

Defend David McBride! Australian government proceeding with trial of Afghan war crimes whistleblower

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The first criminal trial over Australia's war crimes in Afghanistan begins on Monday at the Supreme Court in Canberra. The government-commissioned Brereton Report of 2020 found "credible evidence" that Australian Special Forces soldiers murdered at least 39 Afghan civilians and prisoners between 2009 and 2013.

The man who will enter the dock on Monday, however, is not accused of harming a single Afghan or anyone else. Instead, he is being prosecuted for exposing the atrocities and seeking to bring them to an end.

David McBride, a former Australian army lawyer and courageous whistleblower, is charged with five national security offences, including unlawfully giving classified information under the Defence Act and disclosing information in breach of the Crimes Act. The trial will be held with "national security" secrecy provisions and restrictions on reporting in force.

If convicted, McBride faces a maximum penalty of one hundred years behind bars, i.e. life imprisonment.

In comments to the Australian Broadcasting Corporation this week, McBride stated: "My conscience is clear. I believe I did the right thing, but they are very serious charges."

National security trials are always a political matter. In this case, as in other federal proceedings for such charges, the government's attorney-general has the power to intervene and end the prosecution on the grounds that it is not in the public interest.

On Wednesday, McBride's lawyers at the Xenophon Davis firm published a letter they had received earlier that day from a government representative, stating that Attorney-General Mark Dreyfus would not intervene in the case. The terse, one page document, declared: "The long-standing practice of successive Attorneys General is that ministerial intervention is reserved for very unusual and exceptional circumstances."

The prosecution of a whistleblower who revealed

confirmed war crimes, for which no one has been brought to account, is apparently not considered "very unusual" or "exceptional" by the government. McBride is being criminally prosecuted for exposing the gravest violations of international law. If he had not done so, McBride could have been considered as complicit in a cover-up of those crimes, and would have failed his stated duties.

McBride had pursued internal complaint mechanisms, and had only turned to the press when those had been brushed aside.

The response to Xenophon Davis shows that this travesty is occurring because the Labor government has decided that McBride must be punished. That is significant from several standpoints.

Firstly, all of the war crimes documented by the Brereton Report occurred under the last Labor governments. The bulk of them were after the Labor administration of Prime Minister Julia Gillard committed Australian forces to the massive troop surge by the Obama administration in 2010. That included extensive participation in joint "capture or kill" raids, based on assassination lists drawn up by US intelligence.

Secondly, Labor's offensive against McBride is fully in line with its militarist program. The primary policy of the government, since taking office in May 2022, has been to complete Australia's transformation into a frontline state of the US preparations for a catastrophic war against China. The vast expansion of US basing and Australia's acquisition of advanced strike capabilities is being carried out behind a veil of secrecy, with the public kept in the dark.

Thirdly, the McBride trial date was scheduled earlier this year. But the fact that the attorney-general has given a final green light for it to proceed now has immense implications. As it is supporting the prosecution of a man who exposed war crimes against civilians, Labor is aggressively backing the Israeli genocide in Gaza. Taken together, Labor's positions on McBride and Gaza signify that the abuse and

even mass murder of civilians is considered an acceptable component of military and foreign policy.

Finally, the McBride case is the last nail in the coffin of fraudulent claims that Labor is defending persecuted WikiLeaks founder Julian Assange in any way. While deepening relations with the US, Labor representatives have occasionally said, “Enough is enough,” and the Assange case has “gone on for too long” to try and placate widespread anger over the onslaught against that Australian citizen and journalist.

Assange is a publisher, McBride, a whistleblower. The distinction has a legal significance, but there are very direct parallels between the two. The Biden administration wants to prosecute Assange for revealing war crimes, including in Afghanistan, as a journalist. Labor is proceeding with its own trial of a man whose only “wrongdoing” was to expose such crimes as a whistleblower.

Had it the slightest intention of freeing Assange, Labor would have terminated the prosecution of McBride long ago. If Labor did make representations to the US to drop its pursuit of Assange, the Biden administration could simply respond: “We are only trying to do to Assange what you are doing to McBride.”

The message being sent in both cases is that all those opposed to the criminal militarist policies of the Australian and allied governments, whether in the form of publishing, whistleblowing or even in the mass protests witnessed over the past month against the slaughter in Gaza, will be given no leeway by the Labor government or any other. It is another step in the censorship of ordinary people and the cover-up of the crimes of governments.

In an X/Twitter post sharing the response of the Attorney-General’s department, Xenophon Davis exposed its claims. They wrote: “[W]e utterly reject the contention that the Attorney General cannot intervene except in ‘unusual and exceptional circumstances.’ The law imposes no such restraint nor any hint of it. The AG does not need exceptional circumstances, but there is no shortage of them in McBride’s case.”

They continued: “The implication that the AG’s Department has an arm’s-length relationship to the case is difficult for us to accept as we are constantly entangled in its interventions. The AG now exerts startling powers over the conduct of the trial and the presentation of evidence under the National Security Information Act (NSI). Those powers are being exerted with vigour. In common parlance, the AG and his delegates are up to their necks in this secret trial.”

At the same time, criminal investigations into soldiers accused of committing the war crimes, including murder, are proceeding at a glacial pace and appear to be going nowhere. To the extent that such investigations are even reported on, it

is generally to reveal new “complications” and “hurdles” to charges ever being laid and those culpable sent to court.

More significant than the soldiers are those who sent them there. The atrocities in Afghanistan were not an aberration. They were the foreseeable and inevitable manifestation of the character of that war as a neo-colonial occupation of an oppressed people. Throughout the 20th and 21st centuries, such wars for profits, resources and markets have always involved “counter-insurgency” operations that acquire the character of an offensive against the entire subjugated population.

Since the war crimes came to light, the official line, including in the Brereton Report, has always been that members of the relevant government administrations and military command were entirely unaware of the violations of international law when they were being perpetrated. There was no knowledge at the time and no cover-up after the fact.

Were that so, were they all as surprised, shocked and horrified as they have professed to be since the war crimes became public knowledge, one may surmise that McBride would not be in court on Monday and facing the rest of his life behind bars. In seeking to criminalise McBride, his persecutors reveal their own criminality.

Workers, students, young people and all defenders of civil liberties must demand an end to the prosecution and McBride’s unconditional freedom. This is not only a matter of McBride’s fate, as important as that is, but of fighting an assault on anti-war activities amid an explosion of imperialist militarism. This struggle must be connected to the fight to mobilise the working class to end the Gaza genocide, free Assange and defend all democratic rights. Each one of these critical issues can only be taken forward through a political offensive against the Labor government.

McBride’s supporters are holding an event in his support this Sunday, 1 p.m. at Glebe Park in Canberra. They are calling on defenders of democratic rights to rally outside the Supreme Court in Canberra, at 8 a.m. Monday.



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