Human Rights in a Positive State: Rethinking the Relationship between Positive and Negative Obligations under the European Convention on Human Rights* (Interstitia 2016)
- Maximilien Robespierre: Justification of the Use of Terror’, Fordham University, Modern History Sourcebook, <<https://sourcebooks.fordham.edu/mod/robespierre-terror.asp>> accessed 27 June 2025
- Merriam-Webster Dictionary, ‘terror’, Word History <<https://www.merriam-webster.com/dictionary/terror#h1>> accessed 27 June 2025
- Miller P, ‘British Fighters in Israel’s Military: is it Legal?’ *Declassified UK* (13 November 2023) <<https://www.declassifieduk.org/british-fighters-in-israels-military-is-it-legal/>> accessed 27 June 2025
- Mitchell A, UK Parliament, Written Questions, Answers and Statements, ‘Israel Defense Forces: British Nationals Abroad’ Question for Foreign, Commonwealth and Development Office, 22 December 2023 <<https://questions-statements.parliament.uk/written-questions/detail/2023-12-13/6894>> accessed 27 June 2025
- Mowbray A, *The Development of Positive Obligations under the European Convention on Human Rights by the European Court of Human Rights* (Hart Publishing 2004)
- Muller QC M, ‘Terrorism, Proscription and the Right to Resist in the Age of Conflict’ (2008) 22 *Denning Law Journal* 111
- Murphy MC, ‘ICC’s Karim Khan Centers Israelis in Palestine Investigation’ *The Electronic Intifada* (6 Dec

- 2023), <<https://electronicintifada.net/blogs/maureen-clare-murphy/iccs-karim-khan-centers-israelis-palestine-investigation>> accessed 27 June 2025
- Our Narrative, *Operation Al-Aqsa Flood*, Hamas Media Office (Jan 2024)
- Oxford English Dictionary, 'terror', Meaning and Use <https://www.oed.com/dictionary/terror_n?tl=true#202674584> accessed 27 June 2025
- Palestinian Center for Policy and Survey Research (PSR): Survey Research Unit 4, Public Opinion Poll No (92) (12 June 2024) <[https://pcpsr.org/sites/default/files/Poll%2092%20English%20press%20release%2012%20June2024%20\(003\).pdf](https://pcpsr.org/sites/default/files/Poll%2092%20English%20press%20release%2012%20June2024%20(003).pdf)> accessed 27 June 2025
- Pappé I, *The Ethnic Cleansing of Palestine* (One World 2006)
- Parker N and Farrell S, 'British Anger at Terror Celebrations' *The Times* (20 July 2006), <<https://www.indybay.org/newsitems/2006/07/20/18290072.php>> accessed 27 June 2025
- Peeke JL, *Jewish-Zionist Terrorism and the Establishment of Israel* (U.S. Naval Postgraduate School 1977)
- Peled-Elhanan N, *Palestine in Israeli School Books: Ideology and Propaganda in Education* (I.B. Tauris 2012)
- Said EW, *Culture and Imperialism* (Vintage Books 1994)
- Segal R, *Mission: Hebron* (2020) <<https://www.imdb.com/title/tt13721328/>> accessed 27 June 2025
- Shlaim A, *Three Worlds: Memoirs of an Arab-Jew* (Oneworld Publications, 2024)
- Siddique H, 'Police and prosecutors' details shared with Israel during UK protests inquiry, papers suggest' *The Guardian* (29 April 2025) <<https://www.theguardian.com/uk-news/2025/apr/29/police-and-prosecutors-details-shared-with-israel-during-uk-protests-inquiry-papers-suggest>> accessed 27 June 2025
- Sobol I, 'Glorification of Terrorist Violence at the European Court of Human Rights' 24 *Human Rights Law Review* 1
- Sofuoglu M, 'A Lookback at the Zionist Terrorism that led to Israel's Creation' *TRTWorld* (undated) <<https://www.trtworld.com/magazine/a-lookback-at-the-zionist-terrorism-that-led-to-israels-creation-15767166>> accessed 27 June 2025
- Stoyanova V, *Positive Obligations under the European Convention on Human Rights: Within and Beyond Boundaries* (Oxford University Press 2023)
- Taylor S, 'Status Quo Terrorism: State-Terrorism in South Africa during Apartheid' (2021) 35 *Terrorism and Political Violence* 304
- Ullah A, 'UK Police Charge Co-founder of Palestine Action under Terrorism Act' *Middle East Eye* (30 Aug 2024), <<https://www.middleeasteye.net/news/uk-police-charge-co-founder-palestine-action-under-terrorism-act.>> accessed 27 June 2025
- Unwilling and Unable, Israel's Whitewashed Investigations of the Great March of Return Protests* (B'Tselem, Palestinian Centre for Human Rights, December 2021) <https://www.btselem.org/sites/default/files/publications/202112_unwilling_and_unable_eng.pdf> accessed 27 June 2025
- Wadsworth J, 'Tony Greenstein Charged with Terrorism Offence' *Brighton and Hove News* (29 November 2024) <https://www.brightonandhovenews.org/2024/11/29/tony-greenstein-charged-with-terrorism-offence/#google_vignette> accessed 27 June 2025.
- Wilde R, 'Israel's War in Gaza is Not a Valid Act of Self-defence in International Law', *Opinio Juris* (9 Nov 2023) <<https://www.ejiltalk.org/does-israel-have-the-right-to-defend-itself/>> accessed 27 June 2025
- Winstanley A, '“Anti-terror” Arrests in UK over Support for Palestinian Resistance' *The Electronic Intifada*, (22 Dec 2023) <<https://electronicintifada.net/blogs/asa-winstanley/anti-terror-arrests-uk-over-support-palestinian-resistance>> accessed 27 June 2025
- Winstanley A, 'Did British Police Raid me for This? Palestine is Still the Issue' (31 Oct 2024) <<https://asawinstanley.substack.com/p/did-british-police-raid-me-for-this>> accessed 27 June 2025