

Australian man faces lengthy jail term for “offensive” letters

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In the first case of its kind in Australia, a Muslim man faces up to 14 years in prison for sending allegedly offensive letters to the families of Australian soldiers killed in Afghanistan. Sheikh Haron was arrested and charged last week with using the postal system to “menace, harass or cause offense”.

As the Iranian-born Haron, 45, was arrested, the Sydney Joint Counter Terrorism Team searched his home and two others across Sydney. The involvement of the anti-terrorist squad in the federal-state police operation appeared to be calculated to associate Haron with terrorism. That was certainly the implication in the media beat-ups covering the case.

Haron did not enter a plea when he appeared in a Sydney court on seven counts under section 471.12 of the federal Criminal Code. Each charge carries a potential maximum sentence of two years in prison. He was released on bail and told to report back on November 10.

Section 471.12 is extremely vague. It makes it an offence to use a “postal or similar service” in a way “(whether by the method of use or the content of a communication, or both) that reasonable persons would regard as being, in all the circumstances, menacing, harassing or offensive”.

Haron allegedly wrote the letters over a two-year period, raising questions about the timing of his arrest. It came amid growing public opposition to the eight-year-long US-led occupation of Afghanistan. Australia has lost 11 soldiers in Afghanistan since joining the 2001 invasion. In April this year, Prime Minister Kevin Rudd’s government nevertheless announced a

significant expansion of its military commitment, boosting the number of Australian troops from 1,100 to 1,550, in line with the Obama administration’s escalation of the war.

A line from one of Haron’s letters to a family allegedly stated: “I feel bad that you have lost your son but I don’t feel bad that a murderer of innocent civilians has lost his life.” According to a Murdoch tabloid, the Sydney *Daily Telegraph*, the letters accused the dead soldiers of being “criminals” and “killers” fighting a war of invasion.

The *Australian* reported that one letter had an anti-Semitic tone. “A Jewish man who kills innocent Muslim civilians is not a pig, he is a thousand times worse,” it said. The letter was sent to the Jewish family of 30-year-old Private Greg Sher, who was killed by a Taliban rocket in January.

Other reports indicated that the push for prosecution did not come from Sher’s family, however. His father, Felix Sher, said the family was shocked by the letter, but told the Fairfax Radio Network: “There is no point in getting angry or upset, nothing is going to be achieved by it.”

While the letters, if reported accurately, are extremely distasteful, and falsely seek to blame individual soldiers for Australia’s involvement in the US-led war in Afghanistan, their contents are statements of ideological and political opinion.

Like the war in Iraq, the occupation of Afghanistan has produced widespread killings of civilians by US-led forces, whether by aerial bombings, ground assaults or

policing operations. There have been a number of incidents in which Australian troops have been involved in the killing of civilians.

Although the Australian Federal Police laid the charges against Haron, it is unlikely that his arrest would have been authorised without consultation with the Labor government. This is the first recorded use of little-noticed laws that were introduced in 2002 alongside the initial barrage of “anti-terrorism” legislation brought forward after the 9/11 attacks in the US.

With Labor’s backing, the Howard government replaced an earlier section in the Crimes Act. It removed the previous requirement that the person to whom a letter was sent had to be actually menaced, harassed or offended. The change imposed the broader “reasonable persons” test instead and doubled the maximum prison term from one year to two. In 2004, a similar adjustment was made to the telecommunications legislation.

The amendments make it much easier to charge and convict. In other legal contexts, the term “offensive” is notoriously vague and has long been used by governments, police and courts to punish views or language deemed to be unacceptable. But the “reasonable person” test makes the wording even more open to political exploitation.

If Haron is convicted, it will be a precedent that could be employed against any opponent of the neo-colonial wars in Afghanistan and Iraq who sends letters, leaflets or newspapers through the mail, or posts material on-line.

Despite the obvious prejudicial impact on Haron’s chances of a fair trial, the media immediately sought to whip up public hostility, declaring that the allegations against him had “sparked community outrage”. A *Daily Telegraph* editorial claimed that although Australia was a “free country,” there were “some views so extreme they unite Australians in opposition”.

Prime Minister Rudd quickly weighed in, asserting that when people read the story on the front page of the

Daily Telegraph, “I think their stomachs turned”. Likewise, New South Wales Premier Nathan Rees said posting anti-war mail to families of Australian soldiers killed in Afghanistan was an “evil act of cowardice”.

In a further threat to free speech, Defence Personnel Minister Greg Combet said it would be best if Haron’s website were shut down while court proceedings were still pending. It appears that the site was then removed. Those who tried to log on were greeted with the words, “This account has been suspended.”

An article on a News Limited web site went one step further. Haron’s case, it declared, was “certain to raise debate over whether migrants guilty of hate crimes against the nation should be deported, even if they have citizenship”.

Rudd indicated in-principle agreement, saying: “It is important to reflect upon the strength of our laws generally in dealing with cases in the future where some of the assumptions underpinning immigration conditions have not been honoured.”

Currently, permanent residency and other visas can be cancelled, as the Howard government did in 2007 when it falsely accused Muhamed Haneef, an Indian-born Islamic doctor, of terrorism. Citizenship can only be revoked, however, if it was obtained through fraud or a serious crime was committed, and not acknowledged, before it was granted.

The offensive conduct modifications in the postal and telecommunications legislation are another aspect of the police-state measures introduced since 2002, under the pretext of combating terrorism. Just like the Howard government before it, the Rudd government is establishing sweeping precedents that can be used to suppress political dissent as social discontent and anti-war sentiment grow.



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