



ELDH European Association of Lawyers for Democracy & World Human Rights

EJDM Europäische Vereinigung von Juristinnen & Juristen für Demokratie und Menschenrechte in der Welt

EJDH Asociacion Europea de los Juristas por la Democracia y los Derechos Humanos en el Mundo

EJDH Association Européenne des Juristes pour la Démocratie & les Droits de l'Homme

EGDU Associazione Europea delle Giuriste e dei Giuristi per la Democrazia e i diritti dell'Uomo nel Mondo

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EUROPEAN LAWYERS IN SOLIDARITY WITH RAJIV MENON KC!

The European Lawyers for Democracy and Human Rights (ELDH), with members in 23 European countries, are deeply concerned that the experienced and highly respected criminal defence barrister Rajiv Menon KC (Kings Counsel), called to the Bar of England and Wales in 1993, and appointed Queens Counsel (senior barrister) in 2011, is facing a prosecution for allegations of contempt of court. If convicted he could be sentenced to up to 2 years imprisonment.

The allegations against Menon relate to a criminal trial, in which he represented, at Woolwich Crown Court in south London, one of the defendants collectively known as Filton Six (now Filton Four after two were acquitted by a jury). Mr Justice Johnson, a High Court judge, presided over the jury trial/

The Filton Six had broken into an Elbit systems factory. Elbit supplies weapons to Israel.

During Menon's closing speech to the jury, he referred to Bushell's Case of 1670 – a landmark constitutional case establishing the independence of juries. The jury in Bushell's Case, insisting on their right to deliver their own verdict, were imprisoned by the judge

Menon also told the jury about the plaque which commemorates that case and honours the jury which occupies a prominent place at the Old Bailey, the Central Criminal Court of England and Wales. The plaque honours "Edward Bushell and ten others who refused to give a verdict against William Penn (the future founder of Pennsylvania in the USA) and William Mead" contrary to the judge's instruction to return a guilty verdict.

Mr Justice Johnson has alleged that Menon had disregarded the judge's Court order as to what he could say to the jury about jury equity (the long-standing principle that a jury can come to a decision according to its conscience). Menon denies that he disregarded the Court order.

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There is currently an appeal, before the Court of Appeal, against the judge's finding that there was a prima facie case of contempt of court. If the Court of Appeal finds that the judge's decision was lawful, Menon will be tried for the offence of contempt of court.

Such a trial of a lawyer for contempt of court is widely regarded in the legal profession as unprecedented and disproportionate. There were alternatives available to the Judge, such as asking Menon to correct himself to the jury, or even disciplinary proceedings by the Bar.

The case has had a chilling effect on criminal defence advocates, with reports that advocates have changed their closing speeches, or have been told to change.

Criminal defence advocates have a duty to represent their clients fearlessly, in accordance with the law. This case risks criminalising fearless advocacy.

The UN Basic Principles on the Role of Lawyers are highly relevant. They require governments to ensure that lawyers are able to perform their professional functions without intimidation, hindrance, harassment or improper interference (Principle 16(a)). Lawyers must not be identified with their clients or their clients' causes as a consequence of carrying out their professional duties (Principle 18).

This may be what has happened in Rajiv Menon's case.