

## NOTICE OF DECISION UNDER SECTION 38(1)

TO: Chief Censor

<b>Title of publication:</b>	Halle Attack Documentation
<b>Other known title:</b>	DoKumentation, READ THIS FIRST, Manifest
<b>OFLC ref:</b>	1900540.000
<b>Medium:</b>	Text File
<b>Maker:</b>	Not stated
<b>Country of origin:</b>	Not stated
<b>Language:</b>	English
<b>Classification:</b>	Objectionable.
<b>Excisions:</b>	None
<b>Descriptive Note:</b>	None
<b>Display conditions:</b>	None

### REASONS FOR THE DECISION

The Office of Film and Literature Classification (Classification Office) examined the publication and recorded the contents in an examination transcript. A written consideration of the legal criteria was undertaken. This document provides the reasons for the decision.

#### Submission procedure:

The Chief Censor called in this publication for classification on Thursday 10 October 2019 under s13(3) of the Films, Videos, and Publications Classification Act 1993 (FVPC Act).

Under s23(1) of the FVPC Act the Classification Office is required to examine and classify the publication.

Under s23(2) of the FVPC Act the Classification Office must determine whether the publication is to be classified as unrestricted, objectionable, or objectionable except in particular circumstances.

Section 23(3) permits the Classification Office to restrict a publication that would otherwise be classified as objectionable so that it can be made available to particular persons or classes of persons for educational, professional, scientific, literary, artistic, or technical purposes.

### **Synopsis of written submission(s):**

No submissions were required or sought in the classification of the publication. Submissions are not required in cases where the Chief Censor has exercised his authority to call in a publication for examination under s13(3) of the FVPC Act. The potential for the publication to be widely and rapidly distributed means there is clear public interest in a classification decision being made as soon as possible.

### **Description of the publication:**

*Halle Attack Documentation* comprises three PDF documents that were uploaded to the internet sometime before the terrorist attack<sup>1</sup> that took place in Halle, Germany, on 9 October 2019. An anonymous user reportedly posted a link to the documents and the live-stream on the anime messaging forum Meguca immediately before the attack took place.<sup>2</sup> The available evidence strongly indicates the writer of *Halle Attack Documentation* is the gunman who carried out the attack.

It is unclear why the content of the documents have been separated into three PDFs but the Classification Office has made the decision to consider them a single publication. The text in all three documents is in English but one has a Japanese file name.

#### *READ THIS FIRST*

This document is a single A4 page and begins with the statement “Thank you for all the good time anon”. Below this is a hyperlink to the Twitch.tv web address that reportedly live-streamed the attack. This is followed by two short paragraphs where the writer initially thanks an individual who made a donation to his cause but then turns on the person – “Fuck you, you filthy jew.” The writer suggests the donor may have had ulterior motives and contemplates the possibility he is a “CIAnigger”.

#### **マニフェスト<sup>3</sup>**

This document is four mostly blank A4 pages and is most notable for the appeal “KILL ALL JEWS!” in bold lettering on the first page followed by “Mudslimes, christkikes, commies, niggers and traitors too” on the second page. The fourth page contains a picture of a female anime character referred to as Cat-Girl who is offered as a prize to “Techno-Barbarians<sup>4</sup>” but only if they kill at least one Jew.

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<sup>1</sup> <https://edition.cnn.com/europe/live-news/germany-shooting-halle/index.html>

<sup>2</sup> <https://www.dailydot.com/irl/halle-shooter-manifesto-anime-message-board/>

<sup>3</sup> This Japanese word translates to manifest in English.

<sup>4</sup> A warrior in the miniature game Warhammer 40000.

## *DoKumentation*

This document is eleven A4 pages in length and contains images and text. It begins with the statement “A short pre-action report” and is divided into five main sections.

The first section is titled “The Weapons” and contains large colour images of firearms and ammunition. All of the firearms are improvised and homemade except for a Smith-Carbine rifle. The images are accompanied by brief descriptions and the writer’s musings on the performance of the weapons. The reader is also teased with a “secret weapon” that they will need to view the live-stream to find out about. The section ends with a large image of the writer’s homemade explosives. He discusses chemical mixtures and includes a reference.

Brief descriptions of four key pieces of “Equipment” are followed by section titled “The Objectives” that lists the three key goals of the writer’s plan and the bonus objective – “Don’t die”.

“The Plan” contains several paragraphs written in a conversational style where the writer discusses the target – a local synagogue. He discusses his overall plan in sketchy detail and explains his rationale for choosing the specific date of Yom Kippur. His tone is casual which he acknowledges with the statement “Rereading the paragraph, that really sounds bad”. The last paragraph which begins with the acronym “Tldr” (Too long, didn’t read) summaries his plan:

Choose the best way for entry spontaneous. Go in and kill everything. Improvise, if when something goes wrong. Drive away. Kill some more. Repeat until all jews are dead or you prove the existence of Waifus in Valhalla, whatever comes first. Jej.

The document ends with “Achievements” which resembles the ‘Trophy’ accomplishments of a first-person shooter game. For example “*Gender Equality: Kill a jewess*” and “*Midnight Genocide: Kill 3 niggers between 11pm and 1 am*”.

### **New Zealand Bill of Rights Act 1990:**

Section 14 of the New Zealand Bill of Rights Act 1990 (NZBORA) states that everyone has "the right to freedom of expression, including the freedom to seek, receive, and impart information and opinions of any kind in any form". Under s5 of the NZBORA, this freedom is subject "only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society". Section 6 of the NZBORA states that "Wherever an enactment can be given a meaning that is consistent with the rights and freedoms contained in this Bill of Rights, that meaning shall be preferred to any other meaning".

### **The meaning of "objectionable":**

Section 3(1) of the FVPC Act sets out the meaning of the word "objectionable". The section states that a publication is objectionable if it:

*describes, depicts, expresses, or otherwise deals with matters such as sex, horror, crime, cruelty, or violence in such a manner that the availability of the publication is likely to be injurious to the public good.*

The Court of Appeal's interpretation of the words "matters such as sex, horror, crime, cruelty or violence" in s3(1), as set out in *Living Word Distributors v Human Rights Action Group (Wellington)*, must also be taken into account in the classification of any publication:

[27] The words "matters such as" in context are both expanding and limiting. They expand the qualifying content beyond a bare focus on one of the five categories specified. But the expression "such as" is narrower than "includes", which was the term used in defining "indecent" in the repealed Indecent Publications Act 1963. Given the similarity of the content description in the successive statutes, "such as" was a deliberate departure from the unrestricting "includes".

[28] The words used in s3 limit the qualifying publications to those that can fairly be described as dealing with matters of the kinds listed. In that regard, too, the collocation of words "sex, horror, crime, cruelty or violence", as the matters dealt with, tends to point to activity rather than to the expression of opinion or attitude.

[29] That, in our view, is the scope of the subject matter gateway.<sup>5</sup>

The content of the publication must bring it within the "subject matter gateway". In classifying the publication therefore, the main question is whether or not it deals with any s3(1) matters in such a manner that the availability of the publication is likely to be injurious to the public good.

#### *Matters such as violence and crime*

*Halle Attack Documentation* deals with matters of crime and violence. It presents the writer's inventory of munitions and a plan for undertaking a violent terrorist attack on a synagogue for the purpose of murdering unsuspecting civilians. Statements that express specific criminal intentions of the writer also serve as exhortations to his intended audience.

#### **Certain publications are "deemed to be objectionable":**

Under s3(2) of the FVPC Act, a publication is deemed to be objectionable if it promotes or supports, or tends to promote or support, certain activities listed in that subsection.

In *Moonen v Film and Literature Board of Review (Moonen I)*, the Court of Appeal stated that the words "promotes or supports" must be given "such available meaning as impinges as little as possible on the freedom of expression"<sup>6</sup> in order to be consistent with the Bill of Rights. The Court then set out how a publication may come within a definition of "promotes or supports" in s3(2) that impinges as little as possible on the freedom of expression:

Description and depiction ... of a prohibited activity do not of themselves necessarily amount to promotion of or support for that activity. There must be something about the way the prohibited activity is described, depicted or otherwise dealt with, which can fairly be said to have the effect of promoting or supporting that activity.<sup>7</sup>

Mere depiction or description of any of the s3(2) matters will generally not be enough to deem a publication to be objectionable under s3(2). When used in conjunction with an activity, the Classification Office defines "promote" to mean the advancement or encouragement of that activity. The Classification Office interprets the word "support" to mean the upholding and strengthening of something so that it is more likely to endure. A publication must therefore advance, encourage, uphold or strengthen, rather than merely depict, describe or deal with, one of the matters listed in s3(2) for it to be deemed to be objectionable under that provision.

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<sup>5</sup> *Living Word Distributors v Human Rights Action Group (Wellington)* [2000] 3 NZLR 570 at paras 27-29.

<sup>6</sup> *Moonen v Film and Literature Board of Review* [2000] 2 NZLR 9 at para 27.

<sup>7</sup> Above n2 at para 29.

The Classification Office has considered all of the matters in s3(2). The relevant matter is:

*s3(2)(f) Acts of torture or the infliction of extreme violence or extreme cruelty.*

*Halle Attack Documentation* is inexorably linked to the terrorist attack in Halle on 9 October 2019 and the live-stream of the event (*Halle Attack Livestream* – OFLC Ref: 1900538.000). The publication contains a hyperlink to the live-stream and details of the attacker’s plan including pictures of his munitions. The writer notes the following objective:

Increase the moral of other suppressed Whites by spreading combat footage [the live-stream].

The Classification Office has classified *Halle Attack Livestream* as objectionable due to its depiction and promotion of extreme violence and cruelty.

While the publication clearly advocates violence and murder, it does not detail the nature and degree of violence to be employed. The violent acts and injury that are likely to occur (or did in fact take place in the live-stream) are not the focus of the text. There are no detailed descriptions or depictions of torture, extreme violence or cruelty. These aspects are dealt with in more general terms – for example “Go in and kill everything”. The content is more appropriately dealt with under s3(3)(d).

The Classification Office has considered whether the link between *Halle Attack Documentation* and *Halle Attack Livestream* is sufficient to consider the publication objectionable under s3(2)(f). Full consideration of contextual factors such as the association between a publication and real-life events or another publication is not possible with the application of s3(2) alone and requires the application of both ss3(3) and 3(4).

Accordingly, the Classification Office has not deemed the publication objectionable under s3(2) of the FVPC Act.

**Matters to be given particular weight:**

Section 3(3) of the FVPC Act deals with the matters which the Classification Office must give particular weight to in determining whether or not any publication (other than a publication to which subsection (2) of this section applies) is objectionable or should in accordance with section 23(2) be given a classification other than objectionable.

The Classification Office has considered all the matters in s3(3). The matters most relevant to the publication are:

*s3(3)(d) The extent and degree to which, and the manner in which, the publication promotes or encourages criminal acts or acts of terrorism.*

The writer presents an unambiguous call for violent action.

KILL ALL JEWS! ... Mudslimes, Christkikes, commies, niggers and traitors too.

He discusses a plan to attack a synagogue on the holiest day of the Jewish calendar when many adherents of the Jewish faith are likely to spend the day in prayer at the synagogue. News reports

indicate there were at least 50 people in the synagogue at the time of the Halle attack.<sup>8</sup> The timing has parallels to the Christchurch mosque attacks which took place during Friday midday prayers – the most significant time of the week for Muslims when many would be at mosques. The writer admits he considered attacking a mosque or “antifa” culture centre but rejected these targets for the following reason:

The only way to win is to cut off the head of ZOG<sup>10</sup>, which are the kikes [sic].

The use of “ZOG” is likely to be a particularly effective ‘dog whistle’ for the writer’s intended audience of white extremists. He adds the following statement which frames him as a heroic saviour:

If I fail and die but kill a single Jew, it was worth it. After all, if every White Man kills just one, we win.

Whilst it is obvious that the plan lacks adequate research of the synagogue (which the writer acknowledges) it is clear from the volume of his munitions that he expects to carry out mass murder. The construction of homemade weapons and explosives demonstrates a high level of determination and dedication. The writer states one of his purposeful objectives is to:

“Prove the viability of improvised weapons”.

His efforts also demonstrate that a shortage of conventional weapons need not be a barrier in attempting a large scale extremist atrocity. He states:

After all some of you fellows don't have the luxury of industrial-made equipment.

The writer discusses his improvised munitions in some detail and states that building instructions will be forthcoming – the Classification Office has not located, or been alerted to, these documents at the time of this decision. He references a bomb-making text that is readily available online and the publication is peppered with educative details. For example, he lists the effective range of his main weapons and makes the following statements:

“The gun with the potentially highest amount of firepower.”

“Doubles as a war club.”

“Protection against getting interrupted while reloading or clearing a malfunction. Can be used to finish off injured foes [sic].”

The “Achievements” section of the document promotes the gamification of mass murder and terrorism that is a recognised phenomenon within the online white extremist community.<sup>11</sup> The number of casualties is often referred to as a ‘score’ or ‘high score’ with commentators venerating or disparaging attackers based on their number. Potential victims are dehumanised by the writer as fatal terrorist acts are represented as trophy accomplishments.

The writer further dehumanises his intended victims by referring to them using racial slurs such as “kike”, “mudslimes” and “niggers”.

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<sup>8</sup> <https://www.bbc.com/news/world-europe-50011898>

<sup>9</sup> Groups that demonstrate a militant opposition to fascism and other forms of extreme right-wing ideology.

<sup>10</sup> ZOG is an acronym for Zionist Occupation Government. It is an anti-Semitic conspiracy theory that claims Jews secretly control the governments of the Western world and are an immediate threat to the existence of white (Christian) people.

<sup>11</sup> <https://www.pbs.org/newshour/show/the-gamification-of-domestic-terrorism-online>

Although the publication lacks the sophistication seen in other similar documents such as *The Great Replacement* (OFLC Ref: 1900149.000), it still contains the essential elements that promote and support terrorist violence to a high extent and degree. These elements, whilst abhorrent to most readers, are presented in a manner that is likely to appeal to the writer's intended audience.

They include:

- Unambiguous calls for acts of terrorist violence;
- Information about possible terrorist targets;
- Information on the means and method for terrorist attacks;
- Referencing common racial conspiracy theories that threaten the existence of his intended audience;
- Dehumanising potential victims; and
- Using specific cues and references to create a sense of community and connection with those who are already susceptible to the writer's violent, extremist views.

*s3(3)(e) The extent and degree to which, and the manner in which, the publication represents (whether directly or by implication) that members of any particular class of the public are inherently inferior to other members of the public by reason of any characteristic of members of that class, being a characteristic that is a prohibited ground of discrimination specified in section 21(1) of the Human Rights Act 1993.*<sup>12</sup>

Whilst the publication is clearly racist and openly advocates fatal violence against specific racial groups, the writer does not attempt to persuade the reader to share his views. Instead, the racist basis of the publication and the language are meant to appeal to his intended audience who are already likely to share his views.

Nonetheless, the clear implication that may be reasonably drawn from the publication given the relentless derogatory and dehumanising language, and the message that non-whites and Jewish people are deserving of being humiliated and killed, raises a representation of inferiority of those groups. The writer is contending that these groups are not deserving of life.

#### **Additional matters to be considered:**

*s3(4)(a) The dominant effect of the publication as a whole.*

*Halle Attack Documentation* is a crudely written amateur publication that promotes a real-life act of terrorist violence. The publication is designed to glorify the perpetrator and act as an instructional example for people who share his racist and extremist views.

The content and context of the document sets it apart from similar material available online. It is intrinsically linked to a fatal terrorist attack in Halle, Germany and the live-stream of the event which glorified and promoted terrorism and acts of extreme violence and cruelty. Regardless of this association, the publication is an unambiguous call to violence that is targeted at an impressionable audience.

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<sup>12</sup> The grounds of discrimination prohibited by s21(1) of the Human Rights Act 1993 are sex, marital status, religious belief, ethical belief, colour, race, ethnic or national origins, disability, age, political opinion, employment status, family status and sexual orientation.

The Classification Office has taken into serious consideration the important distinction between offensive and discriminatory language (sometimes referred to as ‘hate speech’) as contained throughout *Halle Attack Documentation* and language or rhetoric that is likely to promote acts of violence and terrorism (considered ‘dangerous speech’).

Susan Benesch has developed helpful guidelines<sup>13</sup> for identifying ‘dangerous speech’ that include:

- A speaker with the status and genuine influence over his or her intended audience;
- An audience that’s particularly susceptible to messages that promote violence;
- A social or historical context in which certain groups are primed for violence;
- A medium or way of disseminating a message that has broad reach and influence amongst the intended audience (for example, wide distribution to an established online community); and
- A message that characterises an identified group of people as dehumanised and threatening, necessitating the use of violence as a form of ‘self-defence’

Whilst some posters on online messaging forums and applications popular with white extremists have criticised the perpetrator of the Halle attack for his perceived ‘failure’, others have celebrated his intentions and actions proclaiming him a ‘Saint’.<sup>14</sup> On balance the content and context of this publication fits all of the criteria listed above and can fairly be characterised as posing a genuine and identifiable danger to society at the present time.

*s3(4)(b) The impact of the medium in which the publication is presented.*

The documents were uploaded to the internet in PDF format and are intended to be shared online and disseminated as widely as possible.

*s3(4)(c) The character of the publication, including any merit, value or importance it has in relation to literary, artistic, social, cultural, educational, scientific or other matters.*

The publication forms part of the context of the Halle attack and provides some information in relation to it. Accordingly, it could be of value to academic researchers and analysts as well as reporters seeking to inform the public.

However, the publication has not been constructed in a way that provides a useful reference for ordinary New Zealanders seeking to understand the circumstances of this attack. It is a piece of extremist propaganda that is intended to appeal to a specific audience of susceptible sympathisers.

Further, as noted in the discussion of s3(3) of the FVPC Act above, the publication creates a number of injuries to the public good – particularly with respect to young people and adults who are susceptible to its racist and extremist message and, in turn, to those who might be harmed by them.

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<sup>13</sup> <https://dangerousspeech.org/guide/>

Susan Benesch is a Faculty Associate at the Berkman Klein Center for Internet and Society at Harvard University.

<sup>14</sup> [https://www.vice.com/en\\_us/article/j5ybz4/white-nationalists-on-telegram-are-hailing-the-germany-synagogue-shooter-as-a-saint](https://www.vice.com/en_us/article/j5ybz4/white-nationalists-on-telegram-are-hailing-the-germany-synagogue-shooter-as-a-saint)



*s3(4)(d) The persons, classes of persons, or age groups of the persons to whom the publication is intended or is likely to be made available.*

The publication was created with the intent that it would be shared widely in a similar manner to the online so-called ‘manifestos’ of other white extremists. The publication is clearly intended for an international audience who already share the views of the writer. The intentional use of references that relate to gaming culture and Japanese anime are likely to make the publication more appealing to some within this audience, whilst making it less appealing to others.

Whilst the writer does not directly cite the alleged perpetrators of other recent extremist attacks who also produced similar documents, the available evidence indicates that he is following a recognisable pattern. In producing this publication the writer aspires to earn the same notoriety as them and, in turn, be an inspiration to others.

*s3(4)(e) The purpose for which the publication is intended to be used.*

The publication is evidently intended to glorify the perpetrator of the Halle attack and potentially inspire like-minded people to emulate him.

*s3(4)(f) Any other relevant circumstances relating to the intended or likely use of the publication.*

There is a vast amount of commentary on the Halle attack and other recent acts of terrorism carried out by white extremists but we have sought to focus on factors immediately relevant to the classification of the material.

## **Conclusion:**

*Halle Attack Documentation* is classified objectionable because it promotes and supports criminal acts including mass murder, terrorism to a high extent and degree and in a manner that is likely to be injurious to the public good. It is intended to glorify the writer and inspire others towards terrorist violence.

While likely not persuasive or harmful to most adult readers, there is a high risk of the publication persuading some young people and adults who are vulnerable to the way it promotes terrorist violence. The strong possibility that even a small number of individuals may be persuaded to act on the terrorist’s message creates a significant level of risk to the safety and security of all New Zealanders.

This publication has particular resonance and impact because it is inexorably linked with the events in Halle on 9 October 2019 which it attempts to justify. The link to the live-stream of this attack differentiates it from other similar publications as it potentially increases the impact of the contents to those who are vulnerable to extremism.

In making this decision, the right to freedom of expression, that is to seek, receive, and impart information and opinions protected under s14 of the New Zealand Bill of Rights Act 1990 (NZBORA) was considered, together with s5 of the NZBORA that states that this freedom is subject “only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society”.

The Classification Office has had extensive and careful regard to NZBORA and the need to ensure that freedom of expression continues to be preserved in New Zealand. *Halle Attack Documentation* is not classified as objectionable because it is an example of 'hate speech' (although it is evidently a racist, discriminatory tract that most New Zealanders would find repugnant), nor is it banned because of any political views that it espouses.

In this case an objectionable classification for this publication is considered to be a demonstrably justified limit on freedom of expression due to the high likelihood of significant, real injuries to the public good arising directly from the publication's continued availability.

The publication forms part of the context of the Halle attack and provides some information in relation to that event. Accordingly, it could be of value to researchers and analysts, as well as reporters seeking to inform the public. Organisations and members of the New Zealand public who believe they have a legitimate interest in accessing the publication may lodge an application with the Chief Censor for an exemption under s44 of the FVPC Act. The publication may also have value for governmental enforcement agencies who are seeking to tackle violent extremism. These parties are already permitted to possess the publication for these and other purposes under s131(4) of the Act.

**Date:** 24 October 2019

For the Classification Office (signed):

**Note:**

You may apply to have this publication reviewed under s47 of the FVPC Act if you are dissatisfied with the Classification Office's decision.

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