

Australia: Protesters face jail over Opera House antiwar slogan

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Two antiwar protesters who wrote “No War” in red paint across the highest point of the Sydney Opera House on March 18 this year, three days before the US-led invasion of Iraq, have been found guilty on charges of malicious damage. The two men—David Burgess, an environmentalist, and Dr Will Saunders, a British research scientist—face heavy fines and a five-year jail term.

Television footage of the “No War” sign was broadcast around the world and followed mass international antiwar demonstrations during the weekend of February 14-16, including rallies across Australia involving one million people.

The guilty verdict came after Judge Martin Blackmore ruled that Burgess and Saunders could not present their detailed defence case to the NSW District Court jury. Their evidence, he said, was not applicable to malicious damage charges and therefore not admissible. Blackmore rejected arguments from defence barrister John Doris that the jury, not the judge, should decide the relevance of defence evidence. Blocked from presenting their case, Burgess and Saunders decided not to present any evidence.

Irrespective of the legal justifications cited, Blackmore’s ruling was an act of political censorship, designed to prevent any discussion in the court on the underlying reasons for the protest. It made the guilty verdict virtually inevitable. The two men have lodged an appeal and will argue that Blackmore’s directive prevented them from receiving a fair trial.

The defence case was to be argued under Section 418 of the Crimes Act NSW. This states that a person is not criminally responsible for an offence if it is “reasonable” and done in “self-defence” or to prevent “unlawful deprivation of liberty” or to protect property from “unlawful destruction, damage or interference”.

Burgess and Saunders adopted this approach so they could explain why they made the protest, the political circumstances in which it occurred and the character of the war to be unleashed against Iraq and its consequences.

Their prepared evidence stated that the impending invasion of Iraq “would be illegal under international law, immoral, and contrary to the wishes of the overwhelming majority of people in Australia”. The “No War” slogan on the Opera House, it argued, was an attempt to prevent “death, injury and destruction to the people of Iraq” and the “increased risk of terrorist attacks on Australians”.

Burgess’ and Saunders’ case also explained that their actions were precipitated by the “manifest lies and distortions” being used by the Bush, Blair and Howard governments to justify the military attack. Their protest, the two men argued, was a “desperate attempt to prevent the harm about to be done”.

In testimony prepared for the trial, Saunders said he had participated in all the major antiwar demonstrations and written numerous letters to newspapers and politicians opposing the impending invasion. When it became clear that the Howard government had already committed to the unprovoked attack and planned to ignore the mass protests in Australia and internationally, he decided to “knowingly break the law, [in order] to do the best I could to prevent this hugely greater crime”.

After they were arrested the two protesters volunteered to help clean up the red paint. When this was rejected by the Opera House, they offered to pay costs.

Crown prosecutor Sunil de Silva told the court that Saunders and Burgess had used “quick-drying, highly adhesive paint”, implying that they wanted to

permanently deface the Opera House. This allegation was widely reported in the mass media.

In fact, the paint was chosen because acrylic or water-based paint would not stick to tiles or run across the roof, and would therefore be less difficult to remove. Their choice of paint, combined with their offer to help clean off the slogan, demonstrated that Burgess and Saunders did not intend to damage the building in any way.

Police initially estimated cleanup costs to be between \$5,000 and \$15,000, but the final Sydney Opera House Trust claim was for \$166,000. Police agreed to drop the malicious damage charge if the Opera House management accepted a settlement, but this was rejected out of hand by the Opera House.

In addition to the malicious damage charges, the Immigration Department (DIMIA) threatened to deport Saunders, who is a British citizen and employed at the Anglo-Australian Observatory in Sydney.

After being released by NSW police on March 18, he was re-detained by DIMIA officers and told that his visa could be cancelled because he represented a potential “risk to the safety or good order of the Australian community”. While this threat has been deferred, DIMIA has reserved the right to deport the 33-year-old scientist and have him permanently banned from Australia.

It is no accident that the first possible jail term against antiwar protesters has occurred in NSW. Together with the Howard government in Canberra, the Carr Labor government has been in the forefront of attacks on the democratic rights of those opposing the war in Iraq.

Immediately after the Opera House “No War” protest, Premier Bob Carr denounced it as “dishonourable.” A few days later, he publicly berated Art Gallery of NSW director Edmund Capon for lowering the Australian flag at the gallery in protest at the impending assault on Iraq. Carr phoned Capon and instructed him to end the protest immediately. “I told him the flag will fly if I’ve got to go over there to the art gallery and haul it up with my own hands,” Carr informed the media.

When thousands of high school students staged a peaceful protest in Sydney on March 26, after US-led forces had launched their blitzkrieg against Iraq, they were confronted by hundreds of NSW police. Thirty-three youth were arrested and Carr, urged on by

Murdoch’s *Daily Telegraph*, denounced the demonstration as an uncontrollable and violent mob. On April 2, the Labor government, with union support, banned a scheduled march of high school students.

The guilty verdict against Burgess and Saunders constitutes a serious attack on freedom of speech and democratic rights and is designed to intimidate other opponents of government policy. It is also a measure of how reality has been turned on its head.

The two antiwar protesters face a possible five-year jail sentence over a painted slogan—an action deemed as “malicious damage”. But those guilty of the real “malicious damage” are the Bush administration and its Australian and British allies, who lied about Iraq’s possession of weapons of mass destruction and flagrantly breached UN conventions and international law in order to launch a criminal act of aggression and plunder against a poverty-stricken country.

Burgess’ and Saunders’ protest expressed the opposition of millions to the imperialist war that has already claimed thousands of lives. The charges against the two men should be withdrawn immediately and their convictions overturned.



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