Australian government uses Madrid bombings to justify further police-state powers

Mike Head
7 April 2004

Facing disastrous opinion polls only months away from a federal election, the Australian government is ratcheting up the so-called "war on terror", hoping to foment fresh fears and insecurities to divert from its mounting political problems. Over the past two weeks, its "national security" minister, Attorney-General Philip Ruddock, has unveiled new legislation that will further shred long-standing democratic rights.

Just as Prime Minister John Howard seized upon the September 2001 attacks in the United States and the October 2002 Bali bombings to hand unprecedented powers to the country's security and intelligence agencies, so he is justifying the new measures as his government's response to the recent Madrid train bombings. The detailed character and extraordinary reach of the new proposals, however, point to months of preparation, going back at least to Ruddock's appointment as attorney-general last year.

Some of the most far-reaching measures are contained in the Anti-terrorism Bill 2004, introduced into parliament last week. First, it gives the federal and state police the power to arrest and interrogate anyone for up to 24 hours before bringing them to court to be charged. This is on top of the power already handed to the federal police and the Australian Security Intelligence Organisation (ASIO) last year to detain and question people for up to a week without charge.

The Bill increases the length of time that police officers can interrogate someone arrested for a federal "terrorist offence" from 4 hours to 24 hours. The police simply need to find a judge, magistrate or justice of the peace to rubberstamp the 20-hour extension. For "serious offences", the questioning limit can already be extended to 12 hours, but Ruddock insists this is insufficient for terrorism charges.

Police can prolong the interrogation period by adding on "dead time" lost by conveying the prisoner to jail or allowing the prisoner to communicate with a lawyer, family member or friend. "Dead time" can also be claimed for medical treatment, identification parades, rest or recuperation (including sleep) and for officials to obtain information from overseas. In other words, prisoners can be held, perhaps for several days, until they have been subjected to 24 hours of questioning.

Police "verbals"—confessions extracted from prisoners under interrogation—are notorious in Australia. The High Court felt compelled in two cases, *Williams* in 1986 and *McKinney* in 1991, to limit police questioning and require judges to warn juries of the dangers of convicting on the basis of a confession alone. State and federal laws were then passed to specifically authorise police interrogations, subject to video-taping. But studies have since shown that video-taping is no guarantee against the planting of evidence and concoction of false confessions.

The scope for police abuse is vast because of the wide range of "terrorist offences". They include attempting, inciting or conspiring to commit terrorist-related acts, as well as membership of, or support for, groups that have been declared terrorist.

The Bill expands this array by making it a crime—punishable by 25 years imprisonment—to train with a terrorist organisation, even if the accused person did not know that the organization was terrorist. For organisations that the minister has outlawed by regulation, strict liability applies, reversing the traditional burden of proof. The government will not need to prove intention—instead defendants must prove that they had an "honest and reasonable mistaken belief" that the organisation was not terrorist.

Another part of the Bill is designed to jail people like David Hicks and Mahdouh Habib, whom the Howard government has willingly allowed the Bush administration to incarcerate at Guantanamo Bay, Cuba for more than two years as alleged "enemy combatants". Neither man has been charged, let alone convicted, but through the media, the Australian government has accused Hicks of training with Al Qaeda and the Taliban. Hicks cannot be charged with any crime under Australian law because Al Qaeda was not outlawed, and the Taliban were the recognised government of Afghanistan.

To get around such problems in the future, the attorney-general can proscribe a group by regulation and then issue a ministerial certificate stating that it is not part of an armed force of a foreign state. In effect, the Bill creates another set of powers to outlaw organisations by executive decree, on top of the recently acquired power to proscribe "terrorist organisations" by regulation.

Under the guise of preventing terrorists from profiting by writing books about their exploits, the Bill contains measures that can be used for political censorship. Restraining and confiscation orders can be issued against any author who gained notoriety "directly or indirectly" from committing an indictable offence, whether in Australia or overseas. As publishers and bookshop owners have pointed out, this means that books by figures such as Nelson Mandela, Yasser Arafat, Gerry Adams and Xanana Gusmao could be confiscated.

Another measure, the Surveillance Devices Bill, will permit the AFP and other federal agencies to use a wide range of phone-tapping, bugging, computer hacking, tracking and optical devices to monitor and gather information. Police will have to obtain warrants from a judge or tribunal member for some devices, but senior police can issue emergency authorisations in "urgent" circumstances, including "serious risk to property". No warrants will be needed for other devices, notably remote tracking equipment, and telescopes, cameras and other optical technology.

These laws also throw a blanket of secrecy over surveillance operations. They outlaw the unauthorised release of any information about surveillance activities, as well as any information gathered in the course of such operations. Breaches are punishable by up to 10 years jail. Police authorities, however, can publicise any information they receive if they regard it as necessary to reduce the risk of violence or property damage.

© World Socialist Web Site

Thus, anyone placed under surveillance cannot publicly expose or protest against the spying operation, while police can selectively leak material to the media, claiming to be protecting the public from harm.

Yet another law, the Telecommunications (Interception) Amendment Bill, extends the power of police and other law enforcement agencies to tap telephones and intercept email. Intercept warrants will be available for investigations of all terrorist, firearms and "cybercrime" offences.

Ruddock has foreshadowed further measures, including new laws modelled on "consorting" provisions that give police the power to arrest and charge people for associating with known criminals. These provisions were so open to police abuse that they were abolished in some states. Ruddock has now declared that measures against "terrorist consorting" are justified because "we are in a war".

Supporters and "informal members" of proscribed organisations already face up to 25 years imprisonment. A much lower burden of proof in "consorting" cases would make it even easier to arrest people for having any contact with a banned organisation. Anyone who visited, spoke to, or attended a meeting with an alleged terrorist sympathiser could be targeted.

Civil liberties groups have condemned the measures. Australian Council for Civil Liberties president Terry O'Gorman said the consorting law would "fundamentally interfere with freedom of association" and drag innocent people into police investigations. "It will mean that friends and families of someone who could later be found to be a terrorist could be charged with consorting with an individual who is simply part of a family group."

Through the Australian Law Reform Commission, Ruddock is also drafting a National Security Information Procedures Act, which would allow trials to be held in complete secrecy. Closed courts would hear charges, censor evidence, allow government witnesses to testify in disguise via video and even exclude defendants and their lawyers from trial proceedings.

Over the past two-and-a-half years, the Howard government has utilised the September 11, 2001 attacks to steadily erect the framework for a police state. By Ruddock's own estimates, the government has introduced more than 100 new legal measures, spending more than $2 billion on bolstering the security and intelligence apparatus.

"Terrorism"—defined so widely that it covers traditional forms of political action and protest, including strikes, pickets and street demonstrations—has become a crime punishable by life imprisonment. The government can swiftly ban political parties that allegedly support terrorism and jail their supporters. ASIO has gained previously unthinkable powers, including secret detention for up to a week without charge or trial.

Targeted individuals can be monitored night and day, have their homes and computers searched, and be secretly hauled in for interrogation without any opportunity to notify their families or the media. Those detained need not be suspected of any terrorist activity or sympathy. All that the government and its agencies have to assert is that they may possess information relating to terrorism—even if no terrorist act has occurred or even been planned.

Detainees can be forced to answer questions on pain of imprisonment and now, if charged, police will be able to interrogate them for a further 24 hours before facing court. These are the types of measures usually associated with military or fascist dictatorships.

At the same time, the government is dramatically boosting the size of the security and intelligence apparatus. Prime Minister John Howard has pledged another $400 million to the federal police and security agencies, declaring that he would give ASIO whatever resources it requested. This domestic spying agency, infamous for its monitoring and dirty tricks activities against government opponents in the 1950s, 1960s and 1970s, during the Cold War and the Vietnam war, already boasts a staff of 830—larger than ever before.

Other beneficiaries will include the overseas spy agency, the Australian Secret Intelligence Service (ASIS)—whose budget has already doubled under the Howard government—and the Office of National Assessments (ONA). ONA will be rewarded despite a recent parliamentary report documenting its responsibility for making false "weapons of mass destruction" claims in the lead-up to the invasion of Iraq.

Last week, acting in concert with the state governments, federal agencies staged a much-publicised five-day "anti-terrorism" exercise across northern Australia, involving 3,000 military and security personnel. This was the first of a series of exercises designed to whip up security fears in the lead-up to the federal election. Foreign Minister Alexander Downer then suddenly announced a White Paper on terrorism, timed for release before the election, declaring that it was necessary to combat "creeping complacency" on the "war on terrorism".

The Labor Party opposition has fallen immediately into line. Labor leader Mark Latham welcomed the boost to intelligence spending, while shadow attorney-general Robert McClelland said Labor was "very sympathetic" to Ruddock's measures. Labor, he said, would want to have a full array of powers when it formed government. New South Wales Labor premier Bob Carr has vowed to toughen the Terrorism (Police Powers) Act 2002, even though it has not been used since it was adopted in the wake of the Bali bombing. In Queensland, Labor premier Peter Beattie is giving "serious consideration" to 50 Crime and Misconduct Commission recommendations, which include allowing police to conduct covert searches without warrants.

None of these provisions has anything to do with protecting ordinary people against terrorism. New powers are being brought forward endlessly, even though no one has been charged with a terrorist crime under any of the post-September 11 measures.

In any case, no new laws were ever needed to deal with terrorism. Every conceivable terrorist act—including murder, hijacking, kidnapping, bombing and arson—was already a serious crime. ASIO required no further powers—it could already tap phones, bug homes, intercept mail, hack into computers and infiltrate organisations. The real purpose of these escalating powers is to utilise the "war on terror" to introduce a far broader agenda of repressive measures to deal in the coming period with rising social and political discontent.

To contact the WSWS and the Socialist Equality Party visit:

wsws.org/contact

© World Socialist Web Site