

An attack on democratic rights: New Zealand man jailed for sedition

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A man involved in an axe attack on the electorate office of New Zealand prime minister Helen Clark was sentenced to two months jail on July 18 for committing an act of sedition. This is the first time in 64 years that anyone in New Zealand has faced a sedition charge. The successful prosecution and jail sentence underlines the assault on basic democratic rights now being carried out by the Clark Labour government.

Timothy Selwyn, 32, was jailed for two months for publishing a “seditious” document and conspiring to commit wilful damage. The maximum penalty for sedition is two years jail. Selwyn said his actions were in protest against a decision by the Labour government in late 2004 to annul Maori claims over the foreshore and seabed.

On June 8, an Auckland District Court jury found Selwyn guilty of publishing a statement with seditious intent but acquitted him of a separate charge of being party to a seditious conspiracy.

The prosecution for sedition was initiated to silence and intimidate political dissent under conditions of growing social tensions and the turn to militarism. Selwyn could have been charged with “incitement”, but was instead charged with sedition—a much more serious political offence.

Selwyn admitted to conspiring to commit wilful damage over the axe incident. He further admitted to “having a hand” in two separate statements claiming responsibility for the attack and calling on others to commit similar acts of civil disobedience. A bundle of pamphlets found at the scene called for “like minded New Zealanders to take similar action of their own” and to commit “their own acts of civil disobedience”. Selwyn claimed that putting the axe through the window had been an act of civil disobedience “at the extreme end”. The axe symbolised “determination” and the broken glass “the shattered justice of the Foreshore and Seabed Act”.

Selwyn, a freelance writer, was jailed for a further 15 months on a range of dishonesty charges, including obtaining passports, birth certificates, welfare benefits and Inland Revenue Department numbers under the names of

dead people. In 1996 he had been briefly jailed for forgery. All these offences, which date back more than a decade, came to light after his arrest on charges relating to the protest.

The extensive list of additional convictions enabled the media to direct attention away from the political thrust of the prosecution. News reports invariably emphasised that a so-called “free speech” advocate was also a proven benefit fraudster. In sentencing, the judge rejected the defendant’s plea for a term of community work and decided to deny access to home detention, saying that a custodial sentence was necessary in relation to all the charges for “deterrence and denunciation of this conduct”.

In cases such as this, it is not always clear where to draw the line between genuinely motivated but politically misguided protest, a cynical attention-seeking act, or a calculated provocation. Whichever it was in this instance, the stunt has enabled the state to set a precedent for prosecuting and jailing others who publish similar material—no matter how innocuous—in the future.

A friend of the accused said outside the court that the crown had trawled through Selwyn’s past and included “all the crazy stuff he did as a young radical” when presenting submissions to the judge. Such a course of action should have come as no surprise, however, since it suited the prosecution’s purposes perfectly. Selwyn’s dubious personal history contributed to his failure to carry out a principled defence over the sedition charges, resulting in the jury finding against him after just three hours deliberation.

While the court proceedings received scant media attention, the *New Zealand Herald* promptly moved to downplay the implications of the verdict. An editorial declared that although the extraordinary decision to bring the charges under the Crimes Act had been an “ill-advised” use of a “tough law”, the verdict could not be regarded as a threat to freedom of speech. It went on to exonerate the Labour government from any responsibility, saying the “Prime Minister, Labour Party and the Government would have played no role in the application of this rare charge”,

and that the police alone would have decided to prosecute. But a prosecution centring on the political offence of sedition—defined as “speech, writing or behaviour intended to encourage rebellion or resistance against the government”—is unlikely to have proceeded without instructions from the highest level.

In June, after his conviction, Selwyn denounced the verdict. “The Crown has made history,” he said outside court. “That the Crown has brought these charges is dangerous, but the fact they have got a verdict that went their way is even more alarming. It puts us in a league with Saudi Arabia, Zimbabwe, Malaysia ... as far as government repression of freedom of speech goes”. Auckland Council of Civil Liberties president Barry Wilson said the use of the sedition charge could be seen as “a convenient way of restraining public debate on controversial matters”.

According to Selwyn, the protest was carried out in response to a decision by the Labour government, under intense pressure from business and the media, to introduce legislation which would cut off claims by the country’s Maori inhabitants to the foreshore and seabed. The legislation prevented the Maori Land Court granting freehold title to tribes claiming customary ownership.

Labour’s stance generated widespread hostility among the Maori population, culminating in a 12,000 strong march on parliament. The passage of the legislation caused a split within Labour’s Maori ranks leading to the formation of the Maori Party by cabinet minister Tariana Turia, who resigned and won a by-election over the issue. At the 2005 election, the Maori Party campaigned against Labour in Maori electorates, successfully wresting four of the seven seats from Labour’s control.

The case builds on a recent pattern of attacks on democratic rights. In 2003 Paul Hopkinson, a 37-year-old school teacher, was found guilty of burning the national flag during a protest against the war in Iraq. Hopkinson faced a fine of up to \$5,000 for breach of the Flags, Emblems and Names Protection Act and possible deregistration from his teaching position. The prosecution, the first in the 22 years since the law was enacted, was a blatant case of political victimisation. The High Court subsequently declared it to be contrary to freedom of expression provisions in the Bill of Rights Act.

In another case Ahmed Zaoui, a political refugee and former MP in the Algerian parliament, is still awaiting a court hearing to determine his status. He has served nearly two years in an Auckland maximum-security prison, after being declared a “security risk” by the Security Intelligence Service. The Labour government backed his indefinite internment despite a finding by the Refugee Status Appeals Authority (RSAA) that there was no credible evidence

linking Zaoui with any terrorist activity. The RSAA—which operates independently of the immigration and security services—had granted him refugee status, but the Labour government has fought Zaoui’s attempts to remain in the country.

The charge of sedition has a particularly notorious history in New Zealand and it is highly significant that it has been dusted off for the first time since World War II. It has previously only been used under conditions of war or industrial upheaval.

In 1913 three leaders of a national general strike were jailed for sedition and inciting violence. During World War I, the sedition laws were used on three occasions to prosecute prominent anti-conscription campaigners, while in 1942 the editor of a pacifist newsletter was convicted of publishing a subversive document and sentenced to two years prison.

As the Clark government has shifted its foreign policy stance to fall in line with the Bush administration’s “war on terror”, it has simultaneously moved to apply increasingly anti-democratic laws at home. In 2003 parliament approved the so-called “Counter-Terrorism” Bill which, according to former foreign minister Phil Goff, was the “final step in adopting United Nations conventions aimed at fighting global terrorism”. The legislation was part of a range of legal, police, anti-immigrant and security measures enacted following September 11, 2001. While the “global war on terrorism” has provided a useful pretext, these changes have built on earlier moves to increase powers to the intelligence services, begun by the previous National government.

In New Zealand as elsewhere, the threat of “terrorism” is being used to enact and enforce laws that establish the basis for sweeping attacks on civil liberties. The application of the charge of sedition to a protest stunt of this nature is a warning of the preparations that are being made to deal with the emergence of widespread resistance among ordinary working people to the accelerating onslaught on living standards, working conditions and basic rights.



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