

Understanding and Addressing The ‘Nazi card’

Intervening Against Antisemitic Discourse

Paul Iganski and Abe Sweiry



STATEMENT OF PURPOSE

The European Institute for the Study of Contemporary Antisemitism (EISCA) was established in 2007 as an independent think-tank to examine the growth and development of antisemitism in the world today and to explore new strategies for countering this age-old hatred in all its forms.

EISCA is founded on the principle that the key to addressing antisemitism in the 21st century comes from a knowledge of its origins, a grasp of its history and a recognition of its changing shape and centrality when analysing racial hatred and contemporary prejudice.

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Abstract

Placards carrying images of swastikas superimposed on the Star of David and the Israeli flag were commonplace in street-level protests about the recent Israeli military actions and the conflict in Gaza in December 2008 and January 2009. Allusions between Nazi genocidal practices and the activities of the Israeli state were also drawn in some of the speeches at protest meetings and press commentary on the conflict. Although this was not the first occasion that the 'Nazi card' had been played against Israel and Jews, the prevalence of the phenomenon appears to indicate its growing normalisation.

Playing the 'Nazi card' is a discursive act involving the use of Nazi or related terms or symbols (Nazism, Hitler, swastikas, etc.) in reference to Jews, Israel, Zionism or aspects of the Jewish experience. It manifests in words uttered in speech or in writing, or in visual representations such as artwork, drawings, caricatures, cartoons, graffiti, daubings and scratchings, or visual expressions such as a Nazi salute or the clicking of heels.

In many instances, the playing of the Nazi card is unquestionably antisemitic. However, the inclusion of particular modes of criticism of Israel in definitions of antisemitism has provoked controversy. The result has been a war of words which has stagnated into an intellectual and discursive cul-de-sac of claim and counter-claim about what does and does not qualify as antisemitism.

Because of this, in focusing on discourse, this report attempts to shift the focus of analysis of contemporary antisemitism onto new ground: away from labelling and defining the problem, to an understanding of the consequences of particular discourse. By unravelling and dissecting various manifestations of the phenomenon, the report reveals how the playing of the Nazi card scratches deep wounds by invoking painful collective memory of the Holocaust. It also offers some recommendations as to how the problem might be addressed.

Preface



When the government issued its first response to the 2006 Report of the All-Party Parliamentary Inquiry into Antisemitism, it noted with some alarm the rise of antisemitic themes and characterisations in the public space – both in the media and everyday language. Its response could not have been clearer: “The Government deplores antisemitic discourse – whether in speech or writing – along with any other form of racist expression.” At the same time, the report noted the difficulty in identifying such discourse as compared to physical attacks on people or places because “the boundaries of acceptable discourse have become blurred to the point that individuals and organisations are not aware when these boundaries have been crossed, and because the language used is more subtle”.

Since then, some clarity has been brought to what constitutes such discourse – most notably in the Antisemitic Discourse Report 2007 published by the Community Security Trust. And yet, as the authors of this new EISCA publication point out, assertions about antisemitic discourse frequently spark claims and counter-claims that end up in a cul-de-sac of conflicting interpretations.

For this reason, *Playing the Nazi Card* takes a different approach. As such, it provides a useful tool for analysis and discussion. It focuses on the consequences of discourse, rather than how it might be labelled. It unravels the deep hurts inflicted when the Nazi card is played. It serves to underline what should be obvious; those who play it bear a heavy responsibility for the hurts they inflict.

The report proposes new antidotes for keeping in check not only antisemitism, but by extension, other forms of racial and ethnic prejudice as well. In so doing *Playing the Nazi Card* is a critical contribution towards helping Britain become a more cohesive – and civil – society.

A handwritten signature in black ink, appearing to read 'Shahid', written over a horizontal line.

Shahid Malik MP

Parliamentary Under Secretary of State, Department for Communities and Local Government

Foreword

By Rt Hon Denis MacShane MP, Chairman, EISCA

For over 60 years, antisemitism – the hatred and abuse of Jews – has been guided by the legacy of the Holocaust. The Nazi salute and swastika daubing have become staples of racist thugs everywhere. There is nothing complicated about this; it is the most immediate form of anti-Jewish insults, and is easily applied by anyone who wants to hurt Jewish sensibilities.

A little more subtly, as neo-Nazi movements spread across Europe, there emerged from the shadows in the 1980s and 1990s a more sophisticated way to play this Nazi card against the Jews; not to remind them of the Holocaust, but rather to deny that it ever happened.

Now, from elsewhere in the political spectrum comes a new variation: a strand of discourse that uses the memory of the Holocaust as a means of vilification. Nazi Germany, we are told, has been reborn in Israel. The Holocaust is happening again – only this time it is being perpetrated by Jews, in Gaza.

Given this phenomenon, this report confronts one of the most pressing questions in the analysis of 21st century antisemitism: why is such stress placed on making an association between the eliminationist ideology of Nazism and Jews who either support Israel, refuse to denounce it or fail to reject Zionism?

There is an entire dictionary of alternative condemnatory nouns, adjectives and metaphors that can be used to critique Israel and its policies since 1967, including its occupation of land won by conquest or presiding over people who do not wish to live under Israeli control.

Critics of Israel are entitled to express their views as trenchantly as they wish. But when particular words are used they bring particular responsibilities. The notion that any comparison with Nazism and the Holocaust can be honestly made constitutes a systematic attempt to denigrate Jews, and to straightjacket them into the category of citizens without legitimacy or the right to respect. The Nazi comparison scratches deep wounds that are not yet healed – something that should be blindly obvious to anyone.

Those who claim rights for people who have been displaced do not make their case well by calling their opponents Nazis. The voice of Palestinians is heard worldwide. They have the attention of the media, supporters in Parliament and in the press, and the opportunity to take their cause to the Israeli judiciary, often winning against government policy. To say they live in the same conditions as Jews in the Warsaw ghetto for whom the only way out was a gas chamber is to distort all meaning in language. It is a travesty of history and inflicts great hurt.

Nazism was an exterminationist, eliminationist ideology. To draw a comparison between Jews and Hitler's policy of systematic mass murder is a grotesque anti-Jewish – and hence antisemitic – speech act.

In his novel, *David's Revenge*, the German writer Hans Werner Kettenbach portrays a schoolteacher who

leads his class of students through German and European history. A scandal ensues when a boy paints a swastika on the set of a school play as a protest. “They had been my pupils long enough to know what a swastika means: it is the emblem of terror and inhumanity”, writes the German novelist via his character. That is why German law forbids the use of the swastika in the public space.

In Britain, we would not easily allow the promulgation of pre-1939 imagery of the hook-nosed, child-devouring Jew. Most of us would also disparage the classic stereotype of the Jew as perpetual outsider, locked into a global network secretly conspiring to control the world. Despite Britain’s trademark liberalism and tolerance of free expression, since 1945 a line has been drawn in depicting Jews in the kind of pre-WWII language and imagery that helped shape antisemitism.

Yet it is now considered acceptable by some newspapers, cartoonists and commentators – to brand Jews as Nazis and to allow the swastika to be used as an image that stirs up hate against Israel and the Jews, no matter where they may reside. This is modern antisemitism.

It is important and necessary to assert the legitimacy of criticising Israel with all the vocabulary available in the modern political lexicon. But to play the Nazi card is to play an antisemitic card. The hurt it causes Jews is no less when it is played against Israel today than when it was used in its previous incarnations. And this time it is not simply Nazis or neo-Nazi thugs who are playing it.

WHAT CAN BE DONE?

Britain is unlikely to follow the lead of European countries that were directly victimised by Hitler’s policies by banning Nazi symbols outright. But just because a law cannot be written does not mean that the antisemitism of using Nazi comparisons to attack Jews, their affiliations and their history should be tolerated. Antisemitism is a form of racism and there are laws to combat racist expression.

In particular, there needs to be vigilance on university campuses. The problem of Jewish students who are branded directly or by association as Nazis for supporting Israel’s right to protect its citizens from terrorist attacks needs to be exposed – and action taken – to counter this new form of antisemitism.

The government and all the main parties are aware of this problem of the Nazi card. Finding a right way to tackle it requires careful thought and analysis, grounded in strict factuality. This report is an important contribution to that process.

Executive summary

- This report presents an analysis of some key themes of contemporary discourse against Jews, Israel and Zionism, conceptualised together as 'playing the Nazi card'.
- The report is drawn from a research project commissioned in 2008 by the UK Department for Communities and Local Government (DCLG) following the 2006 report of the All-Party Parliamentary Inquiry into Antisemitism, which proposed that "it is important to identify what is understood by the term 'antisemitic discourse'".
- In examining such discourse the report attempts to shift the focus of analysis of contemporary antisemitism onto new ground; away from labelling and defining the problem to an understanding of the consequences of particular discourse.
- Playing the Nazi card is defined in the report as the use of Nazi or related terms or symbols (Nazism, Hitler, swastikas, etc.) in reference to Jews, Israel, Zionism or aspects of the Jewish experience. It is usually targeted against Jews individually or collectively and scratches deep wounds by invoking painful collective memory of the Holocaust.

Four different variants of the problem are examined in the report:

- The Nazi card as abuse against Jews.
- The Nazi card as abuse against the collective memory of the Holocaust.
- The Nazi card in the casting of Jews as conspirators and collaborators with the Nazis.
- The Nazi card manifest in discourse about Israel and Zionism.

Each of these variants of the Nazi card has harmful consequences that constitute a significant common denominator and the rationale for why this type of discourse needs to be addressed.

Some suggestions are offered by the report for how the Nazi card and antisemitic discourse more generally might be addressed:

- It would be timely for the government to commission a rapid evidence assessment into the practical experience of using the criminal law against racist and antisemitic speech in countries where such provisions have been established.
- The Home Office, in consultation with the Association of Chief Police Officers and the Crown Prosecution Service, should prepare and issue guidance for police forces and crown prosecutors about the circumstances in which playing the Nazi card, and other forms of antisemitic discourse, amounts to unlawful incitement to racial hatred.

- It would be timely for the government to commission a survey of universities and adult education colleges in the UK to determine the extent to which guidance has been established and implemented for dealing with antisemitic discourse in the context of racist and hate speech more generally, and to identify gaps in protections and to illuminate good practice that might serve as exemplars for educational institutions.
- UK universities and colleges should be encouraged to debate and utilise the European Monitoring Centre on Racism and Xenophobia (EUMC) working definition of antisemitism to inform their race equality and harassment policies.
- The Universities and Colleges Union, at national and university and college level, should be encouraged to debate and utilise the EUMC working definition of antisemitism to inform their race equality and harassment policies.
- The National Union of Journalists at national and branch level should be encouraged to debate and utilise the EUMC working definition of antisemitism to inform guidance about how particular discourse can lead to hatred or discrimination against Jews.
- The Press Complaints Commission should be encouraged to utilise the EUMC working definition of antisemitism to inform guidance in its *Code of Practice* about how particular discourse can lead to hatred or discrimination against Jews.
- In seeking advice from scholars with experience in the matter, the government should commission and promote educational materials for university-level lectures/seminars/workshops on Holocaust denial which examine how Holocaust denial in its explicit and more subtle manifestations constitutes antisemitic discourse.
- The European Institute for the Study of Contemporary Antisemitism should produce a model statement that refutes the Nazi card point-by-point so that it can aid and inform those who seek to challenge it.

1. Introduction

UNDERSTANDING AND ADDRESSING ANTISEMITIC DISCOURSE

1. This report presents an analysis of key themes of discourse against Jews, Israel and Zionism and suggestions for how such discourse can be addressed. The report is drawn from a research project commissioned in 2008 by the UK Department for Communities and Local Government (DCLG) and carried out by the European Institute for the Study of Contemporary Antisemitism (EISCA).¹
2. The project's aims were to:
 - Identify and illuminate the main component parts of antisemitic discourse.
 - Include an examination of how criticism of Israel and Zionism can crossover into and become polluted by antisemitism through the expression or assumption of core antisemitic concepts.
3. The commissioning of the project followed the 2006 report of the All-Party Parliamentary Inquiry into Antisemitism which proposed that "it is important to identify what is understood by the term 'antisemitic discourse'", because in the words of the report: "Antisemitism cannot be addressed if it is not recognised for what it is both by those who engage in it and by their audiences." The report proposed that such recognition "requires shared understanding of what constitutes anti-Jewish discourse and where the boundaries of acceptability lie in language and conversation".²
4. It is such understanding that this report offers by providing non-partisan, rational, objective and academically grounded reasoning about the unacceptability of particular discourse directed at Jews, Israel and Zionism, and it offers suggestions for how such discourse can be addressed.

THE PROBLEM OF DEFINING ANTISEMITISM

5. There is no one textbook definition of antisemitism.³ It is a concept which has had numerous reincarnations since it was conceived by Wilhelm Marr in the late nineteenth-century to describe a "policy towards Jews based on 'racism'".⁴
6. However, the All-Party Parliamentary Group Against Antisemitism recently proposed: "Broadly, it is our view that any remark, insult or act the purpose or effect of which is to violate a Jewish person's dignity or create an intimidating, hostile, degrading, humiliating or offensive environment for him is antisemitic."⁵
7. There has also been a clustering of agreement by Jewish communal organisations in Europe and North America, and by governments, around the working definition of antisemitism adopted by the European Monitoring Centre in 2005 (now the European Agency for Fundamental Rights [FRA]).

¹ The research mostly involved a critical analysis of secondary sources: policy documents, scholarly literature, and news media commentary.

² All-Party Parliamentary Group Against Antisemitism, *Report of the All-Party Parliamentary Inquiry into Antisemitism* (London: The Stationery Office 2006), p. 16, para. 71.

³ To borrow the words of Stern (Kenneth Stern, 'Proposal for a Redefinition of Antisemitism' in Dina Porat and Kenneth Stern, *Defining Antisemitism*, 2005, available at: www.tau.ac.il/Anti-Semitism/asw2003-4/porat.htm (last viewed 20 May 2009).

⁴ Gavin I. Langmuir, *Toward a Definition of Antisemitism* (Berkeley, CA: University of California Press 1990), p. 311.

⁵ All-Party Parliamentary Group Against Antisemitism, op. cit. p. 1, para. 4.

In the case of the United Kingdom, the All-Party Parliamentary Group Against Antisemitism recommended that the working definition be “adopted by the government and law enforcement agencies”.⁶ The United States Department of State Office to Combat and Monitor Antisemitism proposes that it “believes that this definition provides an adequate initial guide by which anti-Semitism [sic] can eventually both be defined and combated, and therefore presents this ‘working definition’ as a starting point in the fight against anti-Semitism [sic]”.⁷

8. The inclusion of particular modes of criticism of Israel in definitions of antisemitism, as is the case with the working definition, provides a challenge for determining when criticism manifests as antisemitic discourse. It has also been a source of controversy amongst commentators, some of which has been bound-up with political positioning on the Israel-Palestine conflict. This is particularly the case in recent exchanges about the so-called new antisemitism. The result has been a war of words which has stagnated into an intellectual and discursive cul-de-sac of claim and counter-claim,⁸ and to which there has been no resolution to date, and which necessitates a different way of thinking of the type offered in this report.

THE CONSEQUENCES OF ANTISEMITIC DISCOURSE

9. **This report attempts to shift the focus of analysis of contemporary antisemitism onto new ground: away from labelling and defining the problem to an understanding of the consequences of discourse against Jews, Israel and Zionism.**
10. Such an approach still accords with the goals of those concerned with labelling manifestations of antisemitism and antisemitic discourse so that they can be properly monitored. However, the rationale for monitoring antisemitism is provided by a concern about the consequences of the problem and a desire to address those consequences. **Antisemitic discourse has harmful consequences and understanding those consequences and how they can be addressed provides the objective of this report.**

THE MEANING OF DISCOURSE

11. Although the 2006 report of the All-Party Parliamentary Inquiry into Antisemitism proposed that “Antisemitic discourse...is often easier to recognise than it is to define”,⁹ the report used the term discourse to “describe the widespread change in mood and tone when Jews are discussed, whether in print or broadcast, at universities, or in public or social settings”.¹⁰
12. Given that this report is concerned with suggesting practical action to address antisemitic discourse, a more concrete conceptualisation of discourse is adopted compared with the definition used by the All-Party Parliamentary Group Against Antisemitism.

⁶ Ibid. p. 5, para. 26.

⁷ It also states that “The recitation of the EUMC “working definition” of anti-Semitism should not be construed as an acceptance of that definition, or the statements and examples thereunder, as United States policy.” (U.S. Department of State, “Working Definition” of Anti-Semitism”, 8 February 2007, available at: www.state.gov/g/drl/rls/56589.htm (last viewed 3 November 2008).

⁸ On this point see also Anthony Julius, ‘The company they keep: Antisemitism’s fellow travellers’, ‘Z’ WORD, July 2008, available at: www.z-word.com/z-word-essays/the-company-they-keep%253A-antisemitism%2527s-fellow-travellers.html (last viewed 20 May 2009).

⁹ All-Party Parliamentary Group Against Antisemitism, op. cit. p. 4, para. 21.

¹⁰ Ibid. ‘Summary’.

13. **Discourse is used in this report as a concept to represent communicative action: communication expressed in speech, written text, and visual symbols such as graffiti, daubings, artwork or cartoon caricatures, and other forms of visual expression.** Such a conceptualisation of discourse is consistent with the All-Party Parliamentary Group's use of the term, but it is more specific and tangible given the aim to identify and illuminate the main component parts of antisemitic discourse.

STRUCTURE OF THE REPORT

14. The report of the All-Party Parliamentary Inquiry into Antisemitism drew attention to five themes of antisemitic discourse: anti-Zionism; Holocaust denial and Holocaust related abuse; conspiracy theories; dual loyalty and the blood libel.¹¹ This report combines them into one overarching theme - playing the Nazi card. This theme not only represents the most evident problem of contemporary antisemitic discourse, but it also encompasses each of the themes noted by the Inquiry.
15. The next section of the report is devoted to unravelling the component parts of the Nazi card and its manifestations, and it will show that the discourse of anti-Zionism features centrally. In a third section, the report offers suggestions for how antisemitic discourse might be addressed.

¹¹ For further varieties of antisemitic discourse see Community Security Trust, *Antisemitic Discourse in Britain in 2007* (London: Community Security Trust 2008).

2. Playing the Nazi card

INTRODUCTION: THE NAZI CARD AS ANTISEMITIC DISCOURSE

16. **Playing the Nazi card refers to the use of Nazi or related terms or symbols (Nazism, Hitler, swastikas, etc.) in reference to Jews, Israel, Zionism or aspects of the Jewish experience. It is usually targeted against Jews individually or collectively and scratches deep wounds by invoking painful collective memory of the Holocaust. More often than not, playing the Nazi card involves hurtful and explicit insults and abuse and can include a provocative comparison between the brutal and genocidal actions of the Nazis and the policies and practices of the Israeli state. It manifests in words uttered in speech or in writing, or in visual representations such as artwork, drawings, caricatures, cartoons,¹² graffiti, daubings and scratchings, or visual expressions such as a Nazi salute or the clicking of heels.¹³**
17. Most people would accept that it is completely unacceptable to call a Jewish person a Nazi. Many would assert that it is also antisemitic. But discursive offenders are sometimes not so clear-cut in the words they choose. This seems to be especially the case when Jews collectively are targeted by discourse directed at Israel and Zionism. When comparisons are drawn between the Israeli state, or its founding movement, Zionism, and the eliminationist crimes of the Nazis, rights to freely express criticism are often claimed. Such comparisons are made, it is sometimes claimed, to clearly voice deep concerns and get them heard. Such critics sometimes allege that accusations of antisemitism are levelled against them in return to trump them into silence.
18. Given the war of words that has been in evidence about the problem of Nazi allusions voiced about Israel and Zionism this section of the report aims to bring some clarity to the egregious nature of the Nazi card by discussing four different variants of the phenomenon:
- The Nazi card as abuse against Jews.
 - The Nazi card as abuse against the collective memory of the Holocaust.
 - The Nazi card in the casting of Jews as conspirators and collaborators with the Nazis.
 - The Nazi card manifest in discourse about Israel and Zionism.
19. While the evocation of painful collective memories of the Nazi regime provides the common denominator for each of the four variants, they are also each different from the others:
- When the Nazi card is played as abuse against Jews individually or collectively, it involves a discursive and targeted hurtful act of raw explicit insult and potentially serves as a threat of future violence.
 - When the Nazi card is played as abuse against the collective memory of the Holocaust, the offender ‘de-Nazifies’ the role of the Nazis and casts Jews as conspirators.

¹² See Joel Kotek, *Cartoons and Extremism: Israel and the Jews in Arab and Western Media* (Edgware: Vallentine Mitchell 2008).

¹³ The term ‘Playing the Nazi card’ should not be confused with the notion of ‘Reductio ad Hitlerum’ whereby, in the words of Leo Strauss, a view is refuted “by the fact that it happens to have been shared by Hitler”. See Leo Strauss, *Natural Right and History* (Chicago, IL: The University of Chicago Press 1953), pp. 42-43ff.

- When the Nazi card is played by casting Jews as conspirators and collaborators with the Nazis, Jews are portrayed as beneficiaries of Nazi genocidal policies.
- When the Nazi card is played against Israel and Zionism, Israel as a state is cast in the role of the Nazis with Palestinians cast as victims of eliminationist policy and practice.

Each of these variants of the Nazi card has harmful consequences that constitute a significant common denominator and the rationale for why this type of discourse needs to be addressed.

THE NAZI CARD AND ABUSE AGAINST JEWS

20. When the Nazi card is played in explicit abuse against Jews it is **almost** exclusively antisemitic. Few would question such an assertion about the many incidents reported annually to the Community Security Trust (CST) and to police forces in the United Kingdom. The many incidents listed in the CST's *Antisemitic Incidents Report 2007* include:
- A swastika and the words "Hitler will return" daubed on a wall outside a Jewish youth club in London.
 - Headstones daubed with swastikas in a Jewish cemetery in Surrey.
 - A message left on a synagogue answerphone in Lancashire in which the caller said: "Jew dog, gas sniffer, six million wasn't enough, your synagogue is on fire".
 - "Heil Hitler" shouted at a Jewish man in his workplace by a colleague, followed by a Nazi salute and a threat that he would make his "f ***ing head roll".
 - Swastikas scratched into the door of a Jewish student's room and on nearby walls in a university hall of residence.¹⁴
21. Unquestionably, when the Nazi card is played in such cases of abuse against Jews, most people would consider it to be antisemitic and to involve harmful consequences for those victimised. Occasions when the Nazi card has been played by Jews against fellow Jews are highly instructive for understanding the harmful consequences inflicted.
22. The *Jewish Chronicle* reported in July 2008 that a simmering feud between two north London shopkeepers boiled over when one called the other a Nazi. According to the newspaper report the offending shopkeeper admitted: "I did call him a Nazi because he behaves like one." The neighbour on the receiving end of the abuse reported that the offending shopkeeper "asked someone passing my shop, 'What's the Nazi doing now?' I asked him if he said that and he said yes, so I called the police...and two uniformed officers told him off".¹⁵

¹⁴ Although the police have difficulty deciding whether such incidents should be recorded as 'race-hate' or 'faith-hate' incidents (Paul Iqanski, 'Too Few Jews to Count? Police Monitoring of Hate Crime Against Jews in the United Kingdom', *American Behavioral Scientist*, vol. 51, no. 2, 2007, pp. 232-245), they accept that they are 'antisemitic'.

¹⁵ Leon Symons, 'Nazi jibe re-ignites traders' feud', *The Jewish Chronicle*, 25 July 2008.

23. In the absence of a threat of violence behind the words uttered, this case might not possibly have qualified for prosecution as a criminal offence in the UK.¹⁶ But the hurt inflicted is clearly made evident by the abused shopkeeper's action in calling the police and the police action in reportedly admonishing the abusive shopkeeper. An admonition is as far as this incident could be taken though, as there are no civil provisions in the UK for handling such discursive abuse.
24. We would be hard-pressed to define this incident as antisemitic, even by invoking a common sense catch-all understanding of the concept as any hostility, bigotry and bias against Jews as Jews. However this example indicates that **although it may not always be exclusively antisemitic when played against Jews, playing the Nazi card undoubtedly always offends - even when it is played against Jews by fellow Jews. It is the offence that matters for deciding why and how the Nazi card should be addressed.**

ANTISEMITIC DISCOURSE AS UNLAWFUL RACIAL AGGRAVATION

25. Most of the types of incidents recorded by the CST listed above are criminal offences. They involve criminal damage, threats and harassment, and malicious communications - all criminal acts under the law.
26. Under British law they can also be prosecuted as racially aggravated or racially motivated offences, with the playing of the Nazi card evidencing the racial aggravation. The legal provisions apply generically to all those victimised by racially aggravated or racially motivated offences, and not just Jews.
27. Notably, the label 'antisemitism' is not used in any of the provisions used to prosecute antisemitic incidents. It has no legal standing. Similarly, the word racism is not used either. Whilst evidence of racial aggravation has to be proven - often by words that offenders utter - the prosecution is not required to prove that an offender is antisemitic or racist in the case of other racially aggravated offences. Instead, the requirement is to prove that "at the time of committing the offence, or immediately before or after doing so, the offender demonstrates towards the victim of the offence hostility based on the victim's membership (or presumed membership) of a racial group".¹⁷
28. Upon conviction, offenders in racially aggravated offences receive a higher penalty than is applied to the same underlying offence without the accompanying racial aggravation. **The law provides for greater punishment for the greater harmful consequences of such crimes.** The desired objective is that offenders get their 'just desserts' for the harms they inflict, and that the law will serve a declaratory purpose as a general deterrent against offending.
29. In the case of racially aggravated offences the harms do not simply involve offence against the victim's sensibilities. There is an accumulating body of evidence that demonstrates the deep emotional and psychological consequences for victims.¹⁸

¹⁶ Although Section 18 of the Public Order Act 1986 (c. 64) (London: HMSO) might apply.

¹⁷ Crime and Disorder Act 1998 (c. 37), Section 28(1)(a), (London: HMSO). See also Section 28(1)(b) and Anti-terrorism, Crime and Security Act 2001 (c. 24), Section 39, (London: HMSO) and Criminal Justice Act 2003 (c. 44), Sections 145 and 146, (London: HMSO).

¹⁸ cf. Paul Iganski (ed.), *Hate Crime. The Consequences of Hate Crime* (Westport, CT: Praeger 2009); Jack McDevitt et al., 'Consequences for Victims: A Comparison of Bias and Non-Bias Motivated Assaults', *American Behavioral Scientist*, vol. 45, no. 4, 2001, pp.697-713.

30. The incidents recorded by the CST involving the playing of the Nazi card in abuse against Jews might be expected to hurt in two major ways:
- In some instances, given the collective historical memory amongst Jews of the Nazi atrocities, incidents will constitute a threat of violence.
 - In all cases, hurts will be inflicted by the invocation of painful historical memory.
31. The Nazi card is not exclusively played against Jews. But when Jewish people are targeted, it would be an understatement to propose that given the depth of the collective wounds involved, we might anticipate deeper hurts to be inflicted than when it is played against others. The hurts inflicted are inevitably mediated by the collective historical memory of a people.¹⁹
32. **It is the discursive nature of the acts that inflicts the greater harms, and those harms are also inflicted when the discourse alone constitutes the act.** However such discourse lies beyond the reach of the criminal law in the UK unless the person on the receiving end is put in fear of immediate violence. It is also beyond the reach of the civil law unless it occurs in the workplace, thereby constituting unlawful race discrimination, or is published in writing, whereby it will be subject to provisions for libel.
33. Some instances fall outside such provisions because they neither constitute a threat nor amount to unlawful discrimination. Nevertheless, the infliction of harms could reasonably be expected. One infamous example of how sensitive nerves can be touched when individual Jews are targeted in discursive acts involved the former Mayor of London, Ken Livingstone, in 2005. When disturbed by a reporter while emerging from a late-night party, the former Mayor could have expressed his perhaps understandable irritation in one of numerous ways, some less polite than others. But for some reason he chose to ask the journalist if he was a “German war criminal”. To make matters worse, once the reporter had pointed out that he was Jewish and offended by the comment, the former Mayor retorted: “Actually you are just like a concentration camp guard, you are just doing it because you are paid to.” He then went on to suggest that the journalist’s paper, the *London Evening Standard*, was “a load of scumbags and reactionary bigots”.²⁰
34. There were some isolated charges that Ken Livingstone’s comments amounted to “trivial, late-night antisemitic insults” and “low level racist abuse”.²¹ But much more voluminous were the expressions of hurt in the many newspaper reports and commentaries on the episode. There is no suggestion being made here that the former mayor’s comments were ‘antisemitic’, but he was seemingly culpable of being momentarily insensitive to the inevitable hurts inflicted when Nazi allusions are drawn and Jews are involved. He apologised to Jewish leaders at the launch of the London Jewish Forum at City Hall in December 2006 where he said, “...if I’ve caused any offence to anyone in the past, I apologise, it was never my intention. It was never a calculated intention to cause offence”.²²

¹⁹ Given the collective memory amongst German people of the Nazi regime, Nazi allusions are especially sensitive and hurtful for many Germans. For this reason, in part, the public display of Nazi insignia has been banned in Germany since the end of the Second World War.

²⁰ David Aaronovitch, ‘A mayor who can’t play party politics’, *The Jewish Chronicle*, 18 February 2005.

²¹ David Hirsh, ‘Anti-Zionism and Antisemitism: Cosmopolitan Reflections’, *The Yale Initiative for the Interdisciplinary Study of Antisemitism Working Paper Series*, 2007, pp. 55 and 61, available at: www.yale.edu/yiisa/workingpaper/hirsh/index.htm (last viewed 20 May 2009).

²² Jonny Paul, ‘Livingstone apologizes to UK’s Jews’, *The Jerusalem Post online edition*, 9 December 2006, available at: www.jpost.com/servlet/Satellite?c=JPArticle&cid=1164881856232&pagename=JPost%2FJPArticle%2FShowFull (last viewed 20 May 2009).

35. The point has been made that although the playing of the Nazi card is not always antisemitic, it unquestionably always harms. It is the harms that matter in terms of the existing legal provisions for countering the Nazi card as a discursive act. Those provisions, are, however, partial in their scope, as some other instances when the Nazi card is played against Jews lie outside the reach of the law, as is the case with vilification or group defamation that does not accompany a criminal offence or incite violence.

THE NAZI CARD AND ABUSE AGAINST THE COLLECTIVE MEMORY OF THE HOLOCAUST

36. When the Nazi card is played against identifiable persons individually or collectively, as in the incidents recorded by the CST as discussed above – against young people attending a youth club, against the deceased, against congregants in a synagogue, against an employee in their workplace, against a student in their university residence, and against a reporter at work on the street – it unquestionably involves clear-cut abuse and its unacceptability is obvious to everyone, even if such cases are dealt with inconsistently by the criminal and civil law.
37. The problem becomes more opaque, however, when discursive acts are couched in less profane language and are targeted at more diffuse entities. Such is the case with the discourse of Holocaust-related abuse.
38. The problem of Holocaust denial is one prominent example of such discourse. Holocaust denial is by definition a case of playing the Nazi card as it is a discursive act against Jews collectively in which the historical memory of the Nazi regime is invoked and used against them.²³
39. Attention was drawn to the problem of Holocaust denial by the 2006 report of the All-Party Parliamentary Inquiry into Antisemitism in its chapter on antisemitic discourse. The Inquiry noted that it was told “even when the intent is not antisemitic” public statements of Holocaust denial “may nonetheless incite or legitimise anti-Jewish prejudice”.²⁴ Holocaust denial also unquestionably hurts more than just potentially inciting anti-Jewish prejudice.
40. **The problem of Holocaust denial is an infrequent, but not an insignificant, occurrence in Britain. Not many people would question an assertion that distortion and misrepresentation of the historical facts of the Holocaust is insulting and offensive to the memory of those who were murdered, those who survived, and their descendants. But the harm inflicted by Holocaust denial goes beyond insult and offence.**

²³ The problem has been subject to some exemplary scholarly attention that has charted the course of the phenomenon and those who have engaged in it (cf. Gill Seidel, *The Holocaust Denial: Antisemitism, Racism & the New Right* [Leeds: Beyond the Pale Collective 1986]; Deborah E. Lipstadt, *Denying the Holocaust: The Growing Assault on Truth and Memory* [Harmondsworth: Penguin 1994]; Kenneth S. Stern, *Holocaust Denial* [New York: The American Jewish Committee 1993]; Michael Shermer and Alex Grobman, *Denying History: Who Says the Holocaust Never Happened and Why Do They Say it?* [Berkeley, CA: University of California Press 2000]).

²⁴ All-Party Parliamentary Group Against Antisemitism, *Report of the All-Party Parliamentary Inquiry into Antisemitism* (London: The Stationery Office 2006), p. 19, para. 93.

41. **Abuse of collective memory of the Holocaust scratches deep wounds that are not yet healed over.** This was acknowledged by legal judgements in Germany where some of the very first provisions in Europe against Holocaust denial were established, criminalising what is there referred to as the “Auschwitz-Lüge”, or “Auschwitz-Lie”. The provisions prohibit the disparagement of the memory of deceased persons and aim to protect human dignity.²⁵
42. It is instructive to briefly examine the legal origins of the provisions to reinforce the point about the harms inflicted by Holocaust denial. In one of Germany's earliest landmark legal decisions on the problem, the then West German Federal Supreme Court in 1979 concluded that “nobody has a protected right to make untrue allegations” and that: “Whoever tries to deny the truth of past events, denies to every Jew the respect to which he is entitled. **To the individual affected this must appear as a continuation of discrimination against his group and therefore indirectly against his person.**”²⁶
43. In upholding a civil injunction against a neo-Nazi who had erected signs declaring that the murder of six million Jews by the Third Reich was a “Zionist swindle” and a lie, the court concluded that offence was not only inflicted upon those who suffered personally, but upon every Jewish person: “Not the personal fate but the historical events are the criterion which weighs upon the personality of every Jew in Germany and upon his personal and social relationship to his German fellow-citizens...**The terrible events have formed the personality of the citizens of Jewish origin, who embody the past even if they were not personally part of it.**”²⁷
44. The Court also concluded that no time limit could be set upon the harms inflicted: “As long as the past is still present, it can only be done when the events have become a mere historical process. In Germany at present, such distance from the past does not yet exist.” Three decades on from this judgement it might be argued that such distance from the past still does not yet exist for Jews around the world. **That is why Holocaust denial hurts - it is an ongoing act of discrimination that strikes at the core of a person's Jewish identity - and the harmful consequences provide the justification for addressing the problem.**

JEW AS CONSPIRATORS AND COLLABORATORS WITH THE NAZIS

45. Conspiracy theories about Jews have historically provided the mainstay of antisemitic discourse. New conspiracies are promoted with varying malevolence often in reaction to prevailing social, political and economic calamities. Once given life, the conspiracy theories become part of the everyday ideology and discourse of what it is to be a Jew.

²⁵ Strafgesetzbuches – StGB (German Criminal Code as amended on 5 November 2008), (Federal Ministry of Justice), Sections 130, 189 and 194, translation available at: www.gesetze-im-internet.de/englisch_stgb/index.html (last viewed 20 May 2009).

²⁶ Institute for Jewish Affairs, 'German Supreme Court's landmark decision: Denial of the Holocaust is an offence against Jewish dignity', *IJA Research Reports*, no. 79/7, November 1979.

²⁷ *Ibid.* p. 4.

46. In the view of one scholar, Brian Klug, antisemitism can be conceived as a doctrine, an ideology, a discourse and particular sentiments about Jews. To borrow Klug's words it is a "form of hostility towards Jews as Jews, in which Jews are perceived as something other than what they are. Or more succinctly: hostility towards Jews as *not* Jews. For the 'Jew' towards whom the antisemite feels hostile is not a *real* Jew at all. Thinking that Jews are really 'Jews' is precisely the core of antisemitism".²⁸
47. The conspiratorial nature of the Jew is a core theme of antisemitic discourse. According to such a characterisation, Klug proposes that Jews collectively are conceived as "a sinister people set apart from all others not merely by its customs but by a collective character: arrogant, secretive, cunning, grasping, always looking to turn a profit. Wherever they go, the Jews form a state within a state, preying on the societies in whose midst they dwell. Mysteriously powerful, their hidden hand controls the banks and the media, dragging governments into war if this suits their Jewish agenda".²⁹
48. *The Protocols of the Elders of Zion*, and Henry Ford's *The International Jew*, are exemplars of such a depiction of the Jew. And more recent conspiracy theories about Jews manifest this malevolent discursive characterisation.
49. It has been suggested that in recent discourse regarding the alleged role of Zionists or an Israel lobby in Western societies, the language and terms of reference used to depict their alleged actions has sometimes been reminiscent of language and themes similar to those identified by Klug when discussing the traditional depiction of the conduct of the mythical Jew.³⁰ Zionists and the Zionist lobby have periodically been depicted as conspirators, controllers of the media, and of wielding undue power and influence over governments. It might therefore be suggested that such sentiment, when echoing traditional antisemitic conspiracy theories but ostensibly targeting Zionists is likewise not grounded in any real sense of 'what they are,' but has similarly come to reflect a discourse of hatred against Zionists as 'Zionists'.
50. In the aftermath of several recent international terrorist attacks, allegations of Jewish conspiracies spread. Since the events of 9/11, antisemitic conspiracy theories have variously alleged that Jews or Zionists were responsible for the attacks or were aware of the attacks in advance. Together with such allegations has been the suggestion that thousands of Jews were secretly warned not to arrive at work on the day of the 9/11 attacks.³¹

²⁸ Brian Klug, 'The collective Jew: Israel and the new antisemitism', *Patterns of Prejudice*, vol. 37, no. 2, 2003, pp.123-124.

²⁹ Brian Klug, 'In search of clarity', *Catalyst*, 17 March 2006, available at: www.catalystmagazine.org.uk/Default.aspx?LocID-0hgnew0bv.RefLocID-0hg01b00100600f009.Lan EN.htm (last viewed 20 May 2009).

³⁰ See for example David Hirsh, 'Anti-Zionism and Antisemitism: Cosmopolitan Reflections', *The Yale Initiative for the Interdisciplinary Study of Antisemitism Working Paper Series*, 2007, available at: www.yale.edu/yiisa/workingpaper/hirsh/index.htm (last viewed 20 May 2009); Shalom Lappin, 'This Green and Pleasant Land: Britain and the Jews', *The Yale Initiative for the Interdisciplinary Study of Antisemitism Working Paper Series*, 2008, available at: www.yale.edu/yiisa/workingpaper/lappin/index.htm (last viewed 20 May 2009); Mark Gardner, "'The Zionists are our misfortune': On the (not so) new antisemitism" *Democratija*, no. 10, Autumn 2007, available at: www.democratija.com/review.asp?reviews_id=110 (last viewed 20 May 2009); Dave Rich, 'If I say "Zionist" not "Jew" then I can't be antisemitic, can I?', *Engage*, 15 September 2005, available at: www.engageonline.org.uk/blog/article.php?id=652 (last viewed 20 May 2009).

³¹ Anti-Defamation League, *Unravelling Anti-Semitic 9/11 Conspiracy Theories* (New York: Gorowitz Institute 2003), available at: www.adl.org/anti_semitism/9-11conspiracytheories.pdf (last viewed 20 May 2009).

51. Similar conspiracies have spread following most major international terrorist incidents, notably including the Madrid train attacks of 2004³² and the 2005 bombings in London. The speed with which such conspiracy allegations spread can be witnessed by the rapidity with which rumours alleging Israeli involvement in the November 2008 Mumbai attacks were reported to have travelled around the world via the internet.³³
52. In addition to such conspiracies that allege Jewish and Israeli hands behind major international calamities have been references to longstanding antisemitic conspiracy theories alleging orchestrated Jewish control of world financial markets. Fears have been expressed that the current worldwide recession and global financial crisis may provide fertile ground for the increased expression of such traditional antisemitic conspiracies.³⁴ Early evidence has certainly suggested that at several major junctures of the crisis, rumours alleging some form of collective Jewish involvement or protection of interests have circulated. Soon after the collapse of Lehman Brothers in September 2008, for instance, extraordinary allegations suggesting that \$400 billion had been transferred to Israel by the bank's executives shortly before filing for bankruptcy began to spread.³⁵
53. The media in Britain have also played a hand in reproducing antisemitic conspiracy theories – even inadvertently. Most famously, the cover of the 14 January 2002 edition of the *New Statesman* used a large glistening golden Star of David piercing a prostate Union Jack and the words 'A kosher conspiracy?...Britain's pro-Israel lobby'. The resonance of the *New Statesman* cover with Nazi propaganda was striking according to one commentator on the episode who noted: "Throughout Nazi propaganda it was the international cabal of unpatriotic Jews, working against the national interest, who conspired to 'stab Germany in the back' at the end of the war. Within the milieu of such antisemitic topoi, is it merely coincidental that the *New Statesman's* Star of David is depicted as piercing the Union Jack?"³⁶
54. The *New Statesman* subsequently admitted that it "got it wrong". The then editor, Peter Wilby, wrote: "We (or, more precisely, I) got it wrong. The cover was not intended to be anti-Semitic (sic); the *New Statesman* is vigorously opposed to racism in all its forms. But it used images and words in such a way as to create unwittingly the impression that the *New Statesman* was following an anti-Semitic (sic) tradition that sees the Jews as a conspiracy piercing the heart of the nation. I doubt very much that one single person was provoked into hatred of Jews by our cover. But I accept that a few anti-Semites (as some comments on our website, quickly removed, suggested) took aid and comfort when it appeared that their prejudices were shared by a magazine of authority and standing. Moreover, the cover upset very many Jews, who are right to feel that, in the fight against anti-Semitism (sic) in particular and racism in general, this magazine ought to be on their side."³⁷

³² Stephen Stalinsky, 'A Vast Conspiracy: Nothing funny about this top-ten list', *National Review*, 6 May 2004, available at: www.nationalreview.com/comment/stalinsky200405060835.asp (last viewed 20 May 2009).

³³ Tarek Fateh, 'Severing the hand of friendship', *The Vancouver Sun*, 29 November 2008, available at: www.canada.com/vancouver/news/story.html?id=07190588-0654-49ac-938c-3eeead7c1fbc (last viewed 20 May 2009).

³⁴ Geoffrey Alderman, 'You can bank on old prejudice', *The Jewish Chronicle*, 20 November 2008.

³⁵ Anshel Pfeffer, 'Financial crisis? That will be the Jews' fault', *The Jewish Chronicle*, 10 October 2008.

³⁶ Winston Pickett, 'Nasty or Nazi? The use of antisemitic topoi by the left-liberal media', *Engage – Journal*, Issue 2, May 2006, www.engageonline.org.uk/journal/index.php?journal_id=10&article_id=38 (last viewed 18 June 2009).

³⁷ Peter Wilby, 'The New Statesman and anti-Semitism', *The New Statesman*, 11 February 2002, available at: www.newstatesman.com/200202110006 (last viewed 20 May 2009).

THE HOLOCAUST INDUSTRY

55. One of the most egregious conspiracy theories about Jews concerns allegations of Jewish complicity and collusion with Nazi genocidal policies, along with alleged distortion, manipulation and exploitation of the catastrophe of the Holocaust by Jews since that time.
56. In one of the earliest British contributions to the Holocaust-denial literature, *Did Six Million Really Die? The Truth at Last*,³⁸ published in 1974, Richard Harwood claimed that the “deception” committed by “the Jewish people” had brought an “incalculable benefit” in that the “alleged extent of their persecution quickly aroused sympathy for the Jewish national homeland they had sought for so long”. Such sympathy, according to Harwood, swayed the British government as after the end of the Second World War it “did little to prevent Jewish emigration to Palestine which they had declared illegal, and it was not long afterwards that the Zionists wrested from the government the land of Palestine and created their haven from persecution, the State of Israel”.³⁹
57. **Harwood preposterously concluded: “It is a remarkable fact that the Jewish people emerged from the Second World War as nothing less than a triumphant minority.” The “Jewish people” were not only the victors of the Second World War, according to Harwood, they were also the financial beneficiaries as the “supposed massacre of the Six Million” was “undoubtedly the most profitable atrocity allegation of all time”.** Harwood claimed: “To date, the staggering figure of six thousand million pounds has been paid out in compensation by the Federal Government of West Germany, mostly to the State of Israel (which did not even exist during the Second World War), as well as to individual Jewish claimants.”⁴⁰
58. The core conspiracy themes voiced by Harwood are key themes reproduced in Holocaust denial literature. The language used in the discourse of Holocaust denial is illuminating in itself, as Gill Seidel pointed out over two decades ago: “The language is significant – ‘hoax’, ‘swindle’, ‘racket’ – all in themselves implying ‘Jew’ through the historical accumulation of antisemitic connotations (money grabbing, Jewing, Shylock, etc.)”.⁴¹

PLAYING THE NAZI CARD AGAINST ISRAEL AND ZIONISM

59. One of the most challenging components of antisemitic discourse in general, and the discursive theme of the Nazi card in particular, concerns the problem of when the Nazi card is played against Israel and its founding movement, Zionism. In this case playing the Nazi card involves equating the Israeli state collectively, or the state embodied by its leaders or its military practices, with Nazis, Nazi Germany, and the genocidal actions of the Nazi regime.

³⁸ Richard E. Harwood, *Did Six Million Really Die? The Truth at Last* (London 1974) www.ihr.org/books/harwood/dsmrd01.html. The booklet was not just circulated amongst a lunatic fringe. It was sent to all members of Parliament, a number of other public figures, journalists, academics and prominent members of Britain’s Jewish community. Apparently, “within less than a decade, more than a million copies had been distributed in more than forty countries” (Deborah E. Lipstadt, *Denying the Holocaust: The Growing Assault on Truth and Memory* [Harmondsworth: Penguin 1994], p. 104, citing *New Statesman*, 2 November 1979, p. 670).

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ Gill Seidel, *The Holocaust Denial: Antisemitism, Racism & the New Right* (Leeds: Beyond the Pale Collective 1986), p. 130.

60. It is a powerfully potent discursive strategy for those who use it. Anything associated with the Nazis is condemned with unconditional moral indignation in most contemporary Western societies. Playing the Nazi card therefore brands the object of the accusation with the “stigma of absolute evil”.⁴²
61. As a discursive act it has parallels with the playing of the Nazi card against identifiable persons because identifiable entities, Israeli political leaders, or the Israeli state, or symbols of the state such as the Israeli flag, are targeted. However, it also has clear parallels with discourses that abuse the collective historical memory of the Holocaust as some claim that it targets Jews as a collectivity with such abuse. There has been much more contention about labelling the problem as antisemitic compared with the other variants of the Nazi card discussed to this point.
62. There have been numerous manifestations of the problem. In April 2008, representatives from Belgium, Britain, Costa Rica, France and the United States walked out of a UN Security Council debate on the Middle East after Libya's deputy UN ambassador, Ibrahim Dabbashi, reportedly drew a comparison between conditions in Gaza and the concentration camps of Nazi Germany. He went even further after the meeting by claiming that conditions in Gaza *exceeded* conditions in the Nazi concentration camps, arguing: “It is more than what happened in the concentration camps... There is the bombing, daily bombing (by Israel)...in Gaza. It was not in the concentration camps. It is worse than that.”⁴³
63. Syria's deputy ambassador to the UN, Bashar Ja'afari, although not a member of the Security Council, reportedly said after the meeting that he agreed with the depiction of Gaza, stating: “Unfortunately those who complain of being victims of genocide [during World War Two] are repeating the same kind of genocide against the Palestinians.”⁴⁴
64. This occasion was not the first time officials associated with the UN had drawn parallels between Israeli military actions and atrocities committed by the Nazis.
65. Richard Falk, the then incoming United Nations special rapporteur on human rights in the Palestinian territories, published an article in 2007 titled ‘Slouching toward a Palestinian Holocaust’⁴⁵ in which he asked: “Is it an irresponsible overstatement to associate the treatment of Palestinians with...[the]...criminalised Nazi record of collective atrocity? I think not. The recent developments in Gaza are especially disturbing because they express so vividly a deliberate intention on the part of Israel and its allies to subject an entire human community to life-endangering conditions of utmost cruelty.”

⁴² Robert S. Wistrich, *Between Redemption and Perdition: Modern antisemitism and Jewish identity* (London: Routledge 1990), p.225.

⁴³ ABC News, ‘Gaza worse than Nazi death camps: Libyan envoy’, 25 April 2008, available at: www.abc.net.au/news/stories/2008/04/25/2227323.htm (last viewed 20 May 2009).

⁴⁴ Aljazeera.net, ‘UN walkout over Gaza “Nazi” remarks’, 24 April 2008, available at: english.aljazeera.net/news/americas/2008/04/2008614233335392401.html (last viewed 20 May 2009).

⁴⁵ Richard Falk, ‘Slouching toward a Palestinian Holocaust’, *The Transnational Foundation for Peace and Future Research*, 29 June 2007, available at: www.transnational.org/Area_MiddleEast/2007/Falk_PalestineGenocide.html (last viewed 20 May 2009).

66. Although Falk later admitted that drawing such an allusion was “perhaps not the best way to make the argument” he stressed that his “intention was based on the feeling that you have to shout to be heard”,⁴⁶ as indeed he asserted in his article that his argument represented “a rather desperate appeal to the governments of the world and to international public opinion to act urgently to prevent these current genocidal tendencies from culminating in a collective tragedy”.⁴⁷
67. There have been many examples in Britain where analogies have been given between the Nazi period and Israel whereby, for instance, Palestinian territories have been compared to the “Warsaw ghetto”, a “vast concentration camp”, and Israel has been accused of behaviour that is sometimes “not dissimilar to that of the Nazis”. Most recently, Nazi imagery was used in numerous placards carried in demonstrations against Israel’s recent military actions in Gaza. The British Muslim Initiative, one of the main organisers of the demonstrations, used the slogan “Stop the Holocaust in Gaza”.⁴⁸
68. The drawing of analogies between the Nazi period and Israel has been depicted by some as a form of Holocaust inversion whereby the victims are cast as the perpetrators.⁴⁹ Gabriel Schoenfeld has described it as “an extraordinary reversal” consisting of a “breathtaking way in which the victims of Nazism have been transformed into Nazis themselves by a distortion that is every bit as distant from historical reality, and every bit as slanderous of Jewish memory, as the work of Holocaust deniers”.⁵⁰ The “extraordinary reversal” to which Schoenfeld refers is evident in the words of Syria’s UN Ambassador quoted above and it is clear to most people why such discourse hurts. Jonathan Freedland has cogently articulated such hurts: “Jews end up with the gravest hour in their history first taken from them – and then returned, with themselves recast as villains rather than victims.”⁵¹
69. Some have claimed without hesitation that when the Nazi card is played against the Israeli State, its leaders, its military practices, or its founding ideology of Zionism, it is clearly antisemitic.⁵²

⁴⁶ Linda Mamoun, ‘A Conversation with Richard Falk’, *The Nation*, 17 June 2008, available at: www.thenation.com/doc/20080630/mamoun (last viewed 20 May 2009).

⁴⁷ Richard Falk, op. cit.

⁴⁸ Community Security Trust, ‘Antisemitic incidents and threats to British Jews arising from the Gaza crisis’, Update 2, 6 January 2009.

⁴⁹ Manfred Gerstenfeld, ‘Holocaust inversion: the portraying of Israel and Jews as Nazis’, *Post Holocaust and Anti-Semitism*, no. 55, April 2007, available at: www.jcpa.org/JCPA/Templates/ShowPage.asp?DRIT=0&DBID=1&LNGID=1&TMID=111&FID=624&PID=0&IID=1526&TTL=Holocaust_Inversion:_The_Portraying_of_Israel_and_Jews_as_Nazis (last viewed 20 May 2009).

⁵⁰ Gabriel Schoenfeld, *The Return of Anti-Semitism* (London: Politico’s 2005), p. 98.

⁵¹ All-Party Parliamentary Group Against Antisemitism, *Report of the All-Party Parliamentary Inquiry into Antisemitism* (London: The Stationery Office 2006), p.19, para. 94.

⁵² cf. Robert S. Wistrich, *Between Redemption and Perdition: Modern antisemitism and Jewish identity* (London: Routledge 1990);

70. Jonathan Freedland has asked, therefore: “If anti-Zionists wonder why Jews find this antisemitic, perhaps they should imagine the black reaction if the civil rights movement – or any other vehicle of black liberation – was constantly equated with the white slave traders of old. It feels like a deliberate attempt to find a people’s rawest spot – and tear away at it.”^{53, 54}
71. The report of the All-Party Parliamentary Inquiry into Antisemitism drew attention to the “increasingly widespread” use of discourses of Holocaust inversion in protest and propaganda against Israel.⁵⁵ It concluded: “This may be political propaganda. But is still objectionable.” But it stopped short of labelling it as antisemitic.
72. The EUMC (now the European Agency for Fundamental Rights [FRA]) has been a little less equivocal on the matter by proposing in its working definition of antisemitism adopted in 2005 that antisemitism **can be** manifest in “drawing comparisons of contemporary Israeli policy to that of the Nazis” (see the appendix to this report).
73. In comparison to the policy community in Europe, the United States Department of State has been much less equivocal on the matter by proposing in its 2005 *Report on Global Anti-Semitism* (sic)(2005) that: “The demonisation of Israel, or vilification of Israeli leaders, sometimes through comparisons with Nazi leaders, and through the use of Nazi symbols to caricature them, indicates an anti-Semitic (sic) bias rather than valid criticism of policy concerning a controversial issue.”⁵⁶
74. It is neither useful nor necessary to try to get inside the heads of those who use such discourse – if that were ever possible, which it isn't – to determine whether antisemitic bias is at work. **It is the consequences of the words they use that matter.**
75. **Abhorrence and protest against the policies, practices, and leaders of the Israeli state can be expressed in numerous forceful and trenchant ways, as they could against any other state – none of which would be antisemitic.**

⁵³ Jonathan Freedland, op. cit. p. 121.

⁵⁴ Other reasons have been offered as to why playing the Nazi card against Israel and its founding movement, Zionism, is 'antisemitic'. Manfred Gerstenfeld has argued, for instance, that it trivialise, or “serves to sanitise Germany’s immense crimes and those of other European countries by accusing Israel of acting similarly” (Manfred Gerstenfeld, op. cit.). And at the most extreme with regard to consequences, Emanuele Ottolenghi has gone as far as claiming that “the equivalence between victims and murderers” not only “belittles the Holocaust” but it also “provides a retroactive justification” for it (Emanuele Ottolenghi, 'Antisemitism and the Media in Italy', *Antisemitism and Xenophobia Today*, 16 November 2005, available at: www.axt.org.uk/HateMusic/Ottolenghi.pdf [last viewed 20 May 2009]). Others have proposed that it amounts to a form of Holocaust denial. Most eloquently, novelist Howard Jacobson (although not labelling it as 'antisemitism') has argued that: “We do not serve the present by misdescribing it, and even worse we obliterate the past. Once everything is a war crime, nothing is. Turn every abomination into a whatever-takes-your-fancy holocaust, and there never really was one. This is the trickle-down effect of continuous verbal and syntactical diminishment. Little by little, the thing itself is washed away.” (Howard Jacobson 'Guilty of carrying out atrocities against language', *The Independent*, 13 July 2002, www.independent.co.uk/opinion/commentators/howard-jacobson/guilty-of-carrying-out-atrocities-against-language-648092.html [last viewed 18 June 2009]). Another proponent of the view of Holocaust inversion as a form of Holocaust denial, Kenneth Stern, has taken the argument further by proposing that when it is played against Jews and Israel the Nazi analogy “has two purposes: to grant moral license to forget how Jews were victimised in the mid-twentieth century, and to produce in the speaker a feeling of moral smugness in targeting Israel” (Kenneth S. Stern, *Antisemitism Today: How It Is the Same, How It Is Different, and How to Fight It*, [New York: American Jewish Committee 2006], p. 94). There is a problem, however, in that each of these assertions can be met by counter assertion. Rather than serving to trivialise, sanitise, deny or forget the Holocaust, it might be argued that the frequent invocation of the painful historical memory of the Holocaust against Israel serves to keep that memory very much alive. Either way, these assertions and counter-assertions lead down an intellectual cul-de-sac as none can be proven one way or another. There is a much stronger empirical basis, however, for claims about the harms inflicted against Jews by invoking the memory of the Holocaust against Israel.

⁵⁵ All-Party Parliamentary Group Against Antisemitism, *Report of the All-Party Parliamentary Inquiry into Antisemitism* (London: The Stationery Office 2006), p. 19, para. 93.

⁵⁶ U.S. Department of State, 'Report on Global Anti-Semitism', 5 January 2005, available at: www.state.gov/g/drl/rls/40258.htm (last viewed 20 May 2009).

76. **When criticism is voiced by playing the Nazi card in drawing parallels with the genocidal eliminationist atrocities committed by the Nazi regime, then many Jews and non-Jews who view Israel and Zionism as central to Jewish identity will regard the discourse as unquestionably antisemitic.**⁵⁷
77. Many of those who engage in such discourse would deny the accusation of antisemitism. And indeed, some will not be motivated by hatred or animus towards Jews, or have antisemitic intentions, and the authors of this report are not suggesting that any of those cited for making Nazi comparisons are in any way antisemitic. Their motivations might be to draw attention to their concerns about human rights abuses and the excesses and casualties of war – as Richard Falk stated.
78. As with the other variants of playing the Nazi card, irrespective of whether the discourse is labelled antisemitic, such discourse has consequences, whether intended or not.
79. The fact that perpetrators of incidents against Jews are far less discriminating in their sentiments than those who play the Nazi card against the Israeli state might claim should give the latter pause for thought about the responsibilities that accompany their rights to express criticism in such a way.
80. Furthermore, some critics play the Nazi card in such a way that it would involve splitting very fine hairs indeed to determine whether or not their words demonise all Jews collectively, or even individuals on the basis of their Jewishness. They have a responsibility to consider the impact of the words they use because of the potential for generating antisemitic bias.
81. **Playing the Nazi card against Israel as a state clearly demonises the state in the minds of many people who encounter such discourse. But the fundamental issue at stake concerning the question of whether playing the Nazi card against Israel and Zionism demonises all Jews collectively, and may therefore be perceived to be antisemitic, depends upon the degree to which Israel and Zionism are viewed as essential components of Jewish identity.**
82. **For those for whom Israel is fundamental to Jewish identity, playing the Nazi card against Israel, and the demonisation it involves, will be an assault against the core of Jewish identity and it is likely to be seen to defame and demonise all Jews as a collectivity. It is likely therefore that it will be perceived as being unquestionably antisemitic.**
83. **For those for whom Israel and Zionism are not fundamental to Jewish identity, then demonisation of Israel *may* solely be regarded as an attack on Israel as a state and not on Israel as the collective Jew. Such demonisation will then not be perceived to be antisemitic.**

⁵⁷ Hence the perspective offered by Robert Wistrich that: "'Anti-Zionists' who insist on comparing Zionism and the Jews with Hitler and the Third Reich appear unmistakably to be de facto anti-Semites, even if they vehemently deny the fact! This is largely because they knowingly exploit the reality that Nazism in the postwar world has become the defining metaphor of absolute evil. For if Zionists are 'Nazis' and if Sharon really is Hitler, then it becomes a moral obligation to wage war against Israel. That is the bottom line of much contemporary anti-Zionism. In practice, this has become the most potent form of contemporary anti-Semitism.'" (Robert Wistrich, 'Anti-Zionism and Anti-Semitism', *Jewish Political Studies Review*, vol. 16, nos.3-4, Fall 2004, available at: www.jcpa.org/phas/phas-wistrich-f04.htm [last viewed 20 May 2009]).

84. With regard to this latter perspective, Antony Lerman has argued: “For decades Zionism was supported by only a minority of Jews. The rest were either indifferent or manifestly opposed to the whole idea of the establishment of a Jewish state. Anti-Zionism was therefore a perfectly respectable position to hold, and one that continues to be held today by hundreds of thousands of strictly orthodox Jews and many secular Jews with left-liberal perspectives.”⁵⁸
85. The problem then, for one critic, Jenny Bourne, is that it is the supporters of Israel, “not Israel’s critics” who conflate “Jewry and the state of Israel, which in turn enables (them) to claim that any Nazi metaphor applied to Israel applies equally to Jews”.⁵⁹
86. Unfortunately, these types of argument and the counter-arguments against them have led down an intellectual cul-de-sac with the consequent need for new thinking of the type offered here to try to find a way out. **The point is that labelling the playing of the Nazi card against Israel and Zionism as antisemitic, even though it is perceived to be so by many, leads to a discursive dead-end.**
87. **The matter at stake, and the matter that more people would be more certain about, is that the playing of the Nazi card in this way hurts by invoking painful collective memories for Jews and by using those memories against them, and it hurts many Jews irrespective of whether they perceive Israel and Zionism to be essential to their own Jewish identity.**
88. **The harmful consequences of equating Israel to Nazi Germany will be obvious to most people: deep wounds are scratched hard. It is hardly cause for wonder then that the motives of those who engage in such discourse, even if they are Jewish themselves, will be questioned. Given the obvious hurts inflicted, they should know better.**
89. The research for this report began some months before the recent Israeli military actions and the conflict in Gaza in December 2008 and January 2009. That conflict begs some questions. Do the deaths and injuries of civilians, the destruction of infrastructure and property, and allegations of war crimes and military excesses, mitigate in any way the playing of the Nazi card against Israel – as was evident on many placards carried in street level protests? Do the hurts inflicted by the Israeli military cancel out the hurts inflicted when parallels are drawn between Israel and the Nazi regime? Do the hurts inflicted perhaps even become irrelevant when compared with the suffering inflicted in the conflict? Is the playing of the Nazi card understandable in any way in these circumstances? **These are difficult but important questions. But the answers should be obvious.**

⁵⁸ Lerman continues that “If people feel unfairly stigmatised as anti-Semitic simply for speaking out about the plight of the Palestinians and the Israeli government’s role in causing their suffering, they could become cynical and alienated whenever the problem of anti-Semitism is raised” (Antony Lerman, ‘Is anti-Zionism a cover-up for anti-Semitism?’ *CQ Global Researcher*, June 2008, p. 171. www.jpr.org.uk/publications/publication.php?id=203). Judith Butler had already gone further by arguing that “if the charge of anti-semitism is used to defend Israel at all costs, then its power when used against those who do discriminate against Jews - who do violence to synagogues in Europe, wave Nazi flags or support anti-semitic organisations - is radically diluted. Many critics of Israel now dismiss all claims of anti-semitism as ‘trumped up,’ having been exposed to their use as a way of censoring political speech.” (Judith Butler, ‘No, it’s not anti-semitic’, in Henri Picciotto and Mitchell Plitnick (eds.), *Reframing Anti-Semitism. Alternative Jewish Perspectives* (Oakland, CA: Jewish Voice for Peace 2004), p. 27.

⁵⁹ Jenny Bourne, ‘Anti-Semitism or anti-criticism?’, *Race & Class*, vol. 46, no. 1, 2004, p. 129.

90. **One hurt does not cancel out another.** One hurt does not justify another. Given the blow-by-blow news media coverage of the consequences of the Israeli military actions in Gaza, it may be understandable that many television viewers and others will be harsh in their criticism of Israel. Moreover the demonisation of the Israeli state by using the Nazi comparison can never be understandable no matter what the motivation might be. The hurts inflicted against Jews when the Nazi card is played – as unravelled in this report – cannot be written-off as collateral damage in the protest against Israel, just as the deaths and injuries of innocent Palestinian civilians cannot be written-off as the inevitable casualties of war.
91. In the climate of public protest against Israel in many of Europe's cities, and an upsurge of attacks against Jews on the streets of Europe triggered by the Gaza conflict,⁶⁰ critics of Israel bear a heavy responsibility, no matter what the justifications for their criticism might be. Demonisation of the Israeli state by playing the Nazi card not only hurts, it not only potentially incites violence against Jews who have no involvement in the conflict and are thousands of miles away from it. **Calling Israel a Nazi state calls for destruction not dialogue. Those with a genuine commitment to a lasting peace between Israelis and Palestinians will recognise that engagement, compromise, and communication are necessary for reconciliation.**

⁶⁰ See for example John Leicester, 'Fears mount of Gaza conflict spill over into Europe', *The Guardian*, 6 January 2009, available at: www.guardian.co.uk/world/latest/story/0,,8202556,00.html (last viewed 20 May 2009) and BBC News online, "'Rise in attacks" on British Jews', 13 February 2009, available at: www.news.bbc.co.uk/1/hi/uk/7887511.stm (last viewed 20 May 2009).

3. Countering the Nazi card

CRIMINALISATION

92. Whilst there is no absolute right in the United Kingdom to freedom of speech and other forms of expression, racist speech – such as antisemitic discourse – has generally been protected unless it is associated with public disorder as in cases of incitement to racial hatred, or with an underlying crime as in cases of racially aggravated offences.
93. Legislative provisions against incitement to racial hatred have a long provenance and were first established by the 1965 Race Relations Act. The chief justification for the imposition of restrictions on speech concerned the consequential threat to public order by the offending speech. Such provisions were not unprecedented. Prior to the 1965 Race Relations Act there were prosecutions for seditious libels that involved incitement to racial hatred. The 1936 Public Order Act was also used against incitement to racial hatred. This Act was introduced to deal with public disorder associated with clashes in London's East End at the time between supporters of the British Union of Fascists and their opponents.⁶¹
94. The 1998 Crime and Disorder Act extended the reach of the law concerning racist speech. It established provisions for racially aggravated offences whereby words that offenders utter whilst committing their offence, or immediately before or afterwards, can be used as evidence of 'manifest racial hostility' and secure offenders a higher penalty than would be imposed for the same underlying offence without the racial aggravation.
95. **Higher penalties are imposed because of the consequential greater harms inflicted by offences with a racial aggravation, not because of the content of what is said. However, as underlined in this report, it is the sentiments expressed by offenders that inflict the greater harms.**⁶² In some cases – offences of racially or religiously aggravated harassment – the crime consists solely of a speech act.
96. Similar provisions for religiously aggravated offences were established by the 2001 Anti-terrorism, Crime and Security Act.⁶³ And in extending the law further to other manifestations of bigotry, the 2003 Criminal Justice Act enabled courts to increase sentences in offences for aggravation related to a person's disability or sexual orientation.⁶⁴
97. As well as establishing provisions against so-called hate crime (where discursive hate on the part of the offender is used as evidence of the crime), the reach of the criminal law has been extended to public manifestations of hate speech more broadly. Provisions for incitement to religious hatred were established in 2007 (although incitement is more narrowly conceived than the provisions against incitement to racial hatred) and provisions to outlaw incitement to homophobic hatred were introduced in the 2008 Criminal Justice and Immigration Act.⁶⁵

⁶¹ See Anthony Lester and Geoffrey Bindman, *Race and Law* (London: Longman 1972), p. 350; Ian Brownlie and Michael Supperstone, *Brownlie's Law of Public Order and National Security*, 2nd edition (London: Butterworths 1981), p. 5.

⁶² See Paul Iganski, *'Hate Crime' and the City* (Bristol: Policy Press 2008), chapters 1 and 4.

⁶³ Anti-terrorism, Crime and Security Act 2001 (c. 24), Section 39 (London: HMSO).

⁶⁴ Criminal Justice Act 2003 (c. 44), Section 146 (London: HMSO).

⁶⁵ Criminal Justice and Immigration Act 2008 (c. 4), Section 74, Schedule 16 (London: HMSO).

98. **All of these provisions provide a vitally important declaration by the government against racism and other expressions of bigotry such as antisemitic discourse. However, the law currently works in a partial and inconsistent manner, and this is clearly the case concerning the playing of the Nazi card.**
99. Calls have been made by sections of the UK's Jewish community for additional criminalisation of racist speech. **In 1992, the Board of Deputies of British Jews' Law and General Purposes Committee made some fundamental recommendations for the revision of Britain's incitement to racial hatred laws that would have considerably extended the reach of the criminal law by capturing not just the extreme expressions of racial hatred that threaten public order, but racist expression more broadly. The Committee offered the view that "all racist material should be caught" by provisions against incitement to racial hatred, "not merely that which is crudely abusive or vulgarly insulting. Racist material should not escape the legislation merely because it is expressed in ostensibly moderate or rational terms".**⁶⁶
100. Despite such a view, eight years later in 2000, **a legal panel established by the Institute for Jewish Policy Research (JPR) rejected the case for specifically outlawing Holocaust denial in Britain, even though, as outlined above, Holocaust denial is in our view antisemitic.** The JPR legal panel offered four main reasons in support of its position: concerns that a law against Holocaust denial would be challenged as an illegitimate curtailment of rights to freedom of expression; a lack of convincing evidence about the impact of Holocaust denial laws in countries where such provisions have been established; impediments to prosecution presented by problems of defining and conceptualising Holocaust denial; and counter-productive publicity handed to Holocaust deniers by media coverage of prosecutions.
101. **The JPR legal panel suggested possible wide-reaching revisions to Britain's incitement to racial hatred provisions to bring racial vilification that does not amount to 'fighting words' into the arms of the law:**⁶⁷
- One possibility offered was: "The condition of the existing incitement to hatred offence that the prohibited behaviour or material must be 'threatening, abusive or insulting' (in addition to being intended or likely to stir up racial hatred) could be removed. The removal of this condition would allow the incitement offence to encompass many of the more 'subtle' or 'sophisticated' manifestations of Holocaust denial, and indeed of other forms of antisemitism and racism."⁶⁸

⁶⁶ Board of Deputies of British Jews, *Group Defamation, Report of a Working Party of the Law, Parliamentary and General Purposes Committee (Chairman, Mr. Eldred Tabachnik, QC)* (London: Board of Deputies of British Jews 1992), p.87.

⁶⁷ After convening a legal panel on the matter, the Institute for Jewish Policy Research (JPR) recommended, in a report presented to the then Home Secretary Jack Straw in June 2000, that a law in Britain specifically outlawing denial of the Holocaust would be "inadvisable". In its key objection to a Holocaust denial law the JPR panel recognised a fundamental dilemma in that Holocaust deniers regularly portray themselves as victims by claiming that their rights to freedom of speech are being trounced and also that "British Jews would face the accusation that they were demanding and receiving special treatment" (Institute for Jewish Policy Research, *Combating Holocaust Denial through Law in the United Kingdom* [London: Institute for Jewish Policy Research 2000], p.24). The JPR report consequently proposed outlawing Holocaust denial under provisions against hate speech more broadly, or recommended alternatively that consideration should be given to amending existing provisions against incitement to racial hatred to capture instances of Holocaust denial (recommendations which would have had more far reaching consequences for the proscription of discourse if implemented than the much narrower proscription of Holocaust denial).

⁶⁸ Institute for Jewish Policy Research, *Combating Holocaust Denial through Law in the United Kingdom* (London: Institute for Jewish Policy Research 2000), www.jpr.org.uk/Reports/CS_Reports/no_3_2000/index.htm (last viewed 23 June 2009).

- A second possibility suggested was: “A ‘direct hate speech’ law could be introduced to complement the incitement to hatred offence. Such a law would cover instances where the intention or effects of hate speech is to expose the target group to hatred, vilification, hostility or contempt.”⁶⁹
102. The more recent All-Party Parliamentary Group Against Antisemitism reported, with reference to the case for a law against Holocaust denial: “None of those who gave evidence suggested that denial of the Holocaust or questioning the truth of it should be made a criminal offence in the UK, as it is in some other European countries. However, in certain circumstances the discourse of Holocaust denial may be used in a way that amounts to incitement of racial hatred.”⁷⁰ The Inquiry, however, did not offer any further suggestions for bringing antisemitic discourse and racist speech more generally within the reach of the criminal law.
103. **Consequently, while concerns about preserving rights to freedom of expression are paramount, it would be timely for the government to commission a rapid evidence assessment into the practical experience of using the criminal law against racist and antisemitic speech in countries where such provisions have been established. Such an assessment might evaluate the impacts and consequences of provisions against incitement to racial hatred, provisions against racial vilification and group defamation, and laws against the trivialisation of the Holocaust and other crimes against humanity.**
104. **In certain circumstances the playing of the Nazi card may constitute incitement to racial hatred under existing provisions in law in Great Britain. The Home Office, in consultation with the Association of Chief Police Officers and the Crown Prosecution Service, should prepare and issue guidance for police forces and crown prosecutors about the circumstances in which playing the Nazi card, and other forms of antisemitic discourse amounts to unlawful incitement to racial hatred.**

REGULATION

105. While the criminal law can serve as a discursive act itself by potentially providing a powerful symbolic message against antisemitic discourse it is a rather blunt instrument. More finely-tuned measures to regulate discourse might be adopted in place of, or to supplement, the criminal law.

UNIVERSITIES AND COLLEGES

106. The Nazi card is on occasion played against the background of student politics and protest concerning the Israel-Palestine conflict and agitation for the Universities and Colleges Union to adopt an academic boycott against Israel. **It would be timely, therefore, for the government to commission a survey of universities and adult education colleges in the UK to determine the extent to which guidance has been established and implemented for dealing with antisemitic discourse in the context of racist and hate speech more generally, and to identify gaps in protections and to illuminate good practice that might serve as exemplars for educational institutions.**

⁶⁹ Ibid.

⁷⁰ All-Party Parliamentary Group Against Antisemitism, *Report of the All-Party Parliamentary Inquiry into Antisemitism* (London: The Stationery Office 2006), p. 19, para. 93.

107. **The National Union of Students has adopted for incorporation into their race equality and harassment policies the EUMC working definition of antisemitism. UK universities and colleges should be encouraged to debate and utilise the working definition to inform their race equality and harassment policies.**
108. **The Universities and Colleges Union, at national and university and college level, should be encouraged to debate and utilise the EUMC working definition of antisemitism to inform their race equality and harassment policies.**⁷¹

PRINT, BROADCAST AND ELECTRONIC MEDIA

109. The National Union of Journalists' (NUJ) code of conduct⁷² expects journalists to produce “no material likely to lead to hatred or discrimination on the grounds of a person’s age, gender, race, colour, creed, legal status, disability, marital status, or sexual orientation”. **The NUJ at national and branch level should be encouraged to debate and utilise the EUMC working definition of antisemitism to inform guidance about how particular discourse can lead to hatred or discrimination against Jews.**
110. **The Press Complaints Commission should be encouraged to utilise the EUMC working definition of antisemitism to inform guidance in its Code of Practice about how particular discourse can lead to hatred or discrimination against Jews.**⁷³

EDUCATION

111. **In seeking advice from scholars with experience in the matter, the government should commission and promote educational materials for university-level lectures/seminars/workshops on Holocaust denial which examine how Holocaust denial in its explicit and more subtle manifestations constitutes antisemitic discourse. The particular harms inflicted should also be examined along with the political motives behind Holocaust denial and the possible legal and policy responses that might be adopted. Such material might be incorporated into the curricula for university level courses in Criminology, History, Human Rights, Law, Linguistics, Media Studies, Politics and International Relations, Social Policy and Sociology.**

REFUTATION

111. One means of countering the Nazi card is to challenge and refute the analogy drawn between the genocidal policies and practices of the Nazi regime and the policies and practices of the Israeli state. The European Institute for the Study of Contemporary Antisemitism should produce a model statement that refutes the Nazi card point-by-point so that it can aid and inform those who seek to challenge it.⁷⁴

⁷¹ See: University and College Union, 'Race equality resources', n.d., available at: www.ucu.org.uk/index.cfm?articleid=2305 (last viewed 20 May 2009).

⁷² See: National Union of Journalists, 'Code of conduct', n.d., available at: www.nuj.org.uk/innerPagenuj.html?docid=174 (last viewed 20 May 2009).

⁷³ See: Press Complaints Commission, 'Code of Practice', n.d., available at: www.pcc.org.uk/cop/practice.html (last viewed 20 May 2009).

⁷⁴ For an exemplar of such a refutation see Jonathan Hoffman, 'Open letter sent to Holly Bott of Student Union, Goldsmiths' College', EISCA Blog, 17 November 2008, available at: www.eisca.eu/antisemitism/playing-the-nazi-card-at-goldsmiths/ (last viewed 20 May 2009).

ARTICULATING THE HURTS INFLICTED BY THE NAZI CARD

112. Four different variants of playing the Nazi card have been discussed in this report. The one fundamental common denominator between them that has been stressed – apart from the invocation of painful collective memories of Nazi atrocities – is that they all result in harmful consequences. The most contentious of the three variants involves the playing of the Nazi card against Israel and its founding movement, Zionism. Drawing attention to the consequent harms in such a case should not be intended, or taken, in any way as an attempt to suppress criticism of Israel and its military practices. Instead, it is a call not to use particular words, even in the most trenchant criticism, because some words wound. Most people would surely agree that this is a very reasonable plea once those hurts are articulated.⁷⁵

⁷⁵ Even some of the most forceful critics of Israel concur. As one contributor to the Jewish Voice for Peace publication *Reframing Anti-Semitism*, argued: “We and our allies should strongly challenge signs and speeches that equate Zionism with Nazism, Sharon with Hitler, and the Star of David with the swastika. The comparison is inaccurate and offensive. Unfortunately, it has become increasingly common as the Israeli government continues its disastrous policy of occupation and repression. When the Israeli military kills children, demolishes houses, uproots olive trees, steals water, bombs apartment buildings, commits assassinations, imposes round-the-clock curfews, and humiliates an entire people, it is inevitable someone will speak out against it, and not only in the ways that we would” (Henri Picciotto, ‘Bogus charges’, in Henri Picciotto and Mitchell Plitnick [eds.], *Reframing Anti-Semitism. Alternative Jewish Perspectives* [Oakland, CA: Jewish Voice for Peace 2004], p. 48). It may well unfortunately be inevitable, as this critic suggests, but one thing is clear: it will always be unacceptable.

Appendix

EUROPEAN MONITORING CENTRE ON RACISM AND XENOPHOBIA (EUMC) WORKING DEFINITION OF ANTISEMITISM

The purpose of this document is to provide a practical guide for identifying incidents, collecting data, and supporting the implementation and enforcement of legislation dealing with antisemitism.

Working definition: *“Antisemitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities.”*

In addition, such manifestations could also target the state of Israel, conceived as a Jewish collectivity. Antisemitism frequently charges Jews with conspiring to harm humanity, and it is often used to blame Jews for “why things go wrong.” It is expressed in speech, writing, visual forms and action, and employs sinister stereotypes and negative character traits.

Contemporary examples of antisemitism in public life, the media, schools, the workplace, and in the religious sphere could, taking into account the overall context, include, but are not limited to:

- Calling for, aiding, or justifying the killing or harming of Jews in the name of a radical ideology or an extremist view of religion.
- Making mendacious, dehumanising, demonising, or stereotypical allegations about Jews as such or the power of Jews as collective – such as, especially but not exclusively, the myth about a world Jewish conspiracy or of Jews controlling the media, economy, government or other societal institutions.
- Accusing Jews as a people of being responsible for real or imagined wrongdoing committed by a single Jewish person or group, or even for acts committed by non-Jews.
- Denying the fact, scope, mechanisms (e.g. gas chambers) or intentionality of the genocide of the Jewish people at the hands of National Socialist Germany and its supporters and accomplices during World War Two (the Holocaust).
- Accusing the Jews as a people, or Israel as a state, of inventing or exaggerating the Holocaust.
- Accusing Jewish citizens of being more loyal to Israel, or to the alleged priorities of Jews worldwide, than to the interests of their own nations.

Examples of the ways in which antisemitism manifests itself with regard to the State of Israel taking into account the overall context could include:

- Denying the Jewish people their right to self-determination, e.g. by claiming that the existence of a State of Israel is a racist endeavour.
- Applying double standards by requiring of it a behaviour not expected or demanded of any other democratic nation.
- Using the symbols and images associated with classic antisemitism (e.g. claims of Jews killing Jesus or blood libel) to characterise Israel or Israelis.
- Drawing comparisons of contemporary Israeli policy to that of the Nazis.
- Holding Jews collectively responsible for actions of the State of Israel.

However, criticism of Israel similar to that levelled against any other country cannot be regarded as antisemitic.

Antisemitic acts are criminal when they are so defined by law (for example, denial of the Holocaust or distribution of antisemitic materials in some countries).

Criminal acts are antisemitic when the targets of attacks, whether they are people or property – such as buildings, schools, places of worship and cemeteries – are selected because they are, or are perceived to be, Jewish or linked to Jews.

Antisemitic discrimination is the denial to Jews of opportunities or services available to others and is illegal in many countries.

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