

# Australian legal academics accept arrest of antiwar colleague

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The arrest of a retired academic for interjecting at a “Law and Liberty in the War on Terror” symposium, held at the University of New South Wales on July 5, raises some significant issues about the role being played by a number of legal academics in the “war on terror”.

Peter McGregor, a veteran antiwar activist, was frog-marched out of the event by two plainclothes police officers for interrupting a keynote address by the Howard government’s attorney-general, Philip Ruddock.

As Ruddock began his speech, “The law as a preventative weapon against terrorism,” McGregor rose from his seat in the second row, turned to the audience and said: “Why are you welcoming this man? He is a war criminal.” Before he could say more, he was grabbed and bundled out of the auditorium, despite objections from this correspondent and other delegates.

The organisers of the event, from the university’s law faculty and its Gilbert & Tobin Centre of Public Law, refused to allow McGregor to return to the symposium unless he gave a guarantee not to further interject. He was escorted off the campus by university security guards, who called police when he said he intended to re-enter the grounds. The officers took McGregor to a nearby police station and charged him with “entering into or remaining upon inclosed lands without lawful excuse”. If convicted, he could be fined up to \$600.

McGregor’s removal from the conference, despite being a paid-up and registered delegate, highlights the involvement of several prominent legal academics in advising federal and state governments on how to better draft and sell the vast array of “anti-terrorism” laws introduced since 2002.

Ruddock has been a leading figure in the Howard government since it took office 11 years ago. From 1996, he served as immigration minister, playing an instrumental role in the detention of asylum seekers, the deployment of naval ships against refugee boats and the transportation of hundreds of refugees to remote Pacific islands. Since October 2003, when he was appointed attorney-general, he has been responsible for the introduction of unprecedented measures including “preventative detention” without charge, semi-secret “terrorism” trials and ministerial powers to unilaterally ban organisations.

McGregor had intended to hand Ruddock a citizens’ arrest warrant, charging the attorney-general, Prime Minister John Howard and other ministers, with a series of offences. These included waging wars of aggression in Iraq and Afghanistan in violation of international law and the Nuremberg principles; using cluster bombs and other weapons of mass destruction; abandoning habeas corpus and breaching international human rights covenants; failing to protect David Hicks from illegal detention at Guantánamo Bay; and demonising and

incarcerating asylum seekers.

Upon hearing of McGregor’s arrest, a number of symposium participants approached the organisers, Professor George Williams, the Gilbert & Tobin centre’s director, and Andrew Lynch, the director of the centre’s Terrorism and Law Project, during the lunch break to ask them to contact the police and request that the charge be dropped. The organisers undertook to do so, but the police later told McGregor no such representations were received.

The next morning, July 6, several delegates asked Williams to make a statement to the symposium, explaining the organisers’ actions. Addressing the conference, Williams began his explanation by alleging that McGregor had “rushed at” Ruddock. Many delegates were taken aback by this false claim, particularly since it was made by Williams, who has developed a reputation in legal, academic and media circles as a civil libertarian and critic of aspects of the terror laws.

During question time, I objected to Williams’s statement, pointing out that it was potentially prejudicial to McGregor’s case, and that it echoed the methods used by the government itself in the “war on terror”, namely the slander of innocent people, such as Dr Mohamed Haneef (see “Australian judge overturns government cancellation of Dr Haneef’s visa”). In response, one of the speakers on the platform, University of NSW politics senior lecturer, Katharine Gelber, agreed that McGregor had not “rushed at” Ruddock.

Scores of people, including academics, tertiary education union officials and students, have since written to Williams and Lynch, and to the University of NSW authorities, urging them to intervene to see that the charge against McGregor is dropped. In an email reply to one letter, Williams and Lynch washed their hands of the arrest. “Our involvement was limited to the decision to deny Mr McGregor further access to our event,” they wrote.

In response to another letter, the University Vice-Chancellor’s office defended McGregor’s removal on the grounds that “the conception of the Symposium was that it would draw in speakers from all sides of the debate about Australia’s anti-terrorism laws and ... it would be completely counter to the aims of the event if invited speakers were not given an opportunity to be heard”. The letter asserted: “It is inconsistent with intellectual exchange for any individual to assert a personal freedom of speech which prevents the ability of others to deliver their arguments and others again to debate and discuss them.”

This formulation renders free speech meaningless. It would permit authorities, whether government or university, to block any expression of opinion not articulated in a pre-approved form. Arrests of street protesters, for example, are invariably justified by asserting that they

are obstructing the freedoms of others.

Whether or not one agrees with his “street theatre” style of intervention, McGregor was seeking to exercise the basic freedom of expression. He had a completely legitimate and democratic right to protest against Ruddock’s invitation to address the symposium. He registered his objection in the long-established form of an interjection from the floor, seeking support from the audience.

Moreover, the symposium was open to the public, with attendance encouraged by the Gilbert & Tobin centre’s web site. It was held at a university, a traditional venue for political debate. If genuine “intellectual exchange” were the purpose of the symposium, Ruddock and the organisers could have given McGregor time to speak, and responded to his arguments.

The use of the police to physically silence McGregor makes clear that far from challenging the underlying agenda of the “war on terror”—an elementary academic responsibility, especially after all the lies told about “weapons of mass destruction”, etc.—significant layers of academics have embraced it.

In large measure, this reflects the consensus within the official political establishment as a whole, with the Labor Party joining hands with the Howard government to support each new erosion of basic civil liberties and democratic rights, from detention without trial to the witch hunt against Dr Haneef. When Ruddock spoke, he emphasised Labor’s backing for all the federal and state terror laws, declaring that “bipartisan support was essential” to their introduction.

The background to the “war on terror” is the escalating economic, political and social crisis in the United States, and its weakened position on the world arena vis-à-vis its rivals—especially the European powers, China and Russia. The US-led invasions of Afghanistan and Iraq have been aimed at utilising US military superiority to assert Washington’s hegemony over oil and other key resources. At the same time, the Bush administration has utilised the September 11 terror attacks to unleash far-reaching and unprecedented attacks on democratic and civil rights, and on political and social unrest, at home. The Howard government has followed suit, engaging in neo-colonial style military interventions in the Pacific in order to consolidate its economic and strategic domination of the region.

The symposium’s official speakers mentioned none of these issues. When I raised a question about a recent comment by Defence Minister Brendan Nelson that oil was a factor in keeping troops in Iraq, Ruddock replied that the question was “not helpful” and went on to insinuate that it sought to justify terrorism. This was in line with the Howard government’s general attempt to characterise any opposition to the Iraq war—a position held by the vast majority of the Australian population—as support for terrorism. The symposium organisers made no objection to Ruddock’s response.

Over the past five years, close relationships have been forged between governments, universities and certain academics who have become, formally or informally, advisers on the terror laws. Many of the symposium participants hold government-funded Australian Research Council (ARC) grants to examine aspects of the laws and their enforcement. According to the symposium program, ARC projects cover issues such as “the financing of terrorism”, “the impact of a bill of rights on terrorism laws”, “the role of law in the search for security after September 11”, “policing the neighbourhood” (a study of Australian police missions in East Timor, Papua New Guinea and Solomon Islands) and “Community Policing and Culturally Diverse Communities”.

One of the biggest funding recipients is the Gilbert & Tobin centre’s

Terrorism and Law Project. Its web site states that the project “aims to contribute to the safeguarding of Australia by improving knowledge of how public law can be used to combat terrorism and will assist in the development of laws which achieve this goal while simultaneously respecting the core features of a liberal democratic society such as the rule of law and the protection of human rights”. It has received funding from the ARC until 2010 to conduct research, as well as convene conferences and workshops.

As the letter from the Vice-Chancellor’s office suggests, the symposium was a venue for this type of interchange. Alongside Ruddock, members of various Australian and overseas law schools were among the speakers, together with lawyers, judges, politicians, journalists and senior officials from Ruddock’s department. The audience included key figures in prosecuting the so-called counter-terrorism laws, such as Solicitor-General David Bennett and Inspector-General of Intelligence and Security Ian Carnell, as well as representatives from federal and state police, the Defence Department and state legal offices.

The academic speakers generally sought to be helpful to the array of government officials, often pointing to unclarity, defects and potential constitutional difficulties in the legislation. Some argued for more “balance” between human rights and “national security”. Others urged the government to more strongly present the laws as defending a right to “human security,” rather than as limiting human rights.

But whatever their contortions, the fact remains that the anti-terror measures abolish basic rights and liberties won in centuries of struggle against absolutism, through the English, American and French revolutions of the seventeenth and eighteenth centuries. To “balance” or subsume these rights under the banner of “human security” is to reverse the historic relationship between the citizen and the state established in the overthrow of the old monarchies, whereby these liberties were asserted as the inalienable rights of man, against the state.

Among the speakers at the symposium was the Australian Broadcasting Corporation’s national security correspondent Leigh Sales. Asked whether she thought the government had ulterior political motives for pursuing the “war on terror,” she declared: “As a citizen, I can’t think that my government is evil. It would be too disillusioning.”

Joining Sales on a panel to discuss “The Politics of Terrorism, Law and Liberty” was senior federal Labor parliamentarian Carmen Lawrence, a minister in the Keating Labor government. Lawrence chided the symposium organisers for not putting inverted commas around the words, War on Terror, in the event’s title. She suggested that the government, in league with the Bush administration, had exaggerated the threat of terrorism for political purposes. Asked why she had not voted against any of the terror laws, and why all the state Labor governments had passed matching legislation, she replied that her only other option would have been to resign from the Labor Party, something she clearly felt was not in the realms of possibility.



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