

Scottish human rights lawyer Aamer Anwar prosecuted

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Scottish lawyer Aamer Anwar is due to appear before the High Court in Edinburgh in January 2008 on charges of contempt of court, relating to statements he made following the conviction of his client on terrorism charges in September.

If found guilty by a panel of judges, Anwar, a solicitor who has defended clients in a number of high-profile civil liberties cases, faces the loss of his licence to practice law and possibly a prison sentence.

The case against Anwar is based on a statement he read outside court soon after the conviction of his client, Mohammed Atif Siddique, who had just been found guilty of breaching several of the United Kingdom's antidemocratic terrorism laws.

In that trial Siddique was convicted of possessing CDs and videos that gave "a reasonable suspicion that they were connected with the commission, preparation or instigation of an act of terrorism," of collecting "information likely to be useful to a person committing or preparing an act of terrorism," and of spreading "terrorist propaganda" on web sites.

Standing next to Siddique's family, Anwar read a statement to the press that his client had been convicted of doing "what millions of young people do every day, looking for answers on the Internet."

The statement said the "verdict was a tragedy for justice and for freedom of speech." Commenting on the political environment in which the trial was held, Anwar said, "Young Muslims today live in a climate of fear no different to that experienced by the Irish community in the last century."

Siddique had not received a fair trial as, "The prosecution was driven by the State, with no limit to the money and resources used to secure a conviction in this case, carried out in an atmosphere of hostility after the Glasgow Airport attack and ending on the anniversary of 9/11."

Siddique was later sentenced to eight years imprisonment.

Lord Carloway, the trial judge in the case against Siddique, issued a formal complaint about Anwar's

statement outside court, and subsequent media interviews. The judge asserted that Anwar's comments were false and that the statement "impugned the verdict of the jury" and cast improper aspersions against the prosecution and witnesses.

Lord Carloway also complained that the statement was Anwar's own opinion, rather than an expression of the views of his client. Commenting that Anwar's client "was not a 'high achiever' at school," the judge gave the opinion that "It would seem highly unlikely that he would have concocted the multi-faceted tirade contained in the press release."

At the hearing on the alleged contempt of court, held before Lord Carloway on October 23, Anwar's representative said that the content of the press release was "not intended to be a willful challenge to the Court's authority and that, if any disrespect had been shown, then he [Anwar] tendered his apologies."

Anwar's representative submitted that the content of the statement in question "did not constitute a contempt of court because the statement, taken as a whole, did not challenge the authority of the court." Anwar's also insisted that "A contrary finding would amount to an infringement of the agent's [Anwar's] right to freedom of speech."

The Crown, as the State prosecuting authorities are referred to in legal proceedings, opted to pursue the case against Anwar, setting into motion an unprecedented attack against a lawyer on freedom of speech.

Following the hearing, Anwar said, "I cherish the right to freedom of speech, which is one of the pillars of liberty and justice, but as matters are under judicial consideration it would be inappropriate for me to comment until proceedings are concluded."

The case against Anwar rests on an antidemocratic aspect of Scottish law, which differs from law in England and Wales by permitting the prosecution of individuals and their legal representatives for contempt of court for statements made *after* the trial has ended and *outside* of court. This aspect of Scots law—which has been condemned by jurists

from England and internationally—is, by precedent and convention, not applied to statements made by or on behalf of persons convicted by the court. The case against Anwar therefore rests on the assertion that the statement he read on the steps of the court did not represent the views of his client, but his own opinions, which fell foul of his “duties to the Court.”

Lord Carloway added in his complaint against Anwar that his statement was of a political character “unconnected to the case” and that it “seemed to be an attack on the terrorist laws themselves. Again, a private citizen may choose to make such criticisms or attacks on the Courts and the Law, but it is another thing for a law agent in a particular case to use his position in that case to do so.”

In any democracy claiming the name, Anwar should have every right to make the statement that he did. The silencing of those who condemn what they regard as miscarriages of justice or unjust laws is associated with police states. Furthermore, Anwar was clearly expressing the views of his client and the Siddique family, not to mention the concerns of many others in the public at large.

After the trial Siddique’s father expressed broadly similar views in a television interview in which he stated, “The trial was unfair and there was no justice. My son is innocent. He hasn’t done anything wrong.”

Siddique’s father continued, “Any Muslim would be asking questions. They would try and find out why things are happening in the world. And that’s what he’s done. He’s gone on to the Internet to find some answers why this is happening. I’m just telling the public, my son is no terrorist.”

It is entirely normal for solicitors in England and Wales to make similar forceful statements, including ones of a political character, condemning perceived injustices against their clients after a verdict.

A number of prominent jurists have voiced their support for Anwar, including civil rights lawyers Gareth Peirce, Michael Mansfield, Helena Kennedy and Imran Khan, who have all signed an open letter in protest at the prosecution of Anwar.

Gareth Peirce led the defence of the Birmingham Six and Guildford Four—who were wrongly convicted of being Irish Republican Army (IRA) terrorists in the 1970s in the midst of an anti-Irish atmosphere of fearmongering by the government and the media.

Peirce has commented that the treatment of Anwar contradicts United Nations conventions guaranteeing the independence of lawyers. The English solicitor, who has recently represented Guantánamo Bay detainees, described Anwar as a “lawyer of great courage and principle who has consistently spoken out about injustice.”

Iran Khan, another prominent lawyer who deals with civil liberties and race-related cases, defended Anwar, saying, “There should be no attempt to silence lawyers. If lawyers can’t speak out then one of the bedrocks of justice—the right to highlight a miscarriage of justice—just goes. I could never anticipate such a thing happening in England. From across the border, this all seems bizarre. I hope common sense prevails.”

That Scottish courts are taking this action against Anwar is an expression of unease among the judiciary and the Crown prosecutors about a possible public backlash against the raft of antidemocratic legislation that is being used to convict people in cases that simply could not have been brought to court prior to 2000.

The trial that Anwar denounced as a “tragedy of justice” was brought under nebulously worded legislation that effectively establishes “thought crime” in law. Siddique was convicted and sentenced to a lengthy period in jail, despite having done nothing to plan, prepare or commit an act of terror. The case against Siddique was not based on common law, but on breaches of the Terrorism acts 2000 and 2006—legislation that has been roundly condemned by numerous lawyers and civil liberties groups an egregious attack on democratic norms.

Anwar is not only a leading criminal lawyer who has defended clients in cases involving Britain’s antidemocratic and politically driven “terror” laws, but is also a prominent critic of the Iraq war and occupation. His prosecution under an archaic and, until now, unused aspect of Scots law represents a new aspect of the growing threat to the democratic rights and civil liberties of all.



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