
GARDEN COURT
CHAMBERS

Justification Defences: Direct action and freedom of expression

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30 June 2020

Justification Defences: Necessity, Prevention of Crime and Protection of Property

Owen Greenhall, Garden Court Chambers

30 June 2020

Stephen, A Digest of the Criminal Law (1877)

Article 32.

Necessity.

An act which would otherwise be a crime may be excused if the person accused can shew that it was done only in order to avoid consequences which could not otherwise be avoided, and which, if they had followed, would have inflicted upon him or upon others whom he was bound to protect inevitable and irreparable evil, that no more was done than was reasonably necessary for that purpose, and that the evil inflicted by it was not disproportionate to the evil avoided.

Stephen, A Digest of the Criminal Law (1877)

Illustrations.

(1.) [1] A, the Governor of Madras, acts towards his council in an arbitrary and illegal manner. The council depose and put him under arrest, and assume the powers of government themselves. This is not an offence if the acts done by the council were the only means by which irreparable mischief to the establishment at Madras could be avoided.

(2.) [2] A and B, swimming in the sea after a shipwreck, get hold of a plank not large enough to support both; A pushes off B, who is drowned. This is not a crime.

R v Martin (Colin) (1989) 88 Cr.App.R. 343, CA

- "English law does, in extreme circumstances, recognise a defence of necessity…"
- Most common form is duress by threats
- Can equally arise from other objective dangers (duress of circumstances)
- Requires a reasonable belief in a threat of death or serious injury
- Only available if D acted reasonably and proportionately

R v Martin (Colin) (1989) 88 Cr.App.R. 343, CA

"...assuming the defence to be open to the accused on his account of the facts, the issue should be left to the jury, who should be directed to determine these two questions: first, was the accused, or may he have been, impelled to act as he did because as a result of what he reasonably believed to be the situation he had good cause to fear that otherwise death or serious physical injury would result?"

R v Martin (Colin) (1989) 88 Cr.App.R. 343, CA

"Second, if so, may a sober person of reasonable firmness, sharing the characteristics of the accused, have responded to the situation as the accused acted? If the answer to both these questions was yes then the … defence of necessity would have been established"

R v Martin (Colin) (1989) 88 Cr.App.R. 343, CA

"Second, if so, may a sober person of reasonable firmness, sharing the characteristics of the accused, have responded to the situation as the accused acted? If the answer to both these questions was yes then the … defence of necessity would have been established"

R v Abdul-Hussain [1998] EWCA Crim 3528

1) Scope of defence remains imprecise
2) Duress of circs a defence to all crimes bar Murder
3) Risk of death/serious injury
4) Risk to D or those for whom D has responsibility
5) Risk must overbear Defendant's will
6) Risk must be imminent

1) The scope of the defence remains unclear

"The distinction between duress of circumstances and necessity has, correctly, been by and large ignored or blurred by the courts" (*Shayler*, CACD)

"Any attempt at a definition of the precise limits of the defence is fraught with difficulty" (*Shayler*, CACD)

"vexed and uncertain territory"

(Lord Bingham, *Shayler*, HL)

2) A defence to all crimes bar Murder

- *R v Quayle* [2005]
- *R v Letts and Lane* [2018]
- *In re A (Children) (Conjoined Twins: Surgical Separation)* [2000]

3) Risk of death or serious injury

- Risk of suicide (*Martin (Colin)*)
- Risk of pain not enough (*Quayle*)

4) Risk to D or those for whom D has responsibility

R v Shayler [2001] EWCA Crim 1977

- Must prevent harm to 'somebody for whom he reasonably regards himself as being responsible'
- May not be named or identifiable
- Must be possible to describe the individuals by reference to the risk avoided
- If not possible to identify the members of the public at risk then issues over responsibility

4) Risk to D or those for whom D has responsibility

Lord Advocate's Reference No 1 of 2000 (2001) JC 143:

"…the existence of a prior relationship as a pre-condition of necessity has nothing to commend it…"

4) Risk to D or those for whom D has responsibility

Lord Advocate's Reference No 1 of 2000 (2001) JC 143:

" ...many industrial processes have inherent in them the potential for mass destruction over a wide area .... If a person damaged an industrial plant to prevent a disaster ...there is no compelling reason for excluding the defence of necessity solely on the grounds that persons at risk were remote from the plant provided they were within the reasonably foreseeable area of risk."

4) Risk must overbear D's will

R v Hudson and Taylor [1971] 2 QB 202

"It is essential to the defence of duress that the threat shall be effective at the moment when the crime is committed. The threat must be a "present" threat in the sense that it is effective to neutralise the will of the accused at that time."

4) Risk must overbear D's will

In Re. A. (children) (conjoined twins) [2000]

"In cases of pure necessity the actor's mind is not irresistibly overborne by external pressures. The claim is that his or her conduct was not harmful because on a choice of two evils the choice of avoiding the greater harm was justified."

4) Risk must be imminent

R v Abdul-Hussain [1998]:

"Imminent peril of death or serious injury to the defendant, or those to whom he has responsibility, is an essential element of both types of duress..

4) Risk must be imminent

R v Abdul-Hussain [1998]:

"...But the execution of the threat or risk in question need not be immediately in prospect."

4) Risk must be imminent

R v Abdul-Hussain [1998]:

"...if Anne Frank had stolen a car to escape from Amsterdam and has been charged with theft, the tenets of English law would not have denied her a defence of duress of circumstances, on the ground that she should have waited for the Gestapo's knock on the door."

4) Risk must be imminent

R v Hasan (Z) [2005]:

"*R v Hudson* was described … as 'an indulgent decision', and it has in my opinion had the unfortunate effect of weakening the requirement that execution of a threat must be reasonably believed to be imminent and immediate if it is to support a plea of duress."

4) Risk must be imminent

F v West Berkshire Health Authority [1990]:

"Emergency is however not the criterion or even a pre-requisite; it is simply a frequent origin of the necessity which impels intervention. The principle is one of necessity, not of emergency."

4) Risk must be imminent

R v Hasan (Z) [2005]:

"It should however be made clear to juries that if the retribution threatened against the defendant … is not such as he reasonably expects to follow immediately or almost immediately on his failure to comply with the threat, there may be little if any room for doubt that he could have taken evasive action, whether by going to the police or in some other way…"

Prevention of Crime (Section 3 Criminal Law Act 1967)

3. Use of force in making arrest, etc.

(1) A person may use such force as is reasonable in the circumstances in the prevention of crime, or in effecting or assisting in the lawful arrest of offenders or suspected offenders or of persons unlawfully at large.

Prevention of Crime (Section 3 Criminal Law Act 1967)

The defence is established if the court is satisfied that:

(a) a defendant honestly, even if mistakenly, believed he was acting to prevent a crime in using force (the subjective test); and,

(b) in the circumstances as the defendant believed them to be, the force used was reasonable (the objective test).

Section 3 Criminal Law Act 1967

- Only applies to the prevention of a domestic crime (*R v Jones*)
- Require nexus between act and crime prevented (*Stratford Mags*)
- Must be an imminent or immediate crime (*Stratford Mags*)

Section 3 Criminal Law Act 1967

- S3 CLA 1967 defence only applies to ‘use of force’
- Force need not be directed against a person (*Swales v Cox* [1981] QB 849)

Prevention of Crime: Common Law

R (DPP) v Stratford Magistrates' Court [2018:

"something short of the application of force may give rise to a defence to a criminal offence, but that as in the case of the statutory defence, there must be a nexus between the conduct and the criminality"

Section 5(2) CDA 1971 - Prevention of damage to property

A person… shall …be treated … as having a lawful excuse—

(b) if he destroyed or damaged …the property in question …in order to protect property belonging to himself or another … and at the time of the act or acts alleged to constitute the offence he believed—

(i) that the property, right or interest was in immediate need of protection; and

(ii) that the means of protection adopted or proposed to be adopted were or would be reasonable having regard to all the circumstances.

Section 5(2) CDA 1971 - Prevention of damage to property

Subjective beliefs:

(i) The defendant believed that the property was in immediate need of protection; and,

(ii) The defendant believed that the means adopted were or would be reasonable having regard to all the circumstances.

Remoteness

R v Hunt (1977)

"The question whether or not a particular act of destruction or damage or threat of destruction or damage was done or made in order to protect property belonging to another must be, on the true construction of the statute, an objective test."

- Sniping wire to airbase (*R v Hill and Hall*)
- Writing message on Palace of Westminster (*Blake v DPP*)

R v Jones (Margaret) [2007] 1 AC 136

"The crucial question, in my opinion, is whether one judges the reasonableness of the defendant's actions as if he was the sheriff in a Western, the only law man in town, or whether it should be judged in its actual social setting, in a democratic society with its own appointed agents for the enforcement of the law."

R v Jones (Margaret) [2007] 1 AC 136

"In a case in which the defence requires that the acts of the defendant should in all the circumstances have been reasonable, his acts must be considered in the context of a functioning state in which legal disputes can be peacefully submitted to the courts and disputes over what should be law or government policy can be submitted to the arbitrament of the democratic process…

R v Jones (Margaret) [2007] 1 AC 136

"…In such circumstances, the apprehension, however honest or reasonable, of acts which are thought to be unlawful or contrary to the public interest, cannot justify the commission of criminal acts and the issue of justification should be withdrawn from the jury."

***R v Wang* [2005] 2 Cr App R 8**

That the last word should rest with the jury remains, as Sir Patrick Devlin, writing in 1956, said:

‘an insurance that the criminal law will conform to the ordinary man's idea of what is fair and just. If it does not, the jury will not be a party to its enforcement …. The executive knows that in dealing with the liberty of the subject it must not do anything which would seriously disturb the conscience of the average member of Parliament or of the average juryman. I know of no other real checks that exist today upon the power of the executive.’”

Article 10 & 11 and criminal proceedings: *James* and *Ziegler*

Shahida Begum, Garden Court Chambers

30 June 2020

How can the courts give effect to article 10 & 11?

- Proportionality of the prosecution
- Interpreting the elements of the offence or a statutory defence compatibly with Convention rights/HRA 1998
- Justification defences

Proportionality of prosecution

***Dehal v Crown Prosecution Service* [2005] EWHC 2154 (Admin), Moses J**

'I repeat, the important factor upon which the Crown Court should have focused and upon which on its face it appears not to have focused is the justification for bringing any criminal prosecution at all. However insulting, however unjustified what the appellant said about the President of the Temple, a criminal prosecution was unlawful as a result of section 3 of the Human Rights Act and Article 10 unless and until it could be established that such a prosecution was necessary in order to prevent public disorder. There is no such finding or any justification whatever given in the case stated. In those circumstances, whether this case be meritorious or not, I am bound to allow the appeal. There was, in short, no basis found by the Crown Court for concluding that this prosecution was a proportionate response to his conduct. In those circumstances I would answer question 1 "No". It follows that question 2 must also me answered in the negative.'

Proportionality of prosecution – Post *Dehal*

***Mumin Abdul and Others v DPP* [2011] EWHC 24, Gross LJ and Davies J**

'45 I take Question III shortly. At the close of the prosecution case, it was for the prosecution to show a case upon which a reasonable tribunal, properly directing itself, could convict. It was not in dispute (on the facts of this case) that s.5 of the Act was to be read together with Art. 10, ECHR. Accordingly, in order to reach a proper conclusion that the case was fit to continue, the Judge was required to have regard both to Art. 10 , as well as ss. 5(1) and 6(4) of the Act. She did not of course need to decide the Appellants' guilt at the close of the prosecution case – simply whether the prosecution's case was properly capable of resulting in a conviction. (For completeness, s.5(3) of the Act, where the burden rests on the defence, did not require consideration at this stage.) On the face of the Judge's ruling it would appear that she did give some consideration to Art. 10 at the close of the Crown case. But even if such consideration fell short of that which was required (and it is not apparent that it did), nothing turns on it here. The only reasonable conclusion to which DJ Mellanby could have come was that there manifestly was a sufficient case to continue.'

Proportionality of prosecution – Post *Dehal*

***DPP v Bauer* [2013] 1 WLR 3617, Moses LJ**

'If the prosecution proves that the conduct of a defendant falls within section 68 and that the defendant had the necessary intention, it has nothing additional to prove. It does not have to prove, in addition to the guilt of the defendant, that the prosecution was proportionate. *Dehal's* case should be read as no more than an application of Sedley LJs warning in *Redmond-Bate v Director of Public Prosecutions* (1999) 163 JP 789, para 20 that 'Freedom only to speak inoffensively is not worth having'. The warning has no relevance to the instant appeals. Although I must take the blame, *Dehal's* case equally was not an authority that the district judge needed to consider. Once he found that the case against these defendants was proved under section 68(1) of the 1994 Act that was an end of the matter.'

Proportionality of prosecution – Post *Dehal*

***DPP v James* [2016] 1 W.L.R. 2118, Davies LJ and Ouseley J**

'15 The district judge was also right to reach the view he did on the question of whether the proportionality of the Crown Prosecution Services decision to prosecute was for him. It was not. *Dehal's* case 169 JP 581, which was the foundation for the argument before him, was wrongly decided, and should not be followed.....'

'...it seems to me that in reality Moses LJ in Bauers case was recanting from the legal approach previously indicated by him as appropriate in Dehals case. In my view, he was right to do so...
55 It follows that I myself recant from what in effect was an unduly deferential and insufficiently critical endorsement in *Abdul's* case of this aspect of the *Dehal* approach: albeit that approach was in response to one of the specific forms of question posed in the case stated in Abduls case....'

Proportionality of prosecution – CPS Code

- https://www.cps.gov.uk/legal-guidance/public-protests : representations/abuse/judicial review
- *R. (on the application of Lumba) v Secretary of State for the Home Department* [2012] 1 AC 245

DPP v James

If not proportionality of the prosecution, then how?

***DPP v James* [2016] 1 W.L.R. 2118, Davies LJ and Ouseley J**

'32 However, Mr Owens submissions were not in reality addressed to that specific issue. It had been used as the inappropriate vehicle for raising a different issue, the issue which was close to those which concerned the courts in *Norwood's* case [2003] Crim LR 888, *Hammond's* case 168 JP 601, *Dehal's* case 169 JP 581 and *Abdul's* case 175 JP 190: in a prosecution for an offence under section 14 of the POA 1986, what is the interaction between the offence alleged and the rights of the accused under articles 10 and 11 of the Convention? How do those rights become part of the consideration at trial?'

33 The fact that the proportionality of a decision to prosecute in relation to articles 10 and 11 cannot be raised before trial courts, otherwise than as an abuse of process argument, does not mean that articles 10 or 11 cannot play their proper role in the trial.'

Interpretation – statutory defence

James

'34 For some POA 1986 offences, the position has been clear for some time. *Norwood's* case and *Hammond's* case show that these rights and the qualifications to them, and thus the proportionality of the prohibitions or restraints on expression and assembly, form part of the statutory defence that the accused's conduct was reasonable. That is also what should have been decided in *Dehal's* case. It is the point on which the issue in *Abdul's* case turned in substance, and where the focus of the legal analysis should have been.'

Interpretation – statutory defence

5.— Harassment, alarm or distress.

(1) A person is guilty of an offence if he—

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

(b) displays any writing, sign or other visible representation which is threatening or abusive, within the hearing or sight of a person likely to be caused harassment, alarm or distress thereby.

…

(3) It is a defence for the accused to prove—

(c) that his conduct was reasonable.

Interpretation – offence creating provision

James

‘35 There are other Criminal Justice and Public Order Act 1994 offences of which *Bauer’s* case [2013] 1 WLR 3617 is an example where, as the court held, once the specific ingredients of the offence have been proved, the conduct of the accused has gone beyond what could be regarded as reasonable conduct in the exercise of Convention rights. The necessary balance for proportionality is struck by the terms of the offence-creating provision, without more ado.’

Interpretation – offence creating provision

68.— Offence of aggravated trespass.

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

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

(b) of obstructing that activity, or

(c) of disrupting that activity.

Interpretation – elements of the offence

James

‘36 The relationship between the offence of obstruction of the highway under section 137 of the Highway Act 1980 and common law rights to freedom of speech and assembly is dealt with by interpreting the words without lawful authority or excuse in any way wilfully obstructs . . . free passage as not prohibiting those acts which involved wilful obstruction of the highway but which were not otherwise of themselves unlawful and which might or might not be reasonable in the circumstances. The focus therefore was on what was reasonable in all the circumstances: *Hirst v Chief Constable of West Yorkshire* (1986) 85 Cr App R 143.’

Interpretation – elements of the offence

137.— Penalty for wilful obstruction.
(1) If a person, without lawful authority or excuse, in any way wilfully obstructs the free passage along a highway he is guilty of an offence and liable to a fine not exceeding [level 3 on the standard scale].

Interpreting elements of the offence – *James and s.14*

James

'Section 14(1)(5) of the POA 1986 provides:
Imposing conditions on public assemblies
(1) If the senior police officer, having regard to the time or place at which and the circumstances in which any public assembly is being held or is intended to be held, reasonably believes that (a) it may result in serious public disorder, serious damage to property or serious disruption to the life of the community, or (b) the purpose of the persons organising it is the intimidation of others with a view to compelling them not to do an act they have a right to do, or to do an act they have a right not to do, he may give directions imposing on the persons organising or taking part in the assembly such conditions as to the place at which the assembly may be (or continue to be) held, its maximum duration, or the maximum number of persons who may constitute it, as appear to him necessary to prevent such disorder, damage, disruption or intimidation.
(5) A person who takes part in a public assembly and knowingly fails to comply with a condition imposed under this section is guilty of an offence, but it is a defence for him to prove that the failure arose from circumstances beyond his control.'

Interpreting elements of the offence – *James and s.14*

James

‘42 However, it is clear that a condition imposed under section 14(1) of the POA 1986 must be a lawful condition, and in this section that must import that it must reasonably appear to be necessary to prevent serious disorder. This reflects the language of the rest part of section 14(1). I do not think that Parliament intended to draw the distinction between the two aspects of section 14 directions and conditions which the omission of the word reasonably before appear to him necessary in the last part of section 14(1) could suggest. Rather it assumed that the requirement for reasonableness would carry over to the appearance of necessity. So, in my judgment, for a section 14(5) offence, the proportionality of direction and condition for the purposes of articles 10 and 11 of the Convention can be raised through testing of the reasonableness of the beliefs which necessarily underpin each.’

DPP v Ziegler [2020] Q.B. 253 – *new approach?*

Source: https://www.stopthearmsfair.org.uk/arms-fair-blocked-report-on-saturdays-big-day-of-action/

Source: http://peacenews.org/2017/09/20/broad-coalition-escalates-campaign-london-arms-fair-waging-nonviolence/dsei-london-arms-fair-bridge/

Ziegler

‘66 In this judgment we have sought to clarify the relationship between the terms of section 137 of the 1980 Act and the rights to freedom of expression and assembly in the ECHR, in particular applying the strong obligation of interpretation contained in section 3 of the HRA. For that reason, cases decided before the HRA came into full force on 2 October 2000 should be treated with caution in cases involving the exercise of article 10 and 11 rights on the highway. We do not consider anything we have said in the above analysis to be inconsistent with that earlier case law. In future it may well be unnecessary, in cases such as these, to refer to the pre-HRA case law in view of the guidance we have sought to give above but it should certainly be read in the light of that guidance.’

Ziegler

- *Nagy v Weston* [1965] 1 WLR 280

‘there must be proof that the use in question was an unreasonable use. Whether or not the user amounting to an obstruction is or is not an unreasonable use of the highway is a question of fact. It depends upon all the circumstances, including the length of time the obstruction continues, the place where it occurs, the purpose for which it is done, and of course whether it does in fact cause an actual obstruction as opposed to a potential obstruction…’

Ziegler

HRA 1998 Section 6 requires court to act compatibly with Convention rights. Section 4 allows higher courts to make a declaration of incompatibility. However this will be rarely necessary given the power pursuant to s.3 to read legislation compatibly with Convention rights. The HRA 1998 was a significant constitutional shift.

'That then calls for the usual inquiry which needs to be conducted under the HRA. It requires consideration of the following questions:
(1) Is what the defendant did in exercise of one of the rights in articles 10 or 11?
(2) If so, is there an interference by a public authority with that right?
(3) If there is an interference, is it 'prescribed by law'?
(4) If so, is the interference in pursuit of a legitimate aim as set out in Paragraph 2 of article 10 or article, for example the protection of the rights of others?
(5) If so, is the interference 'necessary in a democratic society' to achieve that legitimate aim?

Ziegler

‘That last question will in turn require consideration of the well known set of sub-questions which arise in order to assess whether an interference is proportionate:
(1) Is the aim sufficiently important to justify interference with a fundamental right?
(2) Is there a rational connection between the means chosen and the aim in view?
(3) Are there less restrictive alternative means available to achieve that aim?
(4) Is there a fair balance between the rights of the individual and the general interest of the community, including the rights of others?
In practice, in cases of this kind, we anticipate that it will be the last of those questions which will be of crucial importance: a fair balance must be struck between the different rights and interests at stake. This is inherently a fact-specific inquiry.’

The focus is now not on whether the defendant acted reasonably but whether the interference with article 10 and 11 rights are proportionate, *para*. 92.

Ziegler

"[Interference with Art 10/11 was proportionate because] the carriageway to the Excel Centre was completely blocked and that this was so for significant periods of time, between approximately 80 and 100 minutes." para. 129

[lack of evidence of any complaints about the protest was] "of little if any relevance" para. 115

"… the test to be applied by an appellate court is not whether the first instance court's conclusion was one which no reasonable court could have reached but whether that court's assessment as to proportionality was "wrong." para. 104.

Ziegler - positives

- Article 10 and 11 are not trump cards but are more than a 'significant consideration', para. 93.
- Content of expression (for example political speech) may well require it to be given greater weight but the particular viewpoint being expressed is not something on which it is permissible for a court to express its own view by way of approval or disapproval, para. 98.
- Lawful excuse does include the need to consider articles 10 and 11, para. 107.
- Right to pass and repass is not primary over Art 10/11, para. 108.
- Art 10/11 includes deliberately disruptive protest, para. 50.

Permission to appeal to Supreme Court has been granted:

- Assessing proportionality, will it always be a legitimate interference where there has been a total blockade of road?
- Is test to be applied by the appellate court correct?

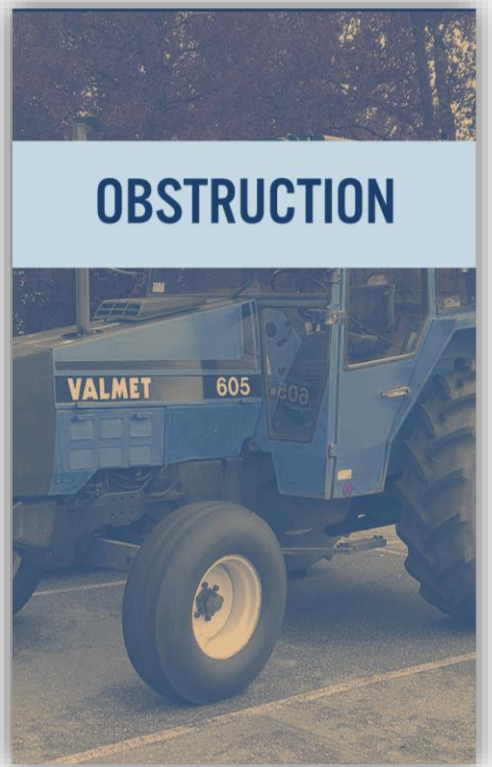
ECHR Jurisprudence

Freedom of Expression

Shina Animashaun, Garden Court Chambers

30 June 2020

OBSTRUCTION



BOYCOTT

COUNTER-PROTESTS

Discussion on disruption

Kuznetsov v Russia (application No 10877/04) the Court stated (at §44):

- "As a general principle, the Court reiterates that any demonstration in a public place inevitably causes a certain level of disruption to ordinary life, including disruption of traffic, and that it is important for the public authorities to show a certain degree of tolerance towards peaceful gatherings if the freedom of assembly guaranteed by Article 11 of the Convention is not to be deprived of all substance".

Ezelin v. France, judgment of 26 April 1991, Series A no. 202, §§ 35, 37,]

- "The Court considers . . . that the freedom to take part in a peaceful assembly . . . is of such importance that it cannot be restricted in any way . . . so long as the person concerned does not himself commit any reprehensible act on such an occasion.'14"

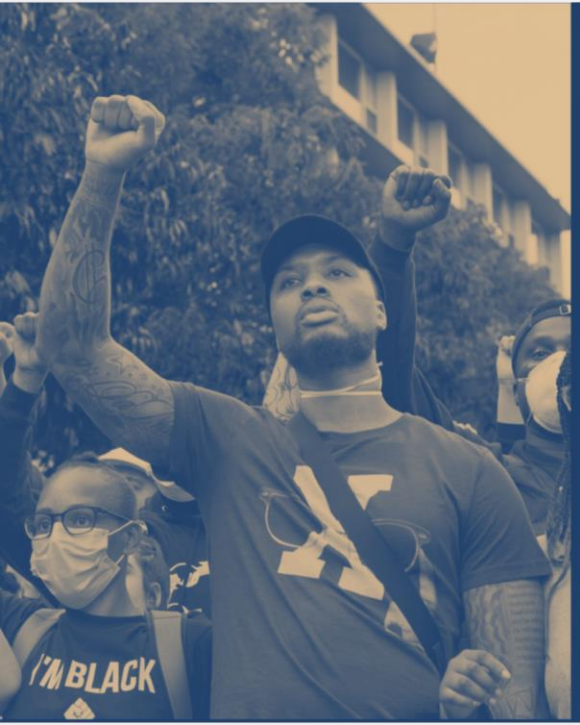
Kudrevicius v. Lithuania (2016) 62 EHRR 34

'the **intentional serious disruption**, by demonstrators, to ordinary life and to the activities lawfully carried out by others, to a more significant extent than that caused by the normal exercise of the right of peaceful assembly in a public place, might be considered a "reprehensible act" within the meaning of the Court's case-law. Such behaviour might therefore justify the imposition of penalties, even of a criminal nature'[at 173]

Baldassi and Others v. France

"The call for a boycott, however, is a special means of exercising freedom of expression in that it combines the expression of a protest opinion with the incitement to differential treatment so that, depending on the circumstances that characterize it, it is likely to constitute an appeal for discrimination against others. However, the call for discrimination is a call to intolerance, which, together with the call to violence and the call to hatred, is one of the limits not to be exceeded under any circumstances in the exercise of freedom of expression (see, for example, Perinçek, supra, 240). However, encouraging people to treat differently does not necessarily amount to incitement to discriminate." [Para 64]

Öllinger v. Austria



"under Article 11 the State is compelled to abstain from interfering with that right, which also extends to a demonstration that may annoy or give offence to persons opposed to the ideas or claims that it is seeking to promote. If every probability of tension and heated exchange between opposing groups during a demonstration was to warrant its prohibition, society would be faced with being deprived of the opportunity of hearing differing views . . . On the other hand, States may be required under Article 11 to take positive measures in order to protect a lawful demonstration against counter-demonstrations."

‘the intentional serious disruption, by demonstrators, to ordinary life and to the activities lawfully carried out by others, to a more significant extent than that caused by the normal exercise of the right of peaceful assembly in a public place, might be considered a “reprehensible act” within the meaning of the Court’s case-law. Such behaviour might therefore justify the imposition of penalties, even of a criminal nature

Thank you

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