

# Australian PM condemns magistrate for bail decision in bogus “terror” case

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Prime Minister Tony Abbott last week denounced a magistrate for granting bail to a man who allegedly tweeted a threat to police and was also said to have expressed support online for the Islamic State of Iraq and Syria (ISIS). Abbott’s statements came in support of a hysterical campaign in the Murdoch media over the case, which included the provocative front-page publication of the magistrate’s photograph in the Melbourne *Herald Sun*.

Abbott’s intervention underscores the determination within the political establishment to exploit both the police siege of a Sydney café last month, which involved an isolated, disturbed individual, long known to the police and intelligence agencies, and the *Charlie Hebdo* killings in France to tear up basic legal and democratic rights.

The right to the presumption of bail is a fundamental legal precept, inextricably tied to the presumption of innocence, that was established in the British legal system during the seventeenth century through the struggle against the absolute monarchy. The bourgeois democratic revolutions in Europe enshrined the principle that before an individual is tried and convicted by the state, he or she has a general right to liberty, thereby preventing arbitrary imprisonment.

In Australia, this presumption of the right of bail has generally been outweighed only where there is evidence that the accused poses a real threat to public safety or is a flight risk. Over the past decade, however, this principle has already been reversed for “terrorist”-related offences by so-called anti-terrorism legislation, adopted with the bipartisan backing of the Labor and Liberal-National parties.

Now, a campaign is underway that could see the reversal of the right to bail in a wider range of criminal cases, even where there is no proven link to terrorism,

and regardless of how flimsy the evidence. As a result, defendants who have no connection to terrorism could also be imprisoned for weeks or months before being able to challenge the allegations against them.

Khodr Moustafa Taha, an Australian-born 35-year-old of Lebanese descent, had his Melbourne home raided on January 2 after allegedly sending a tweet to the Victorian state police on December 14, saying: “i’m going to hurt your officers.” Police claim they found ammunition, three swords, child pornography and evidence on his computer of Twitter accounts used to express support for ISIS and issue threats against various political figures, including US President Barack Obama.

Taha faces charges of possessing ammunition, a prohibited weapon, child exploitation material and property suspected of being the proceeds of crime, as well as criminal damage, and unlawful assault with a weapon. None of these are terrorism offences, yet Taha has been depicted by the media and the authorities as a dangerous terrorist supporter.

It remains to be seen if the police allegations have any credibility whatsoever. The police were clearly determined to circulate damaging allegations against Taha—the media relayed accusations that he had assaulted his mother and attacked a former employer with a hammer, though he has not been charged over either alleged incident. Moreover, Taha reportedly told police that the “ammunition” found in his home was a single bullet from a hunting trip he went on 10 years ago, and that two of the swords found were legally brought back from Bali, while the other sword was given to him as a gift.

What has emerged is a portrait of another “terror suspect” who is in reality a deeply disoriented individual with no ties of any kind to ISIS, Al Qaeda or

any other Islamist organisation. The court heard that Taha is unemployed and addicted to drugs. The “proceeds of crime” charges relate to an allegedly stolen bicycle.

Deputy Chief Magistrate Jelena Popovic granted bail, rejecting the police’s demand that Taha be detained. In an indication of the bogus character of the police case, Popovic reportedly said in court that even if Taha were found guilty of the charges against him, he might not be jailed.

“We live in heightened times and everyone is very concerned about this kind of behaviour,” the magistrate stated, before adding that, “on balance, any risk can be fixed by the [bail] conditions.” These conditions included Taha undergoing counselling, reporting daily to police, living with his brother, and staying off social media.

The *Herald Sun* tabloid reacted by reserving most of its January 12 front page for a photo of Popovic, under the headline, “SEE NO EVIL.” The story referred to an “alleged violent armed terrorist sympathiser” who had been “sensationally bailed.”

The newspaper issued an editorial the following day, declaring: “The *Herald Sun* had already called for the courts to look for ways of denying bail to defendants in terror-related cases rather than seek reasons to grant them bail... Anti-terrorism laws ban the promotion of terrorism and must be more vigorously pursued by intelligence and security agencies and the courts.”

The implied threat was that any judge or magistrate who fails to fall fully in line with the “war on terror” will be subjected to the same witch-hunt mounted against Popovic, targeted for public harassment and even violence.

Last month, magistrates were vilified for granting the Sydney siege hostage-taker Man Haron Monis bail in two earlier criminal prosecutions—also not related to terrorism—even though they did so on the basis that the cases against him were “weak” and “circumstantial.” The lawyers who represented Monis in those cases received death threats.

Abbott contributed to this threatening atmosphere by launching an internal review into the Sydney siege, explicitly targeting the granting of bail, as well as access to legal aid, and hence legal representation, along with the rights of asylum seekers and welfare recipients.

The political establishment, Labor and Liberal alike, seized upon the granting of bail to Taha. The state Labor government’s attorney-general, Martin Pakula, said he had asked the justice department to examine the case and determine whether there were “gaps” in current bail legislation.

The following day, the prime minister weighed in. On talkback radio, Abbott, who leads the Liberal Party, said he “can understand why people are aghast at this.” He continued: “This is someone who appears to have a history of violence, a commitment to extremism and he has made explicit threats against the police. It does seem a very, very questionable bit of judicial judgement—injudicious judgment by the judiciary.”

Not only did Abbott’s comments directly prejudice any chance of a fair trial. They fed into the government’s campaign, backed by Labor and the media, to exploit the incidents in Sydney and Paris to ramp up the police-state powers established over the past decade in the name of combatting terrorism, including by introducing new laws providing for mass surveillance via the retention of all Internet and social media “metadata.”

As in Europe and the US, amid a worsening economic crisis, the bogus war on terror—fuelled by the demented acts of dubious individuals—is being used to advance authoritarian measures, as well as stepped-up involvement in the US-led war in the Middle East.



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