

Australian court upholds censorship of acclaimed pianist for comments about Gaza genocide

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The Australian federal court last Friday ruled against acclaimed pianist Jayson Gillham, who had brought a case against the Melbourne Symphony Orchestra (MSO) alleging that he was the subject of political discrimination.

The case revolved around the MSO's extraordinary actions in August 2024. At one of a series of scheduled performances that month, Gillham made comments introducing "Witness," a composition by Connor D'Netto "dedicated to the journalists of Gaza." Gillham noted that the murder of journalists was a war crime and referenced the unprecedented number of reporters who had been killed by Israel in the course of its onslaught against the Palestinians of Gaza.

Notwithstanding the entirely factual and objective character of the statement, Gillham was subjected to immediate retribution. MSO management issued a statement describing his comments as "unauthorised," cancelled his next scheduled performance and insisted that any reinstatement would be based upon a gag-order prohibiting him from making similar comments on stage.

Given that chain of events, Gillham's claim that he was subjected to political discrimination seemed exceptionally strong. His case cited Victoria's Equal Opportunity Act, which provides protections against employees being victimised on the basis of their political beliefs.

MSO management, moreover, had only days after cancelling Gillham's next concert described that decision as an "error" and sought talks with the pianist. There was a sense that management was aware it had overstepped the mark and left itself vulnerable to precisely the case that Gillham would eventually bring.

Despite all of that, MSO refused to acknowledge wrongdoing. It entered a defence that asserted the prerogatives of management over artists and practically

boasted that all of its actions were based on crass calculations of a commercial nature, i.e., money.

In upholding that defence last week, federal court Justice Graeme Hill presented MSO management as indifferent to the political content of Gillham's statements. Its preoccupation, instead, was to "address the anticipated adverse impacts" of Gillham's comments on its business operations.

Justice Hill stated that the MSO had a policy of not supporting "either side" in what he described as the "Israel-Gaza conflict" and declared that there was a "custom or practice that classical musicians do not make statements on sensitive political or social issues from the stage without approval of the host."

The fifteen-day trial, which began in May, received hardly any coverage in the corporate media. That reflected the complicity of the Australian press in the genocide itself, as well as its complete disinterest in basic democratic rights, including freedom of speech.

An Australian Associated Press (AAP) report of the opening day of the trial sketched out some of the arguments of the competing parties.

As per that report, MSO barrister Justin Bourke said that Gillham knew his comments would "upset" people. The AAP reported, "Mr Bourke argued an unfettered right to free speech on the stage could have profound consequences, affecting ticket sales, sponsors and donors."

Gillham's barrister Sheryn Omeri noted that her client's comments were lawful and that if members of the audience were unduly upset by them, they could have left the venue.

In a particularly apt and well-made comment, Omeri said: "There is no right not to hear things that make us uncomfortable, even very uncomfortable ... there is a

difference between feeling uncomfortable and feeling unsafe, and nothing [in] that speech would have made anyone feel unsafe.”

That opening day of the trial also heard evidence as to how many people were upset and by what. Out of an audience of hundreds of people, one individual had lodged a written complaint against Gillham’s comments and two others had expressed their angst verbally. By contrast, the decision of the MSO to cancel Gillham’s next concert was the subject of 487 separate complaints.

Several issues are posed by the trial. In the first instance is the Kafkaesque attempt by official institutions to bury the reality of what has been perpetrated in Gaza and to deem reference to it as “offensive” and unacceptable.

When Gillham made his comments, more than 160 Palestinian journalists had been murdered by Israel in the course of its offensive against Gaza. Human rights and press freedom organisations now place the number at greater than 250.

A report by the Watson Institute for International and Public Affairs’ Costs of War project in April last year found that more journalists had been killed over the preceding two years in Gaza than in both world wars, the US onslaught on Vietnam and the dismemberment of Yugoslavia.

That is one component of what every reputable international law and human rights organisation has deemed to be a genocide. Prime Minister Benjamin Netanyahu and other Israeli leaders are effectively fugitives evading an International Criminal Court arrest warrant for crimes against humanity.

While the political, media, artistic and legal institutions respond to those crimes with a shrug of indifference, figures such as Gillham who draw attention to them even in the most inoffensive manner are targeted.

That is bound up with the fact that these are not simply Israeli crimes. The Zionist regime is a forward base in the Middle East of American imperialism, which has sponsored, armed and defended the genocide as part of its broader war for global hegemony. US allies, including the Australian Labor government, have been actively complicit, including through the transfer of weapons components to Israel, the provision of intelligence and political and diplomatic support.

While supporting the historic war crimes, Western governments have carried out a massive assault on democratic rights, immediately targeting mass hostility to the genocide but threatening broader social and political opposition.

In Australia, the federal Labor government has overseen a crackdown, targeting opposition to the genocide in the universities, among workers and throughout society, including through the passage of “hate speech” laws that can criminalise denunciations of Zionism and illegalise organisations on the same grounds.

In the Gillham case, that broader crackdown coalesces with the protracted erosion of artistic freedom and the complete commercialisation of arts institutions, after decades of government funding cuts and an ever greater reliance on corporate sponsorship.

What the MSO advanced as a legal defence amounted to a moral and artistic self-indictment. An institution that declares its indifference to the social and political issues of the day, and boasts of its exclusive preoccupation with commercial success, is one that has severed any connection to the great artistic traditions, based on unfettered creativity, commitment to truth and human solidarity.

In that sense, the MSO’s legal victory may be a pyrrhic one. It can continue to cast a suspicious eye and a heavy fist on independently minded artists and to peer expectantly at the hands of donors reaching into their deep pockets, but its ability to invoke artistic principles is utterly compromised.

A representative of Gillham told the Australian Broadcasting Corporation that he was disappointed in the outcome and would examine the judgement. Whatever comes of that, the pianist’s stand has made clear that the most principled and thoughtful artists are on a collision course with an official social framework that is normalising imperialist barbarism and turning to authoritarianism.



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