



# *Peace Movement Aotearoa*

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web site <http://www.converge.org.nz/pma>

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## **Support for Malcolm Kendall-Smith**

Kia ora,

Below is information about how you can support Flight-Lieutenant Malcolm Kendall-Smith, the RAF doctor who refused to return to Iraq because he considers the invasion of Iraq contravened international law, the Nuremberg principles and the law of armed conflict. As a consequence, he was court-martialed and sentenced to eight months in prison on 13 April 2006.

Included on this information sheet are: a message from Malcolm's family; the link to an Independent article about Malcolm's case; details of where to post a letter of support to him; the online petition calling for his release; a letter you can send online to John Reid, British Secretary of State for Defence; how you can make a donation to assist with Malcolm's legal costs; and where to send an email message of support. Most of the support for Malcolm is being coordinated by Military Families Against the War, Britain. This information is also available online at <http://www.converge.org.nz/pma/mks06.htm>

- **A message from the family of Malcolm Kendall-Smith**

It is astounding to think that in 2006, in a democratic society, an Assistant Judge Advocate - Jack Bayliss - could have the arrogance to deprive a person of the right to a fair trial. The gagging order brought down prior to the GCM disallowed the defendant's honestly held belief, and deeply researched defence, to be heard.

The severity of the sentence was disproportionate to the action taken by the defendant, and in the fullness of time may well prove to be the undoing of both the representatives of the tribunal and of the persons responsible for taking your country into Iraq without the necessary mandate from the UN. The revealed documents relating to the original advice from the Attorney General at the time of the invasion, had every relevance to the defence, and yet were seen to be irrelevant by the same Jack Bayliss. Throughout the entire proceeding he demonstrated a bullying attitude which seemed to come from a fear of being challenged in any way. It is questionable whether this person was appropriate to facilitate such a court.

As families of those serving in the Armed Forces we all understand the risks associated with their work. This we can accept. However, there are times when it becomes apparent that these people are placed in situations not in accordance with international law. The real humanitarians are those who challenge such situations in order to save unnecessary loss. Our family joins in thanking all those who are showing their support for Malcolm. It is greatly appreciated.

Our best wishes to you all, Margaret and Ian Kendall-Smith

- **The Independent article** 'Justice never had a hearing in this case - how could a military court try a case that would, were the defendant to win, bring down the military?' by Matthew Norman is at [http://www.globalecho.org/print\\_view.php?aid=7168](http://www.globalecho.org/print_view.php?aid=7168) and paper copies are available from Peace Movement Aotearoa.

- **Letters of support to Malcolm** should be posted to Flt Lt Kendall-Smith, c/o Mr Justin Hugheston-Roberts, Rose Williams and Partners, Waterloo House, 4 Waterloo Road, Wolverhampton, WV1 4BL, England.

- **The online petition of support** can be signed at <http://www.petitiononline.com/MKS>  
April/petition.html

The petition reads: To John Reid, Secretary of State for Defence - "We the undersigned condemn the prison sentence passed on Flight Lieutenant Dr Malcolm Kendall-Smith and offer our full solidarity and support. The sentence of eight months passed on him for refusing to serve in Basra is an outrage, we demand his immediate release. He acted on his conscience in refusing to serve in an illegal war. In doing so, he acted on behalf of many people in this country. The judge's remarks that orders have to be obeyed also give cause for concern. The Nuremberg trials after the 2nd World War established that obeying illegal orders was no defence against charges of war crimes. It is even more unjust that Kendall-Smith has been jailed while the advocates and perpetrators of this war have never been held to account."

- **The online form to send a letter to John Reid**, Secretary of State for Defence, is at <http://www.mfaw.org.uk/reid.html>

The letter says: "I would like to register my protest at the imprisonment of Flight Lieutenant Dr Malcolm Kendall-Smith. The sentence of eight months passed on him for refusing to serve in Basra is an outrage and he should be released without delay. He acted on his conscience in refusing to serve in an illegal war. In doing so, he acted on behalf of many people in this country. The judge's remarks that orders have to be obeyed also give cause for concern. The Nuremberg trials after the 2nd World War established that obeying illegal orders was no defence against charges of war crimes. Malcolm Kendall-Smith is a prisoner of conscience, release him now."

- **Details of how you can make a donation to assist with Malcolm's legal costs** and where to send an email message of support are on the front page of Military Families Against the War's web site at <http://www.mfaw.org.uk>

You can read the messages of support at <http://www.mfaw.org.uk/mks.html>