

Antiwar protesters fined for entering US-Australian spy base

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The depth of antiwar sentiment among ordinary people was evident when a jury in the central Australian city of Alice Springs took almost five hours on June 12 to convict four Christian pacifists for entering the highly secretive US-Australian spy satellite base at nearby Pine Gap.

The Howard government invoked 50-year-old defence legislation to charge the “Christians Against All Terrorism” protesters—Bryan Law of Cairns, Jim Dowling and Adele Goldie of Brisbane and Donna Mulhearn of Sydney. In December 2005, the group attempted to carry out a “Citizens Inspection” of Pine Gap to highlight its key role in the ongoing US-led bombings and missile strikes in Afghanistan and Iraq.

Under the previously-unused law, the four faced jail of up to seven years for entering a “prohibited area” and another seven years for taking photographs inside. They also faced charges of trespass and property damage. Attorney-General Philip Ruddock personally authorised the prosecution under the 1952 Defence (Special Undertakings) Act.

According to reporters, the 12 jury members were visibly distressed when delivering the verdicts. Before they retired to consider the case, Northern Territory Supreme Court Justice Sally Thomas specifically ordered them to put aside their personal feelings and disregard the defendants’ beliefs about Pine Gap’s contribution to the civilian deaths and injuries in Iraq.

“This is a case that has evoked quite a great deal of emotion,” the judge said. “Some of you may feel quite strongly that Australia should have no part in the war in Iraq... you may feel that as members of the Australian public we should know more about what is happening in Pine Gap. Having feelings of sympathy or empathy or perhaps prejudice is a normal human reaction. However, when it comes to deliberations in this matter

I have to ask you to put aside your prejudices, sympathy or empathy and use your intellect to examine the facts of the case.”

In effect, the judge gave the jury virtually no choice but to convict the four, who had openly admitted that they entered the base and took photographs in a bid to draw public attention to its involvement in the carnage and war crimes being committed by the US-led forces. Justice Thomas had allowed the defendants to present some evidence of their beliefs during the 11-day trial, but then accepted the prosecution’s application to strike out their defences, leaving them without a legal case.

The defences were based on sections 10.3, 10.4 and 10.5 of the Criminal Code. These cover necessity (“reasonable” responses to “sudden or extraordinary emergency”), self-defence and defence of others, and lawful authority (“justified or excused by or under a law”). One of the group, Adele Goldie, quoted from the Nuremberg principles: “Preparation for war is itself a war crime... States must never make civilians a target or use weapons that cannot distinguish between civilians and other combatants.” She said: “My action to prevent crimes of such tremendous gravity is lawful.” Justice Thomas, however, upheld the prosecution’s objection that the Nuremberg principles were “not defences known to law”.

Once the four had been declared guilty, the judge rejected calls by the prosecution, on behalf of the Howard government, for jail sentences. Crown prosecutor Hilton Dembo QC described the offences as “striking at the heart of the national security and the national interest”. He said all four should go to prison because they were unrepentant. “The Crown sees no prospect for rehabilitation,” Dembo said, insisting the sentence must provide a deterrent for “like-minded

people”.

Instead, Thomas imposed fines totalling \$3,250 and ordered the four to pay \$2,500 in reparations for damaging wire fences at the base. The judge noted that Pine Gap had a significant history of protest and trespass, but previous trespassers had been fined under less serious laws. Nevertheless, she said the case would set a precedent for future protests. “The Crown has in effect given a warning that they might act differently to future offenders,” she said.

In other words, despite never being used against political demonstrators at Pine Gap or anywhere else before, the draconian Defence (Special Undertakings) Act, and its potentially lengthy jail terms, can now be invoked against any further antiwar protests at the base and other military facilities.

In addition to setting this precedent for attacking basic democratic rights, the judge preserved Pine Gap’s shroud of secrecy. She ruled in favour of the government’s submission for “public interest immunity” at the start of the case to prevent the release of any information that the government claimed affected “national security”. The ruling stated: “Information as to operations of the Joint Defence Facility at Pine Gap except as may be disclosed by the prosecution brief is not relevant to any issue in this case.”

The defendants were even blocked from tendering a 1999 parliamentary committee report on the renewal of the US-Australian treaty authorising the base. Passages in the report noted that the committee was forbidden to read the classified agreement and refused access to the base itself. Justice Thomas ruled the evidence inadmissible, citing the Parliamentary Privileges Act, which bars evidence of parliamentary proceedings “questioning or relying on the truth, motive, intention or good faith of anything forming part of those proceedings”.

At one point in the trial, prosecuting counsel asked that a model of the Pine Gap base be forfeited to the government because it contravened section 2 of the Defence (Special Undertakings) Act, which reads: “A person is guilty of an offence if the person obtains, collects, uses.. a photograph, sketch, plan, model.. [of] a prohibited area. Maximum penalty: seven years.” The model, which the defendants brought to court to clarify a point of evidence, had been constructed using Google

Earth photographs for reference.

The four’s expert witnesses about the role of Pine Gap were also barred from giving evidence. One, Professor Richard Tranter from the Royal Melbourne Institute of Technology, told a “mock trial” in Alice Springs that Pine Gap was linked to two other satellite intelligence facilities, in Buckley, Colorado and Menwith Hill, UK. He said the bases not only collected but also analysed information that was used to conduct 40-50 air strikes a week on both Iraq and Afghanistan.

The limited information on the public record confirms that Pine Gap is critical to the US military and to the Australia-US alliance. In 1999, strategic and defence studies expert, Professor Paul Dibb, told the parliamentary committee that Pine Gap was a “unique and enormously powerful collector” of intelligence information. His Australian National University colleague, Professor Desmond Ball, said the base monitored four types of transmissions: telemetry signals, which send data from deployed missiles; radar signals associated with anti-ballistic missile shields; satellite communications; and microwave emissions. The latter give the base the capacity to eavesdrop on all domestic and international telephone calls and other telecommunications.

During the Pine Gap trial, the Labor Party’s commitment to the war and spy base was underscored when its environmental spokesman Peter Garrett visited Alice Springs to address a party function. Garrett, a former member of the rock group Midnight Oil, which won a mass following with songs against “US bases” during the 1970s and 1980s, refused to comment on the trial. When he joined Labor in 2004, he publicly repudiated his previous criticisms of the party’s decades-long support for Pine Gap and other nuclear war bases.



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