Australian parliament approves military call-out legislation

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The Howard government and the Labor Party combined to push military call-out legislation through the Australian parliament on September 7, the last day of sitting before protests at the World Economic Forum in Melbourne and the Olympic Games in Sydney. The legislation came into force on September 12, after formally receiving royal assent by the Governor-General.

The federal government now has the power to mobilise the armed forces against political protests or social unrest, with or without the agreement of a state government. Military officers can order troops to open fire on civilians with impunity, as long as three government ministers conclude it is necessary to prevent injury or damage to property. Once deployed, soldiers will have greater powers than the police, including the right to shoot to kill, search premises without warrants, detain people, seal off areas, and issue orders to civilians.

It appears that other governments applied pressure to have the legislation in operation before the Olympics. According to a former Australian diplomat, Bruce Haigh, the US and Israeli governments demanded the passage of the Act in return for their secret service agents not carrying weapons at the Games. Neither country's embassy denied the report. In parliament, Greens Senator Bob Brown and independent MP Peter Andren asked if the US and Britain had lobbied the government. Two ministers gave curt answers, simply saying “no”.

In the final hours of the parliamentary debate, Labor's spokesmen, John Faulkner and Stephen Martin denounced those who had opposed the Act “under the guise of protecting civil liberties”. Martin declared that people had been “fooled by inaccurate and misleading reporting and cheap and populist politics”.

Martin joined Liberal Party Defence Minister John Moore in asserting that the *Defence Legislation Amendment (Aid to Civilian Authorities) Act 2000* would not, in any way, add to the government's power to call out the army. Instead, Martin claimed, the Act placed new restrictions on the use of the military, and that was why Labor had supported it.

In reality, the Act removes the only real constraint that currently exists on the armed forces—the fact that if military personnel kill or maim individuals or otherwise trample on people's liberty, they can be charged with criminal offences, including murder. The Act grants the military immunity from criminal and civil liability for actions committed during a call-out.

Confronted by public hostility to its earlier unconditional endorsement of the Act, Labor moved an amendment forbidding troops to “stop or restrict any protest, dissent, assembly or industrial action, except where there is a reasonable likelihood of the death, or serious injury to, persons”. The government added a final clause “or serious damage to property,” which Labor accepted.

The result opens the way for wide use of the call-out power. Likelihood of property damage can easily be alleged. As MP Peter Andren put it, “a rock thrown through the front door of the Crown Casino [the World Economic Forum venue] could give rise to such a call-out”. As for the likelihood of injury, that could be created by a police attack on demonstrators.

In the course of the final two days of debate, the government and the Labor Party used their numbers to defeat a series of amendments from the minor parties to modify the call-out power. One measure would have required the military to obtain judicial warrants before searching homes. Another would have limited the right to shoot to kill a fleeing person, similar to a restriction

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placed upon the Australian Federal Police, and another would have allowed soldiers to claim conscientious objection to deployment against civilians.

A further amendment would have required the tabling in parliament of the manuals and protocols that will apply to military interventions. This proposal was raised after Senator Brown read out extracts from the current Australian Army *Manual of Land Warfare*. Section 543 of that manual instructs military personnel in how to cover up the killing or wounding of "dissidents".

"Dead and wounded dissidents, if identifiable," the section states, "must be removed immediately by the police... When being reported, dissident and own casualties are categorised merely as dead or wounded. To inhibit propaganda exploitation by the dissidents the cause of the casualties (for example, 'shot') is not reported. A follow-up operation should be carried out to maintain the momentum of the dispersing crowd".

Special Minister of State Chris Ellison declared that the document was "under revision" and would be replaced with a new version once the Act was passed. He refused, however, to give any assurance that a similar clause would not appear in the rewritten manual.

In moving amendments, the Australian Democrat and Greens MPs came together with Senator Len Harris of the extreme right-wing Pauline Hanson's One Nation Party to express concerns about protecting states' rights and upholding the position of the police. Under the final version of the Act, the federal government must "consult" a state government before sending in troops, but can override the state government.

Harris, who won praise from his Democrat and Green colleagues, pointed out that some state governments and police commanders had objected that such a call-out could cut across their operations and possibly lead to conflicts between the police and the defence forces. The One Nation MP protested that the Australian Federal Police had not been consulted on the legislation and insisted that the state and federal police were better trained and equipped to deal with civilian disturbances.

The Democrats' spokeswoman Senator Vicki Bourne appealed to the government to agree to parliament being called within two days of a troop call-out. This would allow parliament to assume political responsibility for the decision, she argued. She assured the government that it could ordinarily expect Democrats' support, pointing to the dispatch of troops to the Gulf War in 1990 and to East Timor in 1999. On both occasions, when parliament was convened, it rubberstamped the military intervention. Speaking of the East Timor vote, Bourne noted: "We had a motion, we had the debate and we all agreed to it. There was no disagreement."

Bourne warned of political confrontations involving the military. "This legislation is an absolute disaster for Australia," she stated. "Something has gone terribly wrong." The use of troops in a situation like the 1998 waterfront strike would be a "very, very dark day". She continued: "I am not proud of this chamber [the Senate]. I am not proud of what has been going on over the last week."

The Greens' representative, Brown, proposed an alternative measure for the recall of parliament and issued a similar warning. If troops had to be brought in because a situation was so grave that a state police force and its tactical response group were unable to handle the crisis, "the country would be in pandemonium. This would be a situation beyond anything in our last 100 years of history... surely, in that situation, the parliament should be recalled".

The government and the Labor Party brushed these concerns aside. The final vote in the Senate was 46 to 10, with another right-wing independent, Senator Brian Harradine, joining the majority bloc. When the legislation went back to the House of Representatives for one last vote, there were only two against—Andren and a former Labor MP, Andrew Theophanous.

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