

British Muslims threatened with treason charges

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The death of at least three young British Muslim men, allegedly whilst they were fighting on the side of the Taliban regime in Afghanistan, has ignited a dispute over whether they are guilty of treason.

According to unconfirmed reports Aftab Manzoor and Afzal Munir, both 23, and Muhamad Omar, 25—all from Luton—were killed by a US bomb in Kabul. Yasir Khan, 27, of West Sussex is also reported to have been killed whilst fighting in Afghanistan.

Family and friends of the missing men have denied any connection to the Taliban, stating either that they were visiting relations or involved in humanitarian work when they were killed. Khan had been in Afghanistan only for a few days before his death. Friends state that he had gone to help deliver humanitarian aid after he was sacked by his former employer, Airline caterers LSG Sky Chefs at Gatwick Airport. The company said that Khan was dismissed after he refused a job transfer at the airport following the September 11 attacks. Friends said that Khan was to be moved because, as a Muslim, he was regarded as a security threat, but the caterers said that checks had revealed “nothing worrying” about him.

Islamic fundamentalist groups in England, however, claim that the three other men were amongst “hundreds” of young British Muslim men that have gone to Afghanistan to wage jihad (holy war) against the US led “coalition against terror”. Hasan Butt, leader of the al-Muhajiroun in Lahore, Pakistan, said he could confirm that 60 UK citizens were fighting on behalf of the Taliban.

The Muslim Parliament of Great Britain has dismissed these claims. Whatever the truth of the allegations, the very possibility that the first Britons to be killed in Afghanistan could be Muslims fighting against the US-led attack has caused uproar in ruling circles.

Only days after the men’s deaths were first reported, Defence Secretary Geoff Hoon warned British Muslims suspected of fighting for the Taliban that they would face jail on their return to the UK.

This threat was considered too vague by the opposition Conservative Party, who demanded the government go further. The former shadow home secretary under William Hague, Ann Widdecombe, called in parliament for British volunteers for the Taliban to be tried for treason. “Any British citizen who fights against British forces, in my view, has committed treason and, certainly, if they come back to this country, they shouldn’t imagine that they can then just enjoy the democratic freedoms and

rights of a free society, when they have fought against it,” she stated.

Lord Norman Tebbit, a former minister in the Thatcher government, said he would raise the same demand in the House of Lords. The government must decide, “whether it is a treasonable act for British subjects to take up arms against the forces of the global alliance against terrorism in general or the Anglo-American forces in particular.” Tebbit argued that pro-Nazi broadcaster William Joyce, known as Lord Haw Haw, had been hanged after the Second World War “merely for offering comfort to the Germans.”

The bulk of UK treason legislation dates back 750 years to the reign of Edward III. An act of treason was defined as being, “When a Man doth compass or imagine the Death of our Lord the King, or of our Lady his Queen, or of their eldest Son and Heir; or if a man do violate the King’s companion or the King’s eldest Daughter unmarried or if a Man do levy War against the King they ought to be judged Treason.” The treason laws were last debated in 1998, when the death sentence the charge carried was commuted to life imprisonment.

The suggested use of treason legislation immediately threw the legal fraternity into a quandary. Their problems arose not so much from the archaic character of the law itself, or the fact that it has not been used for more than 50 years. Most lawyers agree with Edward Garnier, QC, that “those who are natural born British subjects, irrespective of their ethnic origin or creed, owe an allegiance at all times and in all places to the Crown”.

Rather the demand that the charge be brought has exposed the lack of a firm legal basis for the current action against Afghanistan. Professor Michael Gunn, head of the department of academic legal studies at Nottingham Trent University, said, “The crucial question is whether or not we are at war and, if we are not, whether we are engaged in actual hostilities.”

Whilst Prime Minister Blair has spoken of Britain being “at war”, there has been no formal declaration of hostilities. And there are clear indications that this ambiguity is deliberate. The bombing of a country and its people for “harbouring” terrorists is questionable in international law. James Woods, QC said there might be other problems. “It may be an issue as to whether, in effect, Afghanistan or the Taliban are at war with the UK,” adding that it is unclear whether a “war against terrorism” amounts to conventional war against a state. Mindful of this, Blair had said in parliament that the UK supported the US-led attack as “an action

of self-defence against those that perpetrated the terrorist attacks and those who harbour and sustain them.”

This has still left the question as to who is specifically considered to be the “enemy”—the Taliban, as the government of Afghanistan, or Osama bin Laden’s al-Qa’eda network. Here again, the argument becomes circular. Blair claims that Afghanistan is not the object of the US bombing, but bin Laden’s “terror network”. If so, those supposedly fighting on behalf of the Taliban can not be guilty of treason, as they are not fighting for a state officially at war with the UK.

On the other hand, if the definition of treason were expanded to include Britons involved in an organisation deemed to be terrorist, this would mark a significant legal and political shift. Lawyers points out that all case law concerning treason over the past 100 years has dealt only with British subjects serving in the armed forces, or working voluntarily for a foreign power formally at war with the UK (Germany in 1914-18 and 1939-45 for example).

This is one reason why treason charges were never brought against those British Jews who took up arms against the British army in 1947 as part of their fight to establish the state of Israel. More strikingly, despite some 25 years of conflict, which included numerous terror attacks against UK cities, those Britons fighting for the removal of British rule from northern Ireland were never charged with treason, unlike the leading republican supporter Roger Casement, who was hung for High Treason in 1916. The rationalisation used by the ruling elite for his conviction was that he was formally a British citizen and had unsuccessfully sought German financial and military backing for the Easter Uprising.

Responding to Tebbit’s question, Home Office Minister Lord Rooker, said airily that treason was like “an elephant on the doorstep—you recognise it when you see it”. Speaking in the House of Lords, Rooker warned UK citizens or residents, “It is totally unacceptable to take up arms against British soldiers and allies”. He pledged that legal authorities, the police and security services were already combining “on the streets of Britain” to deal with UK Muslims seeking to fight for the Taliban. “They will be rooted out,” he promised.

Amongst all the argument over legal definitions, virtually nothing has been said about the implications of the measures now being proposed.

From a security standpoint, there is no basis for introducing charges of treason against volunteers for the Taliban. The government already has extensive powers to charge such individuals with either murder or terrorism.

The Terrorism Act 2001, introduced in February, was supposedly specifically directed against combating the threat of terrorism, and included actions taken or “incited” outside the UK. Its measures were both draconian and had far-reaching implications. For the first time, the definition of terrorism was extended to cover threats against property, which in the past were treated as “criminal damage”. Clause one of the Act defines terrorism as, “the use or threat for the purpose of advancing a political, religious or ideological cause, of action which: Involves serious violence against person or property; Endangers the life of any person or; Creates a serious risk to the health or safety of the public or a section of the public.”

Opponents of the Terrorism Act said at the time that such a remit was alarming. It could mean that anyone advocating direct action—such as anti-globalisation protesters for example—could face charges of terrorism. Those parts of the Act that prohibit any action that interferes with essential services also threaten workers’ right to strike.

The government defended its legislation on the grounds that, once in place, it would protect the lives and security of British people. Immediately after the September 11 terror attacks, however, Labour claimed that these measures were still not enough and announced plans to rush through new emergency legislation. Under the provisions of an Emergency Anti-Terrorist Bill and Extradition Bill, applications for asylum for those suspected of being members of a terrorist organisation can be rejected without any recourse to appeal or judicial review. Once labelled a terrorist—and current legislation provides for Tamils opposing the Sri Lankan government’s racist war to be classified as such, for example—the applicant can be detained and summarily deported.

Such were the implications of these measures for civil liberties that the government argued for the “derogation” of Article five of the European convention on Human Rights, outlawing arbitrary detention and imprisonment, which was only incorporated into British law last year.

The British state now has the power to arbitrarily arrest and hold anyone on suspicion of terrorist activity (irrespective of whether it has been carried out), and to deport them from the country, as well as powers to access and seize personal materials which they believe may be related to terrorism.

Armed with all this draconian legislation, however, the government is still not satisfied. The discussion over treason would add another dimension to a battery of laws that are aimed not at combating terror, but at suppressing social and political protest. Ominously, some lawyers have argued that treason legislation does not depend on a formal declaration of war against another state, as it covers domestic upheaval intended to displace the Crown (or the monarch’s government) “independently” of a foreign dimension. On this basis, they have said, Anthony Blunt was considered to have committed treason by spying for the Soviet Union during the Cold War.



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