



Neutral Citation Number: [2020] EWHC 3472 (QB)

Case No: QB-2019-004138

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
MEDIA AND COMMUNICATIONS LIST

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 18/12/2020

Before:

MRS JUSTICE COLLINS RICE

Between:

SYED ALAM SHAH

Claimant

- and -

(1) UP AND COMING TV LIMITED
(2) FAMILY CHANNEL LIMITED
(3) TAHIR RIAZ KHAN

Defendants

Mr Jacob Dean (instructed by **Stone White Solicitors**) for the **Claimant**
Mr Gervase de Wilde (instructed by **Burlingtons**) for the **Defendants**

Hearing date: 4th December 2020

Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

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MRS JUSTICE COLLINS RICE

Mrs Justice Collins Rice:

Introduction

1. The Claimant, Mr Shah, brings this libel and data protection action because of a four-minute news item, broadcast by Samaa TV, as part of its regular *Breaking News* programme, on 22 November 2018.
2. Samaa TV is an Urdu language news and current affairs television channel. Its Ofcom licence-holder is Up And Coming TV Limited, the first Defendant. The third Defendant, Mr Khan, is the managing director of Up And Coming, and a director of Family Channel Limited, an associated company (the second Defendant).
3. By consent order of 13th August 2020, Master Eastman directed a preliminary issues trial to determine:
 - a) the natural and ordinary meaning of the words and images complained of;
 - b) assuming for present purposes that the facts alleged in paragraph 10 of the particulars of claim are true, what if any innuendo meaning of the Claimant is borne by the words and images complained of;
 - c) whether either of the meanings found in relation to paragraphs a) and b) above are defamatory of the Claimant at common law.
4. The parties asked, and I agreed, to add a fourth preliminary issue:
 - d) for the purposes of the claim in data protection, what personal data relating to the Claimant are contained in the words and images complained of.

The words and images complained of

5. The whole item is complained of. It was broadcast at the time of a visit to London by the Chief Justice of Pakistan, during which he addressed a fund-raising dinner for an Indus river dam-building project. It opens with a 'Breaking News' headline and a presenter at a newsdesk introduces the story briefly. The rest of the item is an offscreen phone line dialogue between the presenter and a correspondent. What is visible on screen during this dialogue is video footage above scrolling 'news ticker' text. The video material consists principally of hand-held footage of the Claimant, focused on his face and upper body, holding a placard at a demonstration, outside the dinner venue, protesting against the dam project. It is intercut briefly with other footage of the demonstration, the dinner, and the Claimant at an earlier demonstration outside the Houses of Parliament in April 2018 on the occasion of a visit by the Indian Prime Minister. The demonstrators then were calling for the Indian and UK governments to assist with a Pakistan regional issue.
6. The Claimant is singled out as the principal visual image of the video. He is not identified by name.

7. Both the dialogue and the news ticker text are in Urdu. The parties have agreed an English translation, in a tabular form, matching the dialogue to the video footage and text visible at the same time. The table is attached as an appendix to this judgment.

My approach to viewing

8. I adopted the standard preparatory approach to the determination of ‘natural and ordinary meaning’. I viewed the item complained of, without knowing what either party wanted to say about its meaning, to form and note some provisional views of my own about the impression it conveyed.
9. Before doing so, however, I read the judgment of Haddon-Cave J in *Shakil-Ur-Rahman v Ary Network Limited & Anor.* [2015] EWHC 2917 (QB), which not only summarised the authorities on the correct approach to viewing video for a ‘meaning’ trial, but also noted that, as in the present case:

“... because the TV programmes were entirely in Urdu, the Court cannot glean the meaning from simply watching recordings of the broadcasts. The Court is necessarily reliant on studying translations of the transcripts of the broadcasts. To this extent, the Court is having to approach the task twice-removed, i.e. through the filter of the transcript and the translation. The Court does not have the benefit of gaining the immediate impression which the words spoken would have had on the hypothetical viewer in the original broadcast.” (paragraph 37)

10. I saw from his paragraph 38 how Haddon-Cave J dealt with the challenge of viewing foreign-language video. It is a real challenge. On the one hand it is important, as discussed below, not to over-labour what is essentially an impressionistic exercise. On the other hand, there is an irreducible minimum of effort involved in the basic task of accessing content. Unlike Haddon-Cave J, I was considering a few minutes’ footage only, so I adopted a variant of his technique. I watched the item once through, to get an impression of genre and tone, and a clear view of the video images. With that in mind, I next read the transcript and translations. I then watched the video again, along with the English texts, to get an overall impression of meaning. I formed and noted some provisional views.
11. I then read the preliminary issues trial bundle and the skeleton arguments lodged for both parties. I heard oral submissions at trial and reserved judgment. Finally, I replayed the item with the transcript and my notes to hand to confirm or adjust the impression I had formed as to meaning.

A. Natural and Ordinary Meaning

(i) Legal principles and approach

12. There is no dispute as to the applicable legal principles or the correct approach. The modern guidance is relatively detailed, but is meant to simplify and clarify the exercise, not over-elaborate or complicate it. I direct myself to it in that spirit.

13. I start with the encapsulation of the principles of ‘ordinary and natural meaning’ distilled from the authorities and set out in *Koutsogiannis v Random House Group* [2020] 4 WLR 25, at paragraphs 11 and 12. The governing principle is reasonableness. My task is to determine the single natural and ordinary meaning of the material complained of, which is the meaning that a hypothetical reasonable viewer would understand it to bear. The intention of the publisher is irrelevant.
14. I keep in mind, as guided, the perspective of an ordinary, reasonable viewer of a broadcast news channel, watching the whole item once through in the context of a ‘breaking news’ programme, and forming an impression of what it immediately conveys. Where TV programmes are concerned, the focus must be on the overall impression given. The ordinary viewer has limited opportunity or motivation to replay or analyse a brief news item (*Skuse v Granada Television Ltd* [1996] EMLR 278, at 285-6). The focus on overall impression makes it important to avoid the trap of literalism, especially, as *Shakil-Ur-Rahman* emphasises, when dealing with language in translation. Although the translation in this case is accepted for accuracy, its idiom is distinctive and a measure of distance from English idiom has to be allowed for.
15. The test viewer is neither naïve nor suspicious; is able to read between the lines and pick up an implication; and is allowed a certain amount of loose thinking, without being avid for scandal. Context is important, and ‘common knowledge’ can be factored in, but no evidence beyond the publication complained of is admissible.
16. I am firmly guided away from over-elaborate analysis and any strained or forced interpretation. I can and must determine the single meaning I myself consider correct, and I am not bound by the meanings advanced by the parties, so long as I do not alight on something more injurious than the claimant's pleaded meaning.

(ii) The Dispute

17. The parties agree on what might be called a core meaning of the item. What they disagree about is how far the natural and ordinary meaning extends beyond that core.
18. The undisputed core meaning is that the Indian government, motivated by hostility to Pakistan, is revealed in a journalistic exposé as exerting influence on certain public demonstrations in the UK. It is hiring Indian people to turn up at these events, representing themselves as people of other nations and expressing pro-India or anti-Pakistan views. Each of the two demonstrations attended by the Claimant was such an event, and he was such a person. I have no difficulty in recognising that core, or minimum, meaning from my own viewing.
19. It is also not disputed that the tone of the item is excitable, dramatic, and strongly critical of the behaviour of the Indian government. It says so in heightened terms, claiming to have unmasked a shameful ‘conspiracy’.
20. Mr Shah’s concern is that the natural and ordinary meaning of the item complained of is that he:

“... had twice taken part in political demonstrations in the UK in bad faith, on the first occasion dishonestly pretending to be a

Baluch nationalist, and on the second occasion dishonestly pretending to be a Pakistani citizen, when in fact he was neither and was not truly concerned about the issues in relation to which he purported to demonstrate, but rather was merely a hired agitator, part of a rent-a-crowd being paid a daily rate pursuant to a dirty conspiracy to deceive and mislead those who witnessed the demonstration.”

21. The Defendants however say that the natural and ordinary meaning of the item, so far as it relates to Mr Shah, is simply that he:

“... had twice taken part in political demonstrations in the UK in which he had misled those who witnessed the demonstrations as to the basis for his involvement, on one occasion pretending to be a Baloch citizen, on the second occasion pretending to be a Pakistani citizen, when in fact he was Indian, and had become involved as a hired participant and part of a rent-a-crowd.”

22. The difference between them is that the Claimant understands the item to convey additional key facts about his motivation and morals: first, that he was acting ‘pursuant’ to the shameful conspiracy of the Indian government, and therefore to some degree partook of it; second, that the pretence was dishonest; and third, that he did not authentically care about the causes he was protesting about. The Defendants disagree.

(iii) Discussion

23. My task is not to choose between these interpretations or propositions. It is, guided by the authorities, and bearing in mind my original impression of the item, to reflect on the submissions the parties have now made, and in the light of them to test – thoughtfully but not over-analytically – what that ordinary reasonable viewer would have understood the item to mean.
24. My initial impression had been that the journalists involved were predisposed to be highly critical of the Indian government, and were rather pleased with themselves for having apparently caught India out in what they considered to be some sharp political practice in the UK. The programme had obtained, and was triumphantly showing, footage of someone at the anti-dam protest which, when they homed in on it, they had managed to match with footage of the same person at the earlier (pro-India) demonstration outside Parliament. They did not know who he was; the point was that it was the same man. The journalists extrapolated from this match – or claimed it as a prime new example of conduct otherwise known or evidenced – to inform viewers that India had a practice of hiring their nationals to turn up at UK public demonstrations and act a part to further its own purposes, including to embarrass the Pakistan government. India was pulling political stunts and was roundly condemned for doing so.

25. That was my impression of the news or journalistic meaning of this item, and it seems more or less to coincide with the parties' agreed core meaning. But I also noticed the relentless playing of the video footage of the man they had matched – he was the journalists' chief exhibit for the story.
26. In these circumstances, I had two particular pitfalls to avoid. The meaning of the item is indisputably – emphatically – that the Claimant is Indian. His pleaded case is that he is not, he is a citizen of Pakistan. His true, as opposed to alleged, nationality, however, is not at this stage agreed between the parties, and is in any event a matter for evidence extrinsic to the item itself and therefore no part of its natural and ordinary meaning. The issue is agreed to be irrelevant to my task at this stage, and I put it out of my mind.
27. The other pitfall lies in the fact that the item both is, and is not, all about the unnamed man in the video. His face is picked out as a prime piece of evidence of the Indian government's operations in the UK, and given prominence throughout. But when the presenter asks near the beginning of the item, "who is this person?", and later on "what details have come forth regarding this individual?" he gets no answer beyond 'an Indian' who has twice now played the hired demonstrator for the Indian government. I have to determine meaning *in relation to the Claimant*. He himself, seeing the video, will surely have experienced this item intensely personally. But I must avoid the trap that, simply because this item is featuring in his defamation action and agreed now to depict him visually, I might tend to focus more on the anonymous demonstrator, as an individual, than the reasonable viewer at the time would have done. I keep that in mind.
28. This is a news item about the political modus operandi of the Indian government in the UK. In my view, forming a first impression, the ordinary viewer would have clearly registered the relevance of the imagery to the political story, and been mildly interested in hearing an answer to the questions the presenter asked about the individual they were being shown. Being none the wiser, however, the viewer is given no incentive to take a personal interest in the individual. The story was about state activity. The viewer's eye was entertained by the example, but also importuned by the scrolling text - the dominant theme of that, and the dialogue, was India/Pakistan politics. The very anonymity of the 'rent-a-crowd' was rather the point. The face was interesting only because of the match, and what that meant about the government of the protester's country of origin; the item takes no 'human interest' in the individual himself.
29. However, visual impact ought not to be underestimated. Mr Dean, Counsel for Mr Shah, pointed out that at the very beginning of the item, when the video is first shown, the presenter invites viewers to register that 'the dirty face of India is exposed'. What the item does, he suggests, is to make the unnamed man in the video that very face - a personification of Indian political practice, identifying him with the 'conspiracy' and its values, and therefore politically *and personally* associated with all that is roundly condemned in the item.
30. There is no overt comment whatever to that effect; neither the dialogue nor the text expressly criticises the Claimant or the protesters. However, Mr Dean suggests that to ignore the symbolism, to stop short at the core meaning, and fail to grasp a wider associative impression, is to make the mistakes of naïveté and literalism, and miss the

overall meaning conveyed. He says that even if the association between the nation's ethics and the man's is not a *necessary* implication it is nevertheless a plain and natural one. He reminded me of the authorities on implied meanings – *Rufus v Elliott* [2015] EWHC 807 (QB), particularly at paragraph 21, and *Teal Swan v Associated Newspapers Ltd* [2020] EWHC 1312 (QB), particularly at paragraph 55. Here, he says, the viewer would draw, from the whole context, the meaning that the man in the video was acting from motives of personal bad faith just as much as the Indian government was acting in bad faith. He was doing its 'dirty' work. He is 'exposed' personally, as someone who makes himself the instrument of despicable political shenanigans, who takes money to help create fake news, who abuses the democratic freedoms of political protest, who does not believe in the causes he is shown publicly espousing.

31. I have reflected on these authorities. This is not a case where I need to bear in mind that "the meaning of words is often a matter of subtlety, going well beyond what they literally say", or a case where meaning can be expected to be 'drawn out' of language. The language of this item is not allusive, it is distinctly unsubtle. The case is not about language as such, it is about the juxtaposition of images of an unnamed individual and strong verbal condemnation of his national government, and what the latter says about the former. That question has to be answered bearing in mind that the individual is prominent in the images, but (literally) as an illustration, not as an individual about whom anything is known.
32. I had originally thought, in the whole context, that the impression conveyed of the Claimant by the item went no further than that he was Indian, and doing the work of India. Bare facts are conveyed about his actions, but all the critique and adjectives in the item are directed to the nation, not the man. He might be an ardent supporter of India's government - a sincere patriot - or just someone who does not mind acting a part at a demonstration. He might be indifferent to the causes he demonstrates about or he may be passionate about them (the dam project was a symbol of national pride for Pakistan but also raised regional and environmental issues). The viewer simply does not know and is not encouraged to care. The focus – the meaning – is elsewhere.
33. In my view, the individual evidenced and illustrated the story about his nation, not the other way around. I do not think that is naïve or over-literal. Of course, 'Indian' is not a neutral proposition in this context. I consider that further below. On the other hand, seeking to elaborate the contextual meaning of *an Indian* by inserting pejorative language about the personal motivation and morality of *the Claimant* is in my view to miss the point of this item. The viewer would have to be avid indeed for personal scandal to impute anything at all of individual distinctiveness to the man in the video – he is Indian, that is all. India's conduct is reprehensible in hiring him, but why he might have chosen to be hired is not known, relevant or interesting. Nothing else about this person is conveyed by the item.
34. My initial impression was closer to that contended for by the Defendants than that feared by the Claimant. I found the parties' submissions helpful in testing it, and I return to the legal framework and guidance, and a last viewing, for a final test to ensure that I reach conclusions which are soundly based but not over-analysed.
35. I apply the governing principle of reasonableness to determining what the law requires: a single, correct, natural and ordinary meaning for this item. I have

reflected on the Claimant's concern that the item naturally conveys information about his personal motivations and morals but I consider that to be a strained or forced interpretation. The item says or suggests nothing about them. The relentless visual focus on the Claimant is for the limited purpose of matching him as having previously attended a pro-India demonstration, and underlining that despite appearances he is in fact Indian. That is the entire concern of the item with him: his nationality, its discrepancy with appearances and the explanation for that discrepancy in the Indian government's rent-a-crowd tactics. It provides no basis for the imputation of additional meaning about the Claimant; the item is simply not further concerned with him, and nor in my view is the ordinary reasonable viewer of the item.

36. A viewer would have to bring an unusual degree of curiosity, an avidity for *personal* as well as political scandal, to get anything more than that about the Claimant from this item. That is not the viewer I have to keep in mind. Who the protester was – never mind his personal motivations and morals – is beside the point of the evidence his matching images provide of how India is said to do politics in the UK. The once-through viewer of this short breaking news exposé would not in my view get beyond the headline political story.

(iii) Conclusion

37. I have to look at meaning from the perspective of a reasonable viewer who knows nothing about the Claimant beyond what is imparted impressionistically by this item at a single viewing – a fleeting political newsflash in which the face of an unnamed Indian is used to illustrate a political grievance about the way India undercuts Pakistan's interests. From that perspective what little it conveys about him personally is in my view limited, not expanded, by context. He is just a face in a rent-a-crowd.
38. In my view, the natural and ordinary meaning of this item, in so far as it relates to the Claimant, is that he

“... is Indian. He has twice been recorded taking part in political demonstrations in the UK, acting the roles of, respectively, a Baloch nationalist and a citizen of Pakistan. He and others were hired to do that by the Indian government. This is an example of rent-a-crowd tactics by the Indian government constituting thoroughly reprehensible, anti-Pakistan, political conduct on its part.”

B. Innuendo Meaning

39. An innuendo meaning is a meaning which is conveyed to people by reason of their knowing facts which are extraneous to the item complained of. I have directed myself to what is said about the correct approach to determining innuendo meaning in *Monroe v Hopkins* [2017] 4 WLR 68, at paragraph 23(3). I must consider how that knowledge would affect the way that an ordinary reasonable person would understand the item.
40. Here, the knowledge in question is of ‘facts’ which, although not agreed to be such by the parties, they ask me to assume for the purposes of this exercise. The assumed facts are that (a) in his daily life whilst living in England Mr Shah has presented

himself to friends, acquaintances and colleagues as a citizen of Pakistan, and (b) that a substantial but unquantifiable number of viewers of the programme had that knowledge. Again, it is necessary to make clear that not only are these ‘facts’ not agreed, but the underlying facts about the Claimant’s true nationality are not agreed either *and* form no part of the additional meaning which I am to consider for innuendo purposes.

41. The item clearly presents the Claimant as Indian. He fears that, to a viewer who knew that he presented himself in his social and working lives as a citizen of Pakistan, this would be taken to mean that he had:

“...lied about his nationality and background by dishonestly pretending to be a Pakistani citizen when in fact he was Indian”

42. The Defendants say it would mean simply that he had:

“...misleadingly claimed to be a citizen of Pakistan when he was in fact Indian”.

43. Again, the difference between the parties goes to the impression the ordinary reasonable viewer with the special knowledge would take from the item about the Claimant’s state of mind, personal motivations and morals. The core innuendo meaning, agreed by the parties, is in effect that the Claimant, an Indian, not only passed himself off as Pakistani when paid to do so at demonstrations by the Indian government, but did so also in his social and professional worlds. Mr Dean proposed that the innuendo meaning was therefore that the Claimant was being ‘outed’ as dishonest – a sham and a liar.

44. The exercise of considering innuendo meaning does put the Claimant in the spotlight as an individual, and is a distinctively different exercise therefore from finding the natural meaning in this case. His personal conduct and values outside the portrayal in the video are factored in by the hypothetical facts. However, I am still considering the meaning of *the item*.

45. I agree that someone who knew that the Claimant had described himself as a Pakistan citizen, but was then told on TV news, as a fact, that he was Indian, would logically have to conclude that what they had been given to understand by him was not true. To add the language of lies and dishonesty is however to supply an element of commentary, or of imputed motive, for which I see no basis in the item. To learn that someone had claimed one nationality when they were of another would certainly raise questions about what sort of person they were and why they had done so. It is on the face of it a surprising thing to do and would no doubt invite speculation: perhaps he had private or family reasons? was he trying to leave some sort of past behind him? was he a fantasist? an undercover agent? or perhaps a thorough-going charlatan? But the point is that the item does not tell us, and it is the innuendo meaning of *the item* that I am considering.

46. In my view it simply leaves the reasonable viewer in those realms of speculation. I do not agree that the adjectives ‘dishonest’ and ‘lying’ would come to mind without a degree of predisposition to think the worst of the Claimant. That is not the

perspective of an ordinary reasonable person. In my view, the innuendo meaning of the item is simply that the claimant:

“...is Indian, but, as well as acting the role of a citizen of Pakistan when hired to do that by the Indian government, has done so of his own volition more widely in his personal and working lives”.

47. I do not consider it to have any more extended meaning. Again, I do not consider that to be a naïve or over-literal conclusion. The item in my view takes no interest in, and gives no information about, the Claimant’s identity or inner life, beyond the fact of his nationality and his willingness to be hired for crowd-scene purposes by the Indian government. Whatever speculation might arise in the mind of a viewer who knew him to have claimed to be Pakistani in wholly different contexts would be just that.

C. Defamatory Tendency

48. Again, there is no dispute about the correct approach or the test at common law for whether a meaning is defamatory. The authorities are succinctly summarised in *Allen v Times Newspapers* [2019] EWHC 1235 at paragraph 19. The test is whether it substantially affects in an adverse manner the attitude of other people towards a claimant, or has a tendency to do so. That is not about actual impact, it is about the meaning of an item and its inherent tendency to damage someone’s reputation.
49. I have directed myself to paragraphs 50-51 of *Monroe v Hopkins*, with its emphasis on whether any given meaning points to conduct or qualities ‘contrary to common, shared values in our society’. That formulation has been endorsed subsequently as the best modern working rule for applying the common law test in a contemporary, diverse context (*Millet v Corbyn* [2020] EWHC 1848 at paragraph 97).
50. I am also guided that I need to consider society as a whole: a statement is not defamatory if it would tend to have an adverse effect on the attitudes to a claimant of only a certain section of society (*Monroe v Hopkins*; *Rufus v Elliott*).
51. ‘Substantially’ imports a threshold of gravity or seriousness (*Thornton v Telegraph Media Group Ltd* [2010] EWHC 1414).
52. It becomes necessary at this point to address squarely the *relevant* nationality issue in this case. The item ‘reveals’ the Claimant as Indian. It does not think well of Indian political conduct – it says that the rent-a-crowd tactic is merely the latest example of the Indian government’s propensity for ‘dirty conspiracy’. It evidently does not think well of the Indian government altogether. The impression that I formed is that it does not think well of India as a whole, and does not discourage any propensity to ‘loose thinking’ in that direction. The troubled history of India/Pakistan relations ever since partition is eminently well known and in that context national identity may be strongly felt. To be absolutely clear, however, it is not defamatory simply to identify a person as Indian, even in a context which is highly critical of India. Nor did the parties suggest otherwise. The common, shared values of our society do not admit of thinking the worse of someone on the ground of their nationality alone, *no matter*

what encouragement may be given to do so subliminal or otherwise. So the question in this case has to be framed with some care.

53. On the natural and ordinary meaning of this item as I have found it, what is said of the Claimant, beyond that he is Indian, is that he was paid by the Indian government to act the role of a person with other national allegiances in two public political demonstrations. The question is whether *that* – what he does, not who he is – is contrary to the common, shared values of UK society as a whole, tending to make people think seriously the worse of him.
54. The Claimant fears that it is. It was put on his behalf that the freedoms of speech and political protest are rightly held sacred, and that people would think the worse of someone if they knew that they were being paid to act a part in two demonstrations, were not of the nationality they seemed, and might not truly believe in what they were advocating on these occasions.
55. I was taken to some of the decided cases on shared values in a political context. I did not find them of real assistance. The allegation against the claimant in *Monroe v Hopkins* was that she condoned and approved of vandalising, in the course of political demonstration, war memorials commemorating those who had fought for her freedom. The allegation in *Millet v Corbyn* was that the claimant attended a meeting at the House of Commons and behaved in so disruptive a way towards a speaker that the police wished to remove him from the premises. I have no difficulty in recognising the transgression of shared (political) values in those allegations. I am unpersuaded, however, by the proposition that there is a shared value of authenticity in public demonstrations of equivalent force.
56. In my view, that is unrealistically high minded. The hired (or indeed voluntary) political claque is as old as democracy itself. Creating spin, even a bit of fake news, is knockabout politics. People go on public demonstrations, if they go at all, for many reasons and none. People publicly support causes out of passionate conviction, or for social or other reasons which have little to do with the cause itself, or just on a whim. They may advocate one cause, or try to undermine and obfuscate another, in all sorts of imaginative ways. They may dress up. They may lend themselves to their ‘enemies’ enemies’. It is a free country, as we like to say of public political activity so long as the law is respected. It might be thought eccentric to turn out to demonstrations in an assumed role (at any rate, other than for satirical purposes). It might be thought under-committed to the cause proclaimed, or over-committed to some ulterior cause. Some may disapprove – especially those at the receiving end of a protest. But I am unpersuaded that any of this engages a shared sense of transgressed common values in any serious way. It might or might not be thought admirable, but that is not the test.
57. In particular, I am unconvinced about a connection between such conduct and either a lack of respect for democratic values or personal dishonesty, particular or general. The Claimant in this case is not shown as a corrupt or hypocritical individual; he is shown to be willing to take the shilling of his nation of origin to act the part of another national for public political effect. India’s motives are political; his are unknown. But this is not a case about hateful ideologies, public disrespect or interference with the rights, liberties and values of others. It is about political rough-and-tumble of a sort of which some may disapprove but in which no-one in the end gets much hurt.

Perhaps not as many Pakistani people in London objected to the Indus dam project as might have appeared; but there it is.

58. The worst that is said of the Claimant in this item is that he was prepared to act in the interests of a government (his national government) of which the journalists invite the viewers to disapprove, both in its own right and because it hires people in London to make a public noise on its behalf. Nationality alone is not enough for reasonable people to associate a person with criticism of their government. A hired cheerleader is, by definition, just as likely to care nothing for the values of their paymaster as they are to embrace them. Thinking the worse of someone for their nationality, or their politics (or lack of them), or their nation's politics, is not the test of defamatory tendency unless the limits of the shared values of a democratic society are seriously transgressed. I do not find such transgression in the natural and ordinary meaning of the item complained of here.
59. So far as the innuendo meaning is concerned, I have already noted that what it creates is nothing so much as a sense of mystery or bafflement. Why would anyone claim to their friends and colleagues that they belonged to a nationality other than their true nationality? Whether people would think less of someone who does that seems to me to depend entirely on the answer to that question. We are given no answer. The Claimant fears that the claimed nationality would be understood to arise from the presented status as a 'hired agitator' and not from any other source. But earning casual money to act a part at a couple of demonstrations, and a sustained course of conduct in claiming untrue national origins in both workplace and social contexts, are on the face of it two markedly different propositions. The lack of explanation for their possible connection only adds to the puzzle. And the explanation is more likely to be looked for by reasonable people in the latter than in the former.
60. The Claimant fears that exposing a discrepancy between his alleged and 'presented' national identities – whatever its extent – is the same thing as calling him a liar, and dishonest. I disagree. Nationality in a purely social context, and in workplace contexts where it is not directly relevant to the job, is an aspect of personal identity. People create and maintain personal identities for all sorts of reasons. This case is not argued as a privacy claim. A failure to give a full and accurate account of oneself to others may have many, perhaps complex, explanations. Everything depends on those and on intention. I do not see that there is a defamatory tendency, a transgression of shared values, in their absence.

D. Personal Data

61. So far as the data protection element of this claim is concerned, the parties agreed that I should be guided by the indications in *NTI v Google LLC* [2018] EWHC 799 (QB) at paragraphs 80-87. Where the issue is accuracy, that should in due course be assessed in the light of the natural and ordinary meaning of the material complained of, drawing on the principles developed in the defamation context. The aim is to describe faithfully the information held. The two legal regimes are distinct, but unjustifiable incoherence should be avoided. A less impressionistic and more full and literal, or granular, description may be justified where the regulatory regime of data protection is concerned, since it has to deal with more issues than public reputation or an impression created at a single viewing.

62. The dispute between the parties on this issue follows the established contours of this dispute more generally. The Claimant says that the personal data processed by the defendants in this item is as follows:

“1. The Claimant had attended a political demonstration in London on the occasion of the visit of Indian Prime Minister Narendra Modi in bad faith, dishonestly pretending to be a nationalist from the Balochistan region when in fact he was an Indian citizen and was not truly concerned about the issues in relation to which he was purportedly demonstrating, but was rather a hired agitator, part of a rent-a-crowd being paid a daily rate pursuant to a dirty conspiracy to deceive and mislead those who witnessed the demonstration; and

2. In November 2018 Claimant attended a political demonstration outside a restaurant in London in bad faith, dishonestly pretending to be a Pakistani citizen when in fact he was an Indian citizen and was not truly concerned about the issues in relation to which he was purportedly demonstrating, but was rather a hired agitator, part of a rent-a-crowd being paid a daily rate pursuant to a dirty conspiracy to deceive and mislead those who witnessed the demonstration.”

63. The Defendants say it is this:

“1. The Claimant had taken part in a political demonstration in London on the occasion of the visit of Indian Prime Minister Narendra Modi in which he had misled those who witnessed the demonstration as to the basis for his involvement, pretending to be a Baloch citizen when in fact he was Indian, and had become involved as a hired participant and part of a rent-a-crowd; and”

2. In November 2018 the Claimant had taken part in a political demonstration outside a restaurant in London in which he had misled those who witnessed the demonstration as to the basis for his involvement, pretending to be a Pakistani citizen when in fact he was Indian, and had become involved as a hired participant and part of a rent-a-crowd.”

64. The essence of the difference is the imputation of personal bad faith and moral turpitude to the Claimant. Consistently with my findings on meaning, I think a more accurate description of the personal data content of this item would be as follows.

1. The person shown in the video is identifiable as Mr Shah.
2. He is an Indian citizen, or of Indian heritage.
3. In November 2018 he took part in a political demonstration outside a restaurant in Wembley on the

occasion of a dinner at which the Chief Justice of Pakistan was speaking. The purpose of the dinner was fundraising for an Indus dam project. The purpose of the demonstration was to object to that project. Mr Shah identified himself publicly with that purpose.

4. On that occasion he acted the part of a Pakistani citizen.
5. He, along with others, was hired and paid to do that by the Indian government as part of its rent-a-crowd tactics.
6. In April 2018 he took part in a political demonstration outside the Houses of Parliament on the occasion of the visit of the Indian Prime Minister. The purpose of the demonstration was to enlist UK and Indian government support for a Pakistan regional issue. Mr Shah identified himself publicly with that purpose.
7. On that occasion, he acted the part of a Baloch nationalist.
8. He, along with others, was again hired and paid to do that by the Indian government as part of its rent-a-crowd tactics.

Conclusions

65. The natural and ordinary meaning of the words and images complained of is set out in paragraph [38] above. The innuendo meaning, on the facts assumed, is set out in paragraph [46]. I do not consider either meaning to meet the test of defamatory tendency at common law. The factual personal data held about the Claimant are as set out in paragraph [64].
66. By way of postscript, I add some brief general observations. I have said that nationality, pure and simple, is reputationally neutral, and also that there is no inherent imputation of personal dishonesty in saying that someone says they are of one nationality when they are of another, or that they present themselves or act as such. More is needed in such circumstances by way of context, explanation and intention to found a case based on the legal protection of reputation. This is so even (especially) where some people, or a section of society, or an individual claimant or defendant, may be predisposed to think less well of some nations than others.
67. Nationality may at the same time touch deeply on issues of personal identity, and misattribution of nationality is no doubt capable in a range of contexts of being experienced as a personal affront. There are protections and remedies in privacy and data protection law for individuals whose personal identity may have been violated or misused in such a way. Respect for personal identity is not, however, the same legal concept as public reputation (at any rate where hypocrisy is not alleged). Legal principles established for the protection of public reputation may not readily fit a set

of facts more easily accounted for by principles established for the protection of respect for personal identity.

Appendix

Time	Spoken words	Images and text
00:00 – 00:20	Presenter: We will give you important news. One more nefarious conspiracy by India has been exposed. India anguished over dam building. London Bureau Chief will tell more. Kausar Kazmi tell us, India's dirty face has been exposed, who is this person?	<i>Footage of the Claimant at the April demonstration, holding a placard, with his face clearly visible, is then shown, along with following text:</i> "A large number of Pakistani's present for dam funding donations." "Earth shaking news!" "India's one more dirty conspiracy exposed!!" "Dam funds raising." "The person protesting against the dams during the Chief Justice's London visit turned out to be Indian." "The Indian national has been staging anti-Pakistan protests in the past." "London: the matter of Damar Baksha Mohamd fund raising."
00:21 - 01:21	Kausar Kazmi (Samaa Bureau Chief London): Yes definitely, the Chief Justice of Pakistan, Saqib Nisar was to attend a function in one of London's local restaurants. This function was arranged so he could talk about dam fundraising. Before	<i>The same footage of the Claimant's face continues to be shown, leading into images of the function at the restaurant, and then an image of the</i>

	<p>the function, before Chief Justice's arrival, some individuals who weren't high in number were raising slogans against dam fundraising, outside that very restaurant. Because we knew them from the time when Narendra Modi last visited the UK and these people were chanting slogans in favour of him (Modi), in front of the British Parliament. Today these very same people, these Indians whom we knew who they were, are disguised as Pakistanis, as Sindhi and Baloch and participating in that anti-dam demonstration we saw today. We asked them "Are you originally from Pakistan or India?" to which they didn't respond to us. But we had the footage of the event we had covered where these people were welcoming the Indian Prime Minister and holding a demonstration in his favour, in front of the British parliament yes Shahzeb?</p>	<p><i>Claimant and others and the November demonstration, again with the Claimant's face clearly visible, along with the following text:</i></p> <p>"The protestor had asked for India's help as well."</p> <p>"India's one more dirty conspiracy exposed!!"</p> <p>"Chief Justice Saqib Nisar comes to Royal Nawab Hotel."</p> <p>"The Indian national has been staging anti-Pakistan protest in the past."</p> <p>"The person protesting against the dams during Chief Justice's London visit turned out to be Indian."</p> <p>"London: the participants welcomed the Chief Justice with great enthusiasm."</p> <p>"London: national anthem played at the dam fundraising event."</p> <p>"A large number of Pakistanis present for dam fundraising donations."</p> <p>"India's dirty conspiracy exposed."</p>
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<p>01:22 – 01:56</p>	<p>Shahzeb (Newsreader): Mr Kausar Kazmi, do tell us a bit more, I mean this man has protested Pakistan in the past, what details have come forth regarding this individual? Kausar Kazmi: Whenever there has been a programme which tries to reflect Pakistan's prosperity, take CPEC for example, whenever functions like this have been held in London we have seen activities from these Indian lobbies, these Indian agents, these people, we actually call them 'rent-a-crowd' or 'daily-wage earners' who are involved in anti-Pakistan activities. The Indian lobby fully backs these people.</p>	<p><i>Similar images of the Claimant, with his face clearly visible at the April and November demonstrations are shown, along with the following text:</i></p> <p>"The person protesting against the dams during Chief Justice's London visit turned out to be Indian."</p> <p>"India's dirty conspiracy exposed."</p> <p>"The Indian national has been staging anti-Pakistan protest in the past."</p> <p>"The protestor had asked for India's help as well."</p> <p>"India's one more dirty conspiracy exposed!!"</p> <p>"Those protesting against the dams during the Chief Justice's London visit turned out to be Indians."</p>
<p>01:57 – 02:33</p>	<p>Shazeb: The Indian lobby backs them. Kausar Kazmi tell us, the demonstrator had appealed to the Indian government for help before this, do you have any information regarding this? Kausar: Absolutely, many incidents like this have taken place in front of the British parliament they raised Baluchistan flags and basically</p>	<p><i>The same images identifying the Claimant continue to be shown on rotation, with the following text:</i></p> <p>"The person protesting against the dams during Chief Justice's London visit turned</p>

	<p>they are originally Indians. They disguised themselves as Baluch and asked Narendra Modi and the British Prime Minister Theresa May for help – literally just in front of 10 Downing Street. Today these people disguised themselves as Pakistanis and stood outside the restaurant, protested against dam-building, just before the arrival of the Chief Justice.</p>	<p>out to be Indian.”</p> <p>“Those protesting against the dams during the Chief Justice’s London visit turned out to be Indians.”</p> <p>“India’s one more dirty conspiracy exposed!!”</p> <p>“The Indian national has been staging anti-Pakistan protest in the past.”</p> <p>“The protestor had asked for India’s help as well.”</p> <p>“India’s dirty conspiracy exposed.”</p> <p>“The same person had protested pretending to be a Baloch nationality during Modi’s visit to London.”</p>
<p>02:34 – 03:21</p>	<p>Shahzeb: Kausar Kazmi I would also like to know from you that the function which has been arranged today, what was that all about and has it taken place yet?</p> <p>Kausar: Yes, there were different lawyer organisations and local restaurants that got together with their sponsors and arranged this function in Wembley, London. The Chief Justice has now arrived here with his family and people are here in very large numbers. Expensive tables were arranged for this particular function so that more money could be collected and</p>	<p><i>The same images identifying the Clamant continue to be shown on rotation, with the following text:</i></p> <p>“India’s one more dirty conspiracy exposed!!”</p> <p>“The protestor has been staging anti-Pakistan protests in the past.”</p> <p>“The person protesting against the dams during</p>

	<p>submitted for dam fundraising, the appeal for which was made by the Chief Justice of Pakistan and the Prime Minister Imran Khan. It is being said by the administration over here that all the tables are sold out, the people's turnout is quite a bit – there are people outside the restaurant. This seems like quite a successful function, Shahzeb.</p>	<p>Chief Justice's London visit turned out to be Indian.”</p> <p>“India's dirty conspiracy exposed.”</p>
03:22 – 03:54	<p>Shazeb: A very successful function this is then, when will it being Kausar Kazmi?</p> <p>Kasuar: It has begun sir, the Chief Justice of Pakistan has arrived and the rest of the people here are giving speeches. When their turn is over then, I think in the next ten minutes, the Chief Justice of Pakistan will address us with his speech.</p> <p>Shazeb: All right Kausar Kazmi, thank you for updating us on the details. Let us tell you that yet another one of India's cursed conspiracies have been unveiled, the person who was protesting dams on Chief Justice's arrival to London turned out to be an Indian. Thank you very much Kausar Kazmi</p>	<p><i>The same images identifying the Clamant continue to be shown on rotation, with the following text:</i></p> <p>“The Indian national has been staging anti-Pakistan protest in the past.”</p> <p>“India's dirty conspiracy exposed.”</p> <p>“The same person had protested pretending to be a Baloch nationality during Modi's visit to London.”</p> <p>“The protestor had asked for India's help as well.”</p> <p>“India's one more dirty conspiracy exposed!!”</p> <p>“The person protesting against the dams during Chief Justice's London visit turned out to be Indian.”</p>