

Australia: Jury delivers split verdict in long-running “terror” trial

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3 January 2011

A Victorian Supreme Court jury has found Yacqub Khayre and Abdirahman Ahmed, two of five Lebanese- and Somali-born men charged with conspiring to commit a terrorist act, not guilty after a three-month trial. The three other men—Nayef El Sayed, Wissam Fattal and Saney Edow Aweys—were found guilty and will appear in court for sentencing on January 24. They could face jail terms of life imprisonment.

Ahmed, 26, told the media following his release that those found guilty were innocent and that “they will get out one day. We still continue the fight for the other fellows.”

The 14-member jury made its decision on December 23, after more than eight days of deliberation. The lengthy time it took to reach its decision, and the resultant split verdict, point to the flimsy character of the prosecution evidence and the use by police of entrapment methods to set up the men.

Much of the prosecution case was based on wild but vague statements made by the young immigrants in hundreds of hours of conversation recorded by police in a massive surveillance operation. The men, who came from troubled backgrounds, including involvement with drugs and petty crime, expressed deeply held anger over Australia’s ongoing involvement in the US-led invasions of Iraq and Afghanistan.

The five men were accused of “conspiring to commit a terrorist act”, which involved a suicide terror attack on the Holsworthy Army Barracks in Sydney, and were arrested in a series of highly-publicised pre-dawn raids in New South Wales and Victoria on August 4, 2009. They were denied bail and kept in solitary confinement in a Victorian high security prison for almost 18 months before the trial.

Conspiracy charges are vague and exceedingly difficult to disprove. Moreover, Australia’s anti-terror laws require no specific terrorist plot, only an agreed understanding between the accused that they want to carry

out an attack somewhere, sometime in the future.

Police claimed that the men had planned to storm the military base using automatic weapons and to shoot as many people as possible before being killed. No weapons, however, or any specific plans for the alleged attack on Holsworthy were found during the raids or the year-long police surveillance, codenamed Operation Neath.

At the time of the arrests, the Labor government and then prime minister Kevin Rudd immediately claimed Australia had been saved from an “imminent” terrorist threat, congratulated the police and used the so-called plot to foreshadow new measures to boost the country’s already draconian anti-terror laws. These included increased police search powers, streamlining secrecy measures for semi-public trials, amending sedition laws to include “urging violence”—which involves any incitement to use force, even if it does not affect “the peace, order and good government of the Commonwealth”—and allowing prosecution appeals against the granting of bail to terrorism suspects.

The media played a predictably despicable role in the case—from the day of the arrests to the lead-up to the trial. Police provided the media with detailed information about the so-called terror plot in advance of the raids guaranteeing that lurid, highly exaggerated stories appeared in the press when the raids occurred and in the days immediately following. In November last year the Melbourne Magistrates Court released more than 5,000 pages of untested prosecution evidence, ensuring that the media could continue to run highly-prejudicial articles alleging that the men were violent and dangerous Islamic radicals and had planned a major terror attack on Australian soil.

Defence evidence during the trial, however, revealed that a police officer, working under the alias “Hamza”, played a major role in entrapping the men. The police officer infiltrated the group and convinced Wissam Fattal

to travel to Sydney and examine the Holsworthy army base and its surroundings for a future terror attack.

The visit was recorded on CCTV and replayed repeatedly by the media in the lead-up to the trial. In reality, Fattal's trip to the army base, however, consisted of a train ride to Holsworthy railway station, near the base's main entrance, and a short four-minute walk along the perimeter, not long enough to seriously reconnoitre the base, let alone examine it for an armed suicide assault.

Patrick Tehan, Fattal's defence lawyer, told the court that there was "a real smell about the case". His client, he said, had been set up by Hamza, who "completely conned, deceived and manipulated Fattal" and became his "very best friend". Police began intercepting Fattal's phone calls in September 2008; two months later Hamza befriended him at Melbourne's Preston Mosque.

Cross-examined by Tehan, Hamza admitted that Fattal had no plans for jihad in Australia. The undercover police officer was later directed to gauge Fattal's reaction to reports alleging that Australian soldiers had killed and maimed innocent people in Iraq. Hamza recorded in his log that although Fattal became quite angry, at no time did he "directly indicate or threaten action against Australian interests domestically."

Saney Edow Aweys' lawyer, Michael O'Connell, said the alleged conspiracy was wracked by differences of opinion between the accused and that "disagreement is the antithesis of conspiracy".

O'Connell told the court that Aweys "never agreed to prepare for or plan in any way a terrorist act" and that although he had been frustrated by his personal situation in Australia and occasionally "talked tough", he did not feel the level of hatred towards Australia "necessary to motivate someone to commit a terrorist act".

A joint statement issued immediately after the verdict by the Australian Federal Police, Victorian and NSW police, the Australian Security and Intelligence Organisation and NSW Crime Commission declared that Operation Neath was "a clear example of how state and federal police and the intelligence community are working collaboratively ... to combat the threat of terrorism and ensure the safety and security of the Australian public." Robert McClelland, attorney-general in the Gillard Labor government, issued an identical statement.

These claims are patently false. Operation Neath and the subsequent trial had nothing to do with "combating terrorism" or protecting "the safety and security" of Australian citizens. The latest trial follows the modus operandi of previous police entrapments that have been

used by Australian governments—Labor and Liberal-National alike—to demonstrate their ongoing commitment to the US-led war on terror and justify the introduction of harsh anti-terror laws and other repressive anti-democratic measures.

In 2003, Zeky Mallah, an 18-year-old Lebanese-Australian, became the victim of an undercover police operation and was charged with planning a terrorist act. The young man had previously been denied an Australian passport after being questioned by ASIO agents over his political opposition to Australian involvement in the US-led invasion of Iraq. Later, a police agent, claiming to be a journalist, offered the disoriented Mallah \$3,000 to make a video, in which the teenager vowed to carry out a suicide attack on ASIO offices.

Five years later, Muslim cleric Abdul Nacer Benbrika and six associates were found guilty of being members of an unnamed terrorist organisation, after an undercover police agent offered to sell Benbrika, ammonium nitrate. The cleric was filmed by police when the agent showed him how to detonate an ice-cream container of explosives.

Like its predecessor—John Howard's Liberal-National government—the Labor government, first under prime minister Kevin Rudd, then Julia Gillard, has used the so-called Holsworthy terror plot to boost Australia's anti-terror laws.

Last September, the Gillard government announced new measures to increase the military's domestic powers. Citing the so-called Holsworthy terror plot, it tabled new legislation allowing Australian soldiers to use lethal force to protect defence facilities and to search and detain individuals on them. Anyone attempting to escape military arrests could be shot.

As the latest trial demonstrates, police entrapment and other methods of state provocation are being intensified as the Labor government attempts to suppress all opposition both to its involvement in the fraudulent "war on terror" and to the economic and social attacks being prepared against ordinary working people on behalf of big business and the banks.



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