

Australia: "Anti-terror" laws passed with bipartisan support

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After months of delay caused by public opposition to its plans, the Howard government pushed its unprecedented counter-terrorism legislation through parliament late last month. With the Labor Party's support, the package of five bills passed with only cosmetic modifications, retaining their essential anti-democratic features.

Under the guise of combatting terrorists, the laws give far-reaching powers to the government and the security-intelligence apparatus to suppress political opposition. They introduce sweeping definitions of terrorism and treason, both now punishable by life imprisonment, which could outlaw many forms of political protest and industrial action.

The laws also impose extensive powers to ban political parties, freeze their funds and jail their members for alleged support of terrorism. In addition, they reverse the burden of proof for a range of "terrorist" offences, effectively requiring defendants to prove their innocence.

Another widely-condemned bill, giving ASIO, the secret police, the right to detain people indefinitely for interrogation without access to legal advice, has been postponed until the next parliamentary session in late August. But the government is also counting on Labor's backing to pass those measures with only token changes.

In a media release announcing the passage of the first five bills, Attorney-General Daryl Williams thanked Labor for its support and declared his satisfaction with the outcome. "We have come out of the Senate debate with a strong set of Bills. The government appreciates the consideration given by Parliament to this vital suite of legislation." He called on Labor to "complete the job" by supporting the ASIO Bill.

Throughout the final few days before parliament shut down for a winter recess, Labor's leaders, notably Senate leader John Faulkner, worked with Williams and government MPs intensively behind closed doors to negotiate amendments in an attempt to appease the legislation's critics, while preserving its central thrust.

Having introduced the laws in February and March, near the commencement of the first parliamentary session since last November's election, the government was initially intent on ramming the laws through quickly to take advantage of the September 11 terrorist attacks in the US. Williams spoke openly of the need to sacrifice civil liberties for the duration of the "war on terrorism".

But the measures aroused significant opposition, forcing the government to refer the bills to two parliamentary committees for further consideration. Several hundred ordinary people, as well as civil liberties groups, the legal profession and community organisations, inundated the committees with submissions expressing shock and outrage at how far the government was prepared to go to

shred basic civil liberties and democratic rights.

Liberty Victoria denounced the legislation for "proscribing thought" and the Ethnic Communities Council of Victoria reported there were "tremendous concerns" in immigrant communities that people could be jailed for "assisting" terrorists or "enemies" by donating to support the victims of overseas conflicts. Human rights groups warned that the measures breached international covenants on political and civil rights, while numerous individuals declared the bills reminiscent of Nazi Germany.

A number of submissions questioned the official pretext that the laws were designed to protect ordinary people from terrorism, pointing out that the criminal law already severely punished every conceivable terrorist act, from murder and hostage-taking to arson and conspiracy.

The vehemence of the opposition, which extended to traditionally conservative professional bodies such as the Law Council of Australia, led to both parliamentary committees unanimously rejecting aspects of the legislation. For the first time since Howard took office in 1996, MPs from his ruling coalition joined their opposition colleagues in criticising key legislation, forcing Williams to rely on Labor to formulate adjustments to secure its passage.

During the Senate debate, veteran Labor Senator Robert Ray, a former Defence Minister, provided a revealing glimpse of how far the government depended on Labor to come to its rescue. He told a government senator that the parliament house carpet had been "worn down with your Attorney-General and others coming to negotiate with us on this particular bill. We saved you on this."

The amended package passed quickly through both houses of parliament in the dying hours of the pre-winter session and went virtually unreported in the mainstream media. As in February, when the government first unveiled the laws, the major media outlets did nothing to alert the public to the wholesale attack on freedom of political expression.

It was only when the submissions to the parliamentary committees demonstrated public disquiet that any reservations were expressed in the media, primarily over the unchecked power placed in the hands of one minister—the Attorney-General—to outlaw political organisations. Once Labor's amendments addressed that particular concern, the media once again fell silent, literally burying the news of the final passage of the legislation.

In the final package, "terrorist acts" could still include many protests, pickets and blockades. All that is required is a "serious risk to the health or safety of the public or a section of the public," created for the purpose of "coercing or influencing by intimidation" any government or section of the public, in pursuit of a "political,

religious or ideological cause”.

This would cover any demonstration or strike action in which a person was injured or felt endangered. People demonstrating outside a refugee detention centre against the mandatory imprisonment of asylum seekers, or nurses taking strike action that shut down hospital wards, for example, could be charged as terrorists. A Labor-backed amendment to add the “coercion or intimidation” clause to the definition is practically meaningless, given that the very purpose of most protests and strikes is to apply pressure to a government, employer or other authority.

The legislation retains a wide scope for political victimisation by imposing jail terms ranging from life to 10 years for preparing, planning or training for “terrorist acts” and for possessing documents or other objects used in the preparation of such acts. Under the final version, a person can be jailed for possessing such an object, even if they did not know it was used for terrorist purposes, but were merely “reckless” as to that fact.

The extraordinarily wide definition of treason—assisting an “enemy” or country or organisation engaged in armed hostilities against the Australian military—has been modified to exclude “the provision of aid of a humanitarian nature” in order to shield bodies such as the Red Cross or religious aid organisations. Anyone claiming this defence, however, must prove their humanitarian intent—one of the numerous instances where the legislation overturns the traditional presumption of innocence.

The government was compelled to backpedal on its original plan for the Attorney-General to have the unfettered power to ban supposed terrorist organisations. But the amended version allows the government to issue regulations to outlaw parties or groups if the UN Security Council has listed them as terrorist. A court can also declare an organisation “terrorist”.

Proscription orders will have far-reaching implications. Any person who directs the activities of a terrorist organisation, knowing it to be terrorist, can be jailed for 25 years or, if they are “reckless” as to whether the organisation is terrorist or not, for 15 years. A member of a banned group faces up to 10 years imprisonment.

The legislation also retains a backdoor method for banning organisations by freezing their funds, even if they have not been formally declared terrorist. The Attorney-General can freeze assets or proscribe groups if a UN Security Council freezing order has been issued. Anyone collecting or providing donations for the organisation can be jailed for five years. If the funds are used for terrorist purposes, the penalty is life. Under regulations introduced last October, the government has already outlawed a number of political groups, including the PKK, the Kurdish separatist organisation, and the Sikh Youth Federation.

Labor’s bailout of the Howard government on the terrorism laws marks a new level in its bipartisan relationship with the Liberal-National Party Coalition in strengthening the repressive powers of the security agencies and the military.

Since September 11, Labor has formed a virtual bloc with the government on this front, collaborating in its attacks on refugees, its so-called border protection policy and its participation in the Bush administration’s war in Central Asia. In the lead-up to last year’s election, Labor backed a raft of measures to mobilise the armed forces to repel or detain asylum seekers and transport them to remote foreign locations, and to prevent the refugees or anyone else from legally challenging these actions.

Now, Labor has ensured the passage of laws that provide the

government and its intelligence agencies with draconian powers that can apply domestically to all citizens and other residents, trampling over the most fundamental democratic rights, including freedom of political opinion and association.

This bipartisan unity was expressed during the brief final debate on the terrorism laws. Senator Nick Bolkus, who was Immigration Minister under Keating, urged his colleagues not to be “spooked” by the “hysteria” and “the number of emails” they had received opposing the laws. Bolkus went so far as to accuse correspondents of committing “blackmail” by threatening never to vote Labor again if it passed the legislation.

The Australian Democrats and Greens, who between them hold the balance of power in the Senate, opposed aspects of the legislation, criticised Labor’s agreement with the government and ultimately voted against the final package. They did so, however, comfortable in the knowledge that between them, Labor and the Coalition had the numbers to pass the laws anyway.

During the Senate debate Democrats leader Natasha Stott Despoja restated her party’s readiness to “enthusiastically support” legislation that addressed demonstrated deficiencies in counter-terrorism law. According to Greens’ leader Bob Brown, the Howard government simply failed to “think through” the civil liberties consequences of its legislation.

In reality, the specific purpose of the laws is to tear up basic legal and democratic rights. Like other Western governments, notably those of Bush in the US, Blair in Britain and Schroeder in Germany, Howard’s cabinet seized upon the September 11 attacks to demand the implementation of anti-democratic measures that previously would have been impossible to introduce.

Significantly, Labor’s partnership with the government on this legislation comes amid ongoing popular opposition to Prime Minister John Howard’s economic and social policies. Key welfare-slashing budget measures have provoked considerable outrage and remain blocked in the Senate by Labor, the Democrats and Greens.

Since last year’s election, the government has remained largely stalled, unable to push through any of the big ticket items demanded by powerful sections of business—media deregulation, industrial relations restructuring and the sale of Telstra, the telecommunications carrier.

The parliamentary impasse confronting the government is a distorted expression of mounting hostility among broad layers of the population to the pro-market policies that are producing growing social inequality, widespread financial hardship and deepening social problems. Labor’s pivotal role in ensuring the passage of the “anti-terror” legislation is a warning of the unanimity that exists within the political establishment as a whole regarding the use of police-state measures against political unrest and dissent.



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