



NOTICE OF DECISION UNDER SECTION 38(1)

TO: Secretary for Internal Affairs

Title of publication: 44 Ways to Support Jihad, by Anwar al-Awlaki
Other known title: 44 Ways to Support Jihad
OFLC ref: 1900301.000
Medium: Text File
Publisher: Alan Ireland
Country of origin: Not stated
Language: English

Classification:	Unrestricted.
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Excisions: None

Descriptive Note: None

Display conditions: 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 text file was submitted for classification by Censorship Compliance on behalf of the Secretary for Internal Affairs under s13(1)(b) of the Films, Videos, and Publications Classification Act 1993 (FVPC Act). It was submitted in response to concerns from a member of the public that the text file was promotional of terrorist activity.

The owner of the blog on which the text file appeared (hereto referred to as ‘the publisher’), and the complainant, were notified that it had been submitted for classification. As persons with an

interest in the publication they were informed of their right to make a written submission on the classification.

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 written submissions were received.

Description of the publication:

44 Ways to Support Jihad, by *Anwar al-Awlaki* is a well known text written by controversial Muslim cleric and scholar Anwar al-Awlaki¹, and has been in circulation online since at least 2009². This particular version – lightly edited by the publisher – was reproduced on the personal blog ‘Hardcaw: Something to crow about’³ where the publisher states it has been ‘copied from nefafoundation.org’⁴, a US based charitable organisation ostensibly involved in terror related research and analysis, but which is no longer in operation.

The text is lengthy and likely written with a Muslim audience in mind, as it quotes from the Quran and presupposes knowledge of Islamic terminology, history, religious practices, and the work of other Islamic scholars. It details 44 ways in which believers can support ‘jihad’⁵, opening with the sentence:

Jihad is the greatest deed in Islam and the salvation of the ummah⁶ is in practicing it.

This is followed with a further two introductory paragraphs that talk about jihad as an obligation ‘on every capable Muslim’, ending with the words:

So as a Muslim who wants to please Allah it is your duty to find ways to practice it and support it. Following are 43 [sic] ways for the brothers and sisters to support Jihad fi sabeelillah⁷:

These introductory paragraphs are followed by 44 sections of text, listed numerically, with paragraph headings ranging from the innocuous ‘1. Having the right intention’ to the more

¹ <https://www.nytimes.com/2015/08/30/magazine/the-lessons-of-anwar-al-awlaki.html>

² <http://www.authentictauheed.com/2009/12/44-ways-of-supporting-jihad-imam-anwar.html>

³ <https://alanireland2.wordpress.com/>

⁴ https://en.wikipedia.org/wiki/Nine_Eleven_Finding_Answers_Foundation

⁵ The word ‘jihad’ has multiple meanings and definitions, depending on the context in which it is used. <https://www.britannica.com/topic/jihad>

⁶ Worldwide Muslim community. <https://www.collinsdictionary.com/dictionary/english/ummah>

⁷ ‘Striving in the path of God’ <https://www.britannica.com/topic/jihad>

militant '23. Arms training'. The mujahideen⁸ - and exhortations to support them and their cause in various ways - are mentioned throughout, for example:

'4. Fundraising for the mujahideen', '5. Financing a mujahid', '6. Taking care of the family of a mujahid', '11. Providing moral support and encouragement for the mujahideen', '16. Protecting the mujahideen and preserving their secrets', '20. The issuance of fatwas supporting the mujahideen'.

The text ends with the words:

So, brothers and sisters, these were some suggestions on how you can support Jihad in this day. These words don't really mean much unless they are applied. So please apply as much as you can yourself and advise others to do the same. In the end, we ask Allah to guide us to the straight path and to make us of those who listen to the words and follow the best of them. We ask you O Allah to make us among the mujahideen and to grant us victory over your enemies. Ameen!

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.⁹

⁸ Muslims engaged in fighting for Islam <https://dictionary.cambridge.org/dictionary/english/mujahideen>

⁹ *Living Word Distributors v Human Rights Action Group (Wellington)* [2000] 3 NZLR 570 at paras 27-29.

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

While in the West, 'Jihad' (Arabic: "struggle" or "effort") is often mistranslated as "holy war", the exact meaning depends on the context in which it is used. It can refer to the human struggle to promote what is right and prevent what is wrong; a spiritual struggle within oneself; or a struggle/fight against enemies of Islam. The term has broad historical application. While much of the text of *44 Ways to Support Jihad* refers to 'jihad' obliquely – in such a way that it could be interpreted as either an internal or external battle – certain points undoubtedly reference violence, and martyrdom as a desired outcome of jihad. As such the text appears to be more correctly interpreted as a document encouraging the reader's preparation and participation in a 'jihad' that is to be waged physically if necessary. This will be further discussed under s3(2)(f) and s3(3)(d) below.

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"¹⁰ 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.¹¹

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.

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

3(2)(f) Acts of torture or the infliction of extreme violence or extreme cruelty.

The Classification Office has considered whether the text file promotes or supports, or tends to promote or support, the above matters. The references to violence are oblique and relate primarily to supporting those who may, in turn, wage a military Jihad. While a Jihad might in

¹⁰ *Moonen v Film and Literature Board of Review* [2000] 2 NZLR 9 at para 27.

¹¹ Above n2 at para 29.

some circumstances result in or involve extreme violence, such consequences are neither discussed nor detailed in this publication. Therefore, the text cannot reasonably be said to promote, support, or even tend to promote or support any of the matters listed in s3(2)(f).

The content is further considered under s3(3)(d) where the extent and degree to which, and the manner in which, it promotes or encourages criminal acts or acts of terrorism will be discussed.

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 matter relevant to the publication is:

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.

As the text is concerned with ‘ways to support Jihad’, to determine the extent and degree to which it encourages or promotes acts of terrorism, it is first necessary to determine whether the use of ‘Jihad’ here does indeed refer to criminal acts of terrorism. And if so, whether the author is influential enough for any words of encouragement to be considered so dangerous, as to be injurious to the public good¹².

The following quotes appear to support the notion that the author is referring to a physical rather than spiritual jihad:

1. Having the right intention

...The conditions for Jihad al Dafi (the defensive Jihad)¹³ are five...Islam, puberty, sanity, financial ability, and to be free of physical disabilities...If a person suffers from an illness or a disability that excuses him from Jihad, then a sign of the true intention of such a person is that he is sad that he is exempted from Jihad.

The fact that Jihad here can only be undertaken by those without physical disabilities, indicates it is physical in nature. If it referred to the internal Jihad, neither illness nor physical disability would exempt believers from service. The need for physical strength is mentioned again later in the text:

22. Physical fitness

...Physical fitness is part of the preparation for Jihad...What Jihad needs is mujahideen who have the ability to walk for long hours, to run for long distances (important for guerrilla warfare), to sprint (important for urban warfare), and to climb mountains...In Jihad lands such as Bosnia and Chechnya, unfit brothers represented a burden on the mujahideen because they would slow down the whole group. Also the unfit can more easily fall in the hands of the enemy...a fit person can withstand prison and torture more than a person who is not...

¹² “Some speakers are more influential than others, and they are therefore more capable of compelling a group to violence. Influence may stem from their status as political, religious, or cultural leaders, or they may gain influence from their natural charisma. The speaker can be anonymous, and in some cases that can make the speaker more influential.” <https://dangerousspeech.org/about-dangerous-speech/>

¹³ To many Muslims, even those considered moderate, defensive jihad - defending Islamic lands and people from non-Muslim invaders - is seen as a duty incumbent upon every Muslim. <https://worldview.stratfor.com/article/us-anti-terrorism-strategy-and-defensive-jihad>

The fact that preparing for guerrilla warfare and urban warfare are stated as reasons that physical fitness is required for Jihad, indicates again, that the text does not refer to an internal struggle, but preparation for concrete actions. It should be noted that the mention of 'Jihad lands such as Bosnia and Chechnya' refers to the 'defensive Jihad' (*Jihad al Dafi*) mentioned above, which is concerned with defending Islamic lands and people from non-Muslim invaders, and expelling unbelievers or 'kuffars / kufr' from Islamic lands¹⁴.

The recommendation of weapons training presents armed combat as an intrinsic part of undertaking Jihad:

23. Arms training

...Arms training is an essential part of preparation for Jihad. Allah says: 'And prepare against them whatever you are able of power and of steeds of war by which you may terrify the enemy of Allah and your enemy and others besides them whom you don't know but Allah knows...Power is marksmanship, power is marksmanship...The issue is so critical that if arms training is not possible in your country, then it is worth the time and money to travel to another country to train if you can.

This clearly indicates the use of weaponry to 'support Jihad' is not just expected but also encouraged. There is also a direct encouragement to 'raise our children on the love of Jihad and the mujahideen' (#30.)

The stories we narrate to them need to stem from our rich Jihad history. We should have them grow up with Ali bin Abi Talib, Khalid bin al Waleed, Abu Ubaidah, Sad bin Abi Waqqas, Muhammad al Fatih, Muhammad bin al Qasim and Salahudin¹⁵. Their role models should be the heroes of today's Jihad...Al Zubair bin al Awam – one of the ten given the glad tidings of Paradise – used to take with him to the battlefield his son Abdullah when he was still a child. But since Abdullah was still a child and therefore couldn't fight, his father would have him carry a small knife and go around the battlefield searching for injured disbelievers in order to finish them off. Abdulla then grew up to become one of the great fighters of this ummah.

However, notwithstanding these references to warfare, violence is referred to implicitly within the text rather than explicitly. While there is an expectation that armed conflict is inevitable, there are no explicit instructions as to 'how', nor are any specific targets mentioned beyond generalised 'unbelievers'. Though it advocates a preparedness to take up arms and repel invaders, within the context of 'defensive Jihad' this does not necessarily indicate acts of terrorism.

You need to love the believer even if he wrongs you or oppresses you, and you need to dislike the disbeliever even if he is kind to you...the hatred of kuffar is a central element of our military creed.

Taken on face value, while the text encourages hatred, it cannot be said to promote or encourage acts of terrorism. Nor does it communicate hate speech in a manner that incites and encourages immediate acts of violence.

The Office has also considered whether or not Sheikh Anwar al-Awlaki as the author of this text, is so strongly associated with terrorist activity himself, that his name lends the weight of a known terrorist organisation to the text, essentially branding it as terrorist propaganda.

Sheik Anwar is regarded as a complex, contentious and influential figure. As a Yemeni-American, in the early days of his scholarly career he was a well-known and well-respected voice of moderate Islam within the US able to converse easily with both Western and Islamic audiences. However, after the events of 9/11 he grew increasingly disillusioned with America's response on a number of fronts, not least the targeting of Muslim citizens for surveillance. Over the ensuing

¹⁴ <https://worldview.stratfor.com/article/us-anti-terrorism-strategy-and-defensive-jihad>

¹⁵ The names mentioned refer to historical warrior figures

years his rhetoric became more violent, and his ideology shifted from anti-American sentiments to advocating direct violence against the US¹⁶. In his later years he joined Al Qaeda¹⁷ and became an editor of Al Qaeda propaganda magazine *Inspire*¹⁸ before his death by US drone strike in 2011. His name has been linked with numerous terror plots and attacks in the US¹⁹.

It is clear he was - and is - an influential figure. However, notwithstanding the fact that his name has become somewhat synonymous with dangerous ideology, within the canon of his work, he also wrote more general Islamic texts that are still widely regarded and respected as scholarly works. As he is equally known for his large body of mainstream material as he is for his contributions to al Qaeda propaganda²⁰, anything associated with his name cannot immediately be considered terrorist 'branded' material in the same sense as obviously branded publications such as the *Dabiq* or *Inspire* magazines.

As discussed under 3(2)(f) above, the document stops short of directly promoting violent jihad and instead focusses on support that is one step removed from the violent acts themselves.

While radicalised individuals may interpret his writings in problematic ways - just as far right extremists can derive inspiration from *Mein Kampf* - this text does not contain direct exhortations to acts of terrorism or violence. Nor is it instructional of these acts, which significantly differentiates it from publications such as *The Great Replacement* (OFLC Ref: 1900149.000) - which explicitly instructs readers to kill innocent civilians - or the *Dabiq* and *Inspire* magazines which directly exhort readers to kill, and provide detailed instructions on various methodologies to achieve this.

Additional matters to be considered:

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

The dominant effect of the text is that of a lengthy treatise on the imperative for all Muslims to support Jihad, in whatever means they have at their disposal – including physically and financially.

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

As a digital text file the publication not only has the potential for wide dissemination and reproduction online, but also demonstrably *has* been widely disseminated and reproduced online. This particular version of the text has been removed from the blog it appeared on, and is no longer available via the site link supplied to us.

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.*

As the work of a known Islamic scholar - whose ideological beliefs during his literary career shifted from moderate to extreme - the text may have some merit and value for those studying his life and works, particularly those seeking to understand his journey to radicalisation and the belief system that underpinned it.

¹⁶ <https://edition.cnn.com/2011/09/30/opinion/husain-awlaki-killing/>

¹⁷ <https://www.nytimes.com/2015/08/30/magazine/the-lessons-of-anwar-al-awlaki.html>

¹⁸ https://www.washingtonpost.com/world/national-security/inspire-al-qaedas-english-language-magazine-returns-without-editor-awlaki/2012/05/02/gIQAiEPMT_story.html

¹⁹ <https://www.counterextremism.com/anwar-al-awlaki>

²⁰ <https://www.nytimes.com/2015/12/19/us/politics/internet-firms-urged-to-limit-work-of-anwar-al-awlaki.html>

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.*

and

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

As the text was originally published on al-Awlaki's personal blog, the intended audience is most likely those who are already followers of his work, or those interested in him and his work. As it is written with an authoritative tone and uses verses from the Quran to compellingly justify his interpretation of Jihad, it is likely the publication is intended to persuade engaged and devout believers of the necessity and imperative of being obedient to their faith in the manner he details.

Conclusion:

The Classification Office has carefully considered whether the publication promotes and encourages criminal acts or acts of terrorism, and for the reasons stated above, has determined that it does not. While the text implicitly supports the use of violence against 'unbelievers', it stops short of explicitly promoting violent acts of terrorism and instead focusses on support that is one step removed from the violent acts themselves. It does not explicitly exhort its readers to acts of violence or terrorism, nor does it detail how to commit acts of violence or terrorism. The publication therefore differs from other works by known extremists previously restricted or banned by this office. As such, this publication cannot reasonably be said to promote and encourage criminal activities or acts of terrorism to an extent or degree that renders the publication objectionable, or in need of restriction in order to prevent harm to the public good.

44 Ways to Support Jihad, by *Anwar al-Awlaki* is classified Unrestricted. This is consistent with our mandate to protect the public from material that may be injurious, while also upholding the right to freedom of expression as laid out in the NZBORA.

Date: 18 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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