

The Assange precedent in action

Australian journalist threatened with prosecution for exposing war crimes in Afghanistan

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In another major assault on press freedom, Australian Broadcasting Corporation (ABC) journalist Dan Oakes has been threatened with prosecution for his role in exposing war crimes committed by the country's Special Forces soldiers in Afghanistan.

The Australian Federal Police (AFP) issued a statement last night, confirming that they had sent a brief of evidence to the Commonwealth Director of Public Prosecutions (DPP), following a protracted investigation targeting the ABC.

The AFP indicated that the probe began after it received "a referral on 11 July, 2017, from the Chief of the Defence Force and then-Acting Secretary for Defence in relation to the broadcast and publication of information assessed as classified material."

The statement confirmed that the investigation included the unprecedented AFP raid of the ABC's Sydney headquarters in June last year. It was later revealed that the AFP had been seeking evidence in relation to Oakes, his colleague Sam Clarke and their reports of illegal activities by the Australian army in Afghanistan.

ABC management has stated that the AFP brief relates to Oakes, but not Clarke.

While the AFP statement is scanty and vague, it leaves little doubt that Oakes faces charges for his publishing activities. A brief is sent at the conclusion of a police probe. It is essentially a recommendation that the DPP proceed with a criminal prosecution of the individual who has been investigated.

The AFP's reference to the "publication of information assessed as classified material," moreover, indicates that Oakes faces charges for his work as a journalist, and not some other offence.

For a prosecution to proceed, it would need to be signed off by both the DPP and the federal Liberal-National government's Attorney-General Christian Porter. Such a prosecution of a journalist would be unprecedented in Australia.

In a comment on Twitter, Oakes wrote: "Would just like to

point out at this moment that whether or not we are ever charged or convicted over our stories, the most important thing is that those who broke our laws and the laws of armed conflict are held to account."

The articles Oakes has been targeted for are a series published in early 2017, dubbed the "Afghan Files." They exposed alleged war crimes by Australian Special Forces troops, including extrajudicial killings, some of them targeting unarmed civilians, and the desecration of corpses.

In the three years since the "Afghan Files" were published, government and military authorities have been unable to refute their contents. Reports since, by the ABC and Nine Media publications, have provided further evidence of systematic illegality on the part of Special Forces troops in Afghanistan.

In March, for instance, the ABC published a 2012 video of a Special Forces raid near the village of Deh Jawz-e Hasanzai in southern Afghanistan. It showed an Australian soldier confronting a young man who was cowering on the ground in a field. The soldier repeatedly shot the villager at point blank range, killing him. The Special Forces unit claimed that the Afghan civilian had been armed, but that assertion was disproved by the video.

Such is the weight of evidence that senior military commanders have admitted war crimes were committed. It was revealed this week that Special Forces chief Major-General Adam Findlay told a group of soldiers in Perth that "there are guys who criminally did something."

The authorities have responded to the raft of exposures by establishing closed-door investigations, including one involving the AFP. These are aimed at limiting the damage of the revelations, and ensuring that they do not disrupt the Australian imperialism's predatory operations, including in the Asia-Pacific. A long-running military inquiry is due to report later this year.

At the same time, those involved in exposing the war crimes are being persecuted. Former military lawyer David McBride,

who allegedly provided the information that the “Afghan Files” were based on, has been charged with a raft of offences over alleged violations of official secrecy. His trial is proceeding under a shroud of secrecy.

Yesterday’s AFP statement makes clear that very shortly after the “Afghan Files” were published, the police and the government began plotting a prosecution of the journalists involved.

In April, 2019 Oakes and Clarke received letters from the AFP asking that they “consent to a forensic procedure being the copying of your finger and palm prints.”

The correspondence revealed that both journalists were suspected of three crimes. One was under s79 (6) of the Crimes Act 1914 relating to the “receipt of prescribed information,” another cited s73A (2) of the Defence Act 1903 concerning ‘unlawfully obtaining information,’ and the third was under s132 1 (1) of the Criminal Code.”

In June 2019, the investigation was ramped-up with the raid on the ABC’s Sydney headquarters. Senior ABC staff stated at the time it was clear the officers were looking for material relating to the “Afghan Files,” along with Oakes and Clarke.

Demonstrating that the ABC probe is part of a broader assault on press freedom, just 24 hours later the home of News Corp political editor Annika Smethurst was also raided. She was targeted over a story that revealed federal government plans to expand domestic spying by the Australian Signals Directorate. Only last month did the authorities confirm that Smethurst would not be prosecuted. The documents seized from Smethurst, however, will not be returned.

There were other indications last year that Oakes and Clarke faced potential prosecution. These included revelations that McBride, the whistleblower, had been questioned by the AFP about whether the journalists knew it was an “offence” for them to possess classified information. Chillingly, he was also asked if Oakes had “mentioned the prospect of jail time... in relation to himself.”

Unlike the US and a number of other countries, Australia does not possess a bill of rights enshrining press freedom. Under the federal Crimes Act, it is an offense to receive or communicate a secret government document without permission, punishable by up to seven years imprisonment. However, these laws, which have been on the books for decades, have not been used against publishers.

The threat to prosecute Oakes is part of a broader criminalisation of publishing activities. Draconian foreign interference legislation passed in 2018 by the Liberal-National government with Labor Party support makes it an offence to even receive information that has been classified.

While journalists have condemned the attack on Oakes, most of them have ignored the elephant in the room. If Oakes is prosecuted for publishing evidence of war crimes in Afghanistan, it will be based on the playbook established by the US-led campaign against Julian Assange.

The WikiLeaks founder is currently imprisoned in Britain’s maximum-security Belmarsh Prison. He faces extradition to the US, where the Trump administration has issued 18 charges against him, including 17 under the Espionage Act. They are over WikiLeaks publications revealing mass civilian killings in Iraq and Afghanistan, other war crimes and global diplomatic conspiracies.

Assange has been abandoned by the Australian government and all of the official parties, despite the fact that he is an Australian citizen and journalist. Shamefully, much of the corporate media has joined the campaign against the WikiLeaks founder, publishing the smears of the intelligence agencies to legitimise his persecution.

Labor has cynically adopted a posture of concern over the attack on Oakes, calling on Attorney-General Porter not to sign-off on a prosecution. Labor, however, spearheaded Australian government involvement in the persecution of Assange, and has either implemented or supported all of the measures undermining democratic rights over the past two decades.

The Media, Entertainment and Arts Alliance (MEAA), the journalists’ union, has also condemned the attacks on the ABC. It has done virtually nothing to fight for Assange’s freedom, though, in line with its close collaboration with governments and the media conglomerates, paving the way for further assaults on journalists.

When the US unveiled its charges against Assange in May 2019, the WSWS and WikiLeaks stated that they were the prelude to a stepped-up offensive against press freedom.

In June, after the AFP raids in Australia, the WSWS wrote: “By targeting journalists, as well as the individuals leaking the damning information, the Australian government is directly following the lead of the Trump administration’s charging of Assange.” The threat to prosecute Oakes vindicates that assessment.

It underscores the need for journalists, along with all workers and young people, to fight for Assange’s immediate freedom and to prevent his extradition to the US, as part of a broader struggle in defence of democratic rights and against imperialist war.



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