

Australian court backs police raids on journalists

By Mike Head
18 February 2020

In a chilling ruling, a Federal Court judge yesterday bluntly dismissed a legal challenge by the Australian Broadcasting Corporation (ABC) to a police raid on its Sydney headquarters last June 5.

Justice Wendy Abraham ruled that “national security” overrode media freedom and the right of the public to know the truth about the secret crimes being committed by the government and the military-intelligence apparatus.

The eight-hour Australian Federal Police (AFP) raid sought to incriminate two ABC reporters, Daniel Oakes and Sam Clark, over alleged leaks of documents exposing war crimes committed by Australian Special Forces in Afghanistan. It caused outrage among journalists and the public in Australia and internationally. It followed the raid the previous day on the Canberra home of a News Corp journalist, Annika Smethurst, over her report of government plans to legalise domestic surveillance by the electronic spy agency, the Australian Signals Directorate (ASD).

The judge not only threw out the legal case. She ordered the ABC to pay costs—which could run into tens of thousands of dollars—and allowed the AFP to keep all the material it seized.

Speaking outside the court, the ABC’s director of news, Gaven Morris, said: “I think fundamentally the court ruled that the AFP have the right to enter a newsroom, to fossick around in confidential files, [and] to take information about the way it undertakes its journalism with its sources. This should send a chill down all of our citizens’ spines.”

The trade union covering media workers, the Media Entertainment & Arts Alliance (MEAA), stated: “This decision, while not unexpected, is another blow to press freedom in Australia.” Likewise, the Labor Party and the Greens voiced disappointment at the legal verdict.

Yet in all this criticism of the judgment, there was no

mention of the case that opened the floodgates for such blatant assaults on free speech and basic democratic rights. That is the persecution of WikiLeaks publisher and journalist Julian Assange.

By authorising the police raids against journalists, the Liberal-National Coalition government followed the lead of the Trump administration in charging Assange, an Australian citizen, with 17 counts under the US Espionage Act, for which he faces life imprisonment.

Justice Abraham’s ruling pointed to the reasons behind the odious silence on Assange, an investigative journalist and publisher, who published thousands of documents that laid bare the truth about war crimes, assassinations, coup plots and mass surveillance committed by the US and its allies, including Australia, around the globe.

In her 103-page judgment, Justice Abraham rejected all the ABC’s legal arguments that the warrant issued to authorise the raid was unlawful, including that it breached an implied freedom of political communication in the 1901 Australian Constitution.

Citing previous decisions by the High Court, Australia’s top court, the judge insisted that the protection of classified military secrets “justified any burden on the implied freedom.” She also quoted a 1963 British ruling that “the public interest in national security necessarily outweighs the public interest in the free flow of information.”

In other words, “national security”—a codeword for the interests of the ruling corporate elite and its military-intelligence agencies—overrides basic democratic rights, including the right to free speech, freedom of communication, and the protection of journalists’ confidential sources.

Yet the political foundation on which the ABC conducted the case paved the way for that ruling. The judge thanked the ABC and the AFP for running the litigation on the basis of an “agreed statement” that

included the following proposition:

“Defence information disclosures may also harm Australia’s relationships with allies and coalition members. A demonstrated inability to maintain the secrecy of certain types of defence information may reduce the willingness of those countries to share information with Australia.”

Thus, while the ABC management claimed to be defending free speech by launching the legal challenge, it explicitly accepted the right of the government to outlaw and punish the publication of any material that could threaten its relations with military allies. Above all, this refers to the United States, Canberra’s closest partner and the dominant global power since World War II.

In fact, the ABC’s submission to the court echoed the AFP’s justification for the raids. Immediately after the raids, the acting AFP commissioner Neil Gaughan blurted out that the real reason for them was to protect the information that the Australian police and intelligence agencies receive from their “Five Eyes” counterparts.

Five Eyes is a network of intelligence agencies, dominated by the US, which also includes Australia, Britain, Canada and New Zealand. This network is central to US-led war preparations and operations. It conducts electronic surveillance on rival governments, and millions of people worldwide.

In effect, Gaughan admitted that the police acted under pressure from Washington, as well as Canberra. The police raids, like the vendetta against Assange, are part of an attempt to cover up, not just the past crimes of the US and its allies, but the even greater ones now being prepared as Washington menaces Iran, threatens US geo-strategic rivals, and escalates its economic and military confrontation with China.

Because of the Federal Court verdict, the threat of prosecution and lengthy jail terms still hangs over Oakes, Clark and Smethurst, as well as other journalists. The ruling hands vast scope to the AFP to launch intimidating raids on journalists and media organisations.

The warrant that Justice Abrahams approved permitted the police to carry out a sweeping fishing expedition to hunt for any material that could be used to incriminate journalists. The items that police could seize included handwritten/digital notes, diaries, correspondence, emails, minutes, reports, briefing documents, assessments, story pitches, planning logs and raw or unedited footage in its entirety, “together with any manual, instruction, password or other thing that assists to gain access to or interpret or decode any of the above things.”

A separate challenge by News Corp to the ransacking of Smethurst’s home is still awaiting a verdict by the High Court. But the High Court’s long record of brushing aside the implied freedom of political communication, as recited by Justice Abrahams, indicates that this law suit will almost certainly suffer a similar fate.

In an attempt to defuse the hostility toward the government and the police raids, Attorney-General Christian Porter ordered the Director of Public Prosecutions not to prosecute journalists for specified secrecy offences without his approval. But that only concentrates these police-state powers in the hands of the government itself.

Soon after both raids, in a related bid to divert the outcry, the media industry’s “Right to Know” coalition, joined by the MEAA, presented the government with a six-point “reform” plan that included the right to contest applications by police for warrants to raid journalists and newsrooms. Labor and the Greens endorsed this agenda.

These limited proposals, also issued on the basis of protecting “national security,” are designed to shield only the corporate media—which works closely with the political and “security” establishment—not independent, oppositional and critical journalists and media platforms, including WikiLeaks and the *World Socialist Web Site*.

The Federal Court ruling underscores what is involved in the defence of Julian Assange and the courageous whistleblower Chelsea Manning. The fight for their freedom requires the development of a mass movement of the working class and young people, directed against the entire ruling establishment, which is committed to the defence of the military-intelligence apparatus and the US alliance.

To contact the WSWS and the
Socialist Equality Party visit:

<http://www.wsws.org>