



Posting “Offensive” Messages on the Internet Gets Jail Time in U.K.

Some British police have begun warning citizens on social media to “think” before posting “offensive material.” It can get you jail time in the United Kingdom via a law found in Section 127 of the Communications Act of 2003. Last year, more than 1,200 people were found guilty of violating the law, compared to “only” 143 in 2004. Under this speech-chilling law, it is illegal to send a threatening, offensive, or indecent letter, electronic communication, or even an article, with the intent to cause distress or anxiety.



Prosecutions under this law, which have increased dramatically in recent years, can cover even phone calls and e-mails.

Among the more infamous cases was one involving 28-year-old Paul Chambers. It appears that Chambers was irritated that Robin Hood Airport was closed, and sent out a tweet as a joke, to express his disgust. “Crap! Robin Hood Airport is closed. You’ve got a week and a bit to get your s*it together, otherwise I’m blowing the airport sky-high!!”

British humor is notoriously difficult sometimes for Americans to grasp, but Chambers was not arrested for telling a bad joke. Airport staff actually did not take Chambers’ tweet seriously, but police did. They were able to obtain a warrant for Chambers’ arrest, and he was actually convicted. Chambers later admitted his tweet was “ill-advised,” but contended that it is unfortunate to live “in such a hyper-sensitive world that we cannot engage in hyperbole ... without having civil liberties trampled on by, at best, heavy-handed police.”

Fortunately for Chambers, after two years and several thousand pounds in expenditure, his case was overturned on appeal. The publicity surrounding the episode led to some amendments to the legislation, which now states that criminal prosecution would occur only if there is a “credible” threat of “violence, harassment, or stalking.”

Director of Public Prosecutions (DPP) Sir Keir Starmer issued several guidelines on how prosecutors and police should implement the law, demanding that users who post offensive material online would first have to pass a “high threshold.”

According to the guidelines, “Prosecutors may only start a prosecution if a case satisfies the test set out in the Code of Crown Prosecutors. This test has two parts: the first is the requirement of evidential sufficiency and the second involves consideration of the public interest.”

A prosecutor must be satisfied that there is “sufficient” evidence to provide a “realistic prospect of conviction.” The “realistic prospect” is defined as when an “objective, impartial and reasonable jury (or bench of magistrates or judge acting alone), properly directed and acting in accordance with the law, is



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more likely than not to convict. It is an objective test based upon the prosecutor's assessment of evidence."

Additionally, the prosecutor must also "consider whether a prosecution is required in the public interest."

Defining what is in the "public interest" could prove quite interesting, because many police and prosecutors, sensitive to being called racist or bigoted, might just decide that what is in their own "interest" may be the same as the "public interest." In more recent years, the law has been used to arrest Twitter users who have made comments regarded as either racist or anti-Muslim. A resident of Scotland was actually arrested for posting on Facebook his dislike of Syrian refugees.

If such a law were passed and enforced in America, the number of arrests would no doubt be huge. But before Americans become too comfortable in believing they have "freedom of speech," they should take a look at the proliferation of accusations of "hate speech" and the like. What happens in Europe is often a preview of what is coming to America.

And in some cases, the future is now.

One might recall what happened to Mark Bassely Youssef, the writer, producer, and promoter of the anti-Islamic video *Innocence of Muslims*, which was posted to the Internet in 2012. After the Obama administration, including the president and Secretary of State Hillary Clinton, blamed the deaths of American personnel in Libya on this video, Youssef was arrested in Los Angeles.

Born in Egypt, and raised a Coptic Christian, Youssef apparently harbors animosity against the Islamic religion. He is certainly no example of a model citizen, having been charged and convicted of various crimes over the years, including bank fraud and stealing Social Security numbers. After spending several months in prison, he was released, with five years of probation.

One of the terms of his probation was that he could not use the Internet without prior approval of his probation officer. Clearly, the intention here was to keep Youssef from using the Internet to commit identify theft and the like. But the Obama administration found an excuse to arrest him (he posted his video on YouTube), and have him sent back to prison. Many Americans believe, however, that he was charged because he made a video considered blasphemous to Islam. In a sense, he was — though the actual charge was violation of probation.

While this sort of violation of civil liberties is certainly not completely new in America (a man was put in prison by the Wilson administration during World War I for making a movie, *1776*, considered insulting to our British allies), this trend of infringing upon the rights of free speech in what is supposed to be "the Free World" (Britain and America) should be alarming.

Professor Lilian Edwards of the University of Strathclyde in Glasgow offered an explanation as to why there are still so many prosecutions. "This was a relatively obscure provision before the internet," she explained. "You would have been talking about poison telephone calls and there were relatively few of those. It is obviously related to what has happened with social media."

Sixty percent of all "crimes" committed under the British law involve "sending messages intended to offend or menace," that cause "annoyance, inconvenience, or needless anxiety." That would seem to include half the messages one sees on Facebook or Twitter, especially those where someone has shot a picture of what they're having for supper. While that will not get you thrown into the slammer in Merry Olde England — to quote police warnings, you had better "think" before you post anything offensive to



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a recent immigrant from the Middle East.

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