

Australia's first "terrorist" charges: timed for Howard's election campaign

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While Australian Prime Minister John Howard has yet to set a date for the federal election due later year, his campaign has already begun. Like the 2001 election, it is centred on diverting deep popular opposition to the government's economic and social policies into fears about imminent terror attacks. With the Iraq invasion unravelling, Howard needs some concrete evidence of terrorist threats to justify his government's participation in the US-led war.

Over the past two weeks government ministers have publicly praised the federal police and intelligence agencies for arresting two Muslim men under Howard's far-reaching "anti-terrorism" laws, introduced in 2002. In the first arrests under this legislation, and in violation of all legal and democratic principles—including the presumption of innocence—the two men have been depicted as key members of a major Al Qaeda "terror cell" that was preparing a serious, yet unspecified, atrocity in Australia.

The timing of the arrests, combined with the flimsy nature of the accusations, points to the charges being orchestrated for electoral purposes.

The first to be arrested by the Australian Federal Police, on April 15, was a 21-year-old Sydney medical student Izhar ul-Haque. He was charged with receiving training from an alleged terrorist organisation, Lashkar-e-Toiba (LeT), during a visit to Pakistan, his country of birth, early last year. If convicted, he could be jailed for 25 years.

Amid a blaze of publicity, he was immediately consigned to solitary confinement in a maximum security prison cell. Within an hour of the arrest, Attorney-General Philip Ruddock called a media conference to trumpet it as "part of a wider investigation in which the Commonwealth is involved". The clear implication was that ul-Haque was at the centre of a terrorist network.

Foreign Minister Alexander Downer went on national television to declare that ul-Haque had terrorist linkages, "that is for sure". Downer claimed that because ul-Haque had been charged, "there obviously is information in relation to him". Ul-Haque was not even accused of preparing any terrorist act, but Downer added: "This is exactly what the Federal Police should be doing, making absolutely sure that people are properly protected in this country."

At the time ul-Haque travelled to Pakistan, LeT—which is an Islamic group fighting against Indian control of Kashmir—was not listed as a terrorist group. The Howard government outlawed the organisation last December, laying the basis for what amounts to a retrospective prosecution. It did so using new powers to ban groups by executive fiat, without prior parliamentary scrutiny. In order to convict the young man, the prosecution will cite the government's subsequent proscription as evidence that LeT was "terrorist" at the time of ul-Haque's visit.

Under the government's draconian legislation, it does not have to prove that ul-Haque had any criminal intent, or even knew that LeT was a terrorist organisation, let alone that he intended to commit any terrorist act in Australia, or anywhere else. He can be convicted simply for being "reckless" as to whether LeT was a terrorist organisation. This provision

law overturns the centuries-old principle that serious offences require a criminal mind ("mens rea").

Moreover, the definition of "terrorism" is so vague and sweeping that it covers many traditional forms of political opposition. Any group that seeks to "coerce" or "intimidate" a government for a political, religious or ideological cause, and endangers public "health or safety" can be classified as terrorist. This definition can easily be stretched to include the LeT, or any national resistance movement.

Ul-Haque's family insists that the charge is "absolutely baseless". In a statement to the media, they described ul-Haque as a "compassionate, hard-working and honest student" who had gone to Pakistan to attend his brother's engagement. After cooperating fully with the AFP's investigations for months, he was being made a scapegoat, they insisted, to justify the police efforts, which had "hopelessly failed to find any link between himself and any terrorist activity".

In court this week—two weeks after his arrest—the prosecution conceded that ul-Haque was not planning any terrorist act in Australia. From the few details that the Crown provided, it seems that the only firm evidence against the young man consists of entries in his diary describing training in a camp in Pakistan. Customs officials seized the diary from his luggage on his return to Australia in February 2003, and handed it to the Australian Security Intelligence Organisation (ASIO).

This revelation raises two questions. First, if ul-Haque genuinely had been training for terrorism, why would he have carried such details in his luggage? Second, why has he been arrested now, when the information against him is more than a year old?

Even according to the quotes from his diary produced in court, the picture emerges of a young man who became disillusioned with life in Australia, including personal experiences of racism, and was attracted to LeT's cause in Kashmir. After undertaking a 20-day course, he decided to return to Australia to continue his medical studies. "I only support the fighting of those Indian soldiers," he reportedly wrote. "If LeT kill civilians I seriously don't believe in it. I am not that sort of person."

Ul-Haque's supporters described the LeT training course as more like an introductory school, where prayer and philosophy were explored. But the media has shown grossly misleading images of masked men brandishing guns.

Ul-Haque clearly enjoys the respect of a wide range of fellow students and others who have known him since childhood. During this week's two-hour application for bail, the court heard testimonials from his high school principal, a school careers adviser and family members. A petition from 130 university students, including 80 from the University of New South Wales medical faculty, was tendered. His brother offered surety of \$120,000 for his release and said their mother was prepared to mortgage the family's home.

Despite the evidence that ul-Haque presented a danger to no one, the magistrate refused bail. This means that he will remain in the Supermax jail at Goulburn, 200 kilometres south of Sydney, for many months until

his trial commences.

Ul-Haque's counsel, Ian Barker QC, told reporters it was "an absolute scandal" that his client was being kept in solitary confinement, describing it as a federal government political stunt to say "look at us, look how tough we are". The lawyer called the detention "our version of Guantanamo Bay".

A week after ul-Haque's arrest, police detained a 34-year-old Sydney architect, Khalid Lodhi. Like ul-Haque, he had been under police and ASIO questioning and surveillance for many months, and the charges against him—seven in all—do not appear to be based on any new information.

The chief allegation is that he attempted to recruit ul-Haque and others to LeT between March 2001 and April 2003, while being "reckless" as to whether LeT was a terrorist organisation. This charge also dates back to well before LeT was listed as a terrorist group, and is designed to convict Lodhi without proving any criminal intent.

Lodhi is further charged with committing an act in preparation for a terrorist attack and "recklessly" making documents to facilitate a terrorist act. Police told the court that Lodhi planned to bomb a "major infrastructure facility"—later said by Attorney-General Ruddock to be the national electricity grid. If convicted on this charge, Lodhi faces life imprisonment.

Lodhi is accused of using a false order form, under an assumed name, to request maps of the grid from the Electricity Suppliers Association. The police fact sheet also alleges that he dumped maps of military installations, including the Holsworthy army base, in a park rubbish bin near his home. He is further accused of faxing an inquiry to a chemical company about purchasing urea nitrate—a fertiliser—using a false company name, and of using a false name to obtain a mobile phone number. According to the police, Lodhi told ASIO he meant to send the chemicals to his family's tanning business in Pakistan.

Sensational headlines such as the *Australian's* "Plot to bomb power grid" greeted these charges. However, a number of experts, including Brad Page, the chief executive of the Energy Supply Association of Australia, said it would be impossible to blackout the grid by bombing any part of it. "The grid is a very extensive network of wires and generators, starting in Cairns and running right down the coast and around to Adelaide, and so the notion of bombing the grid per se, is a little hard to believe," Page told Australian Broadcasting Corporation radio.

Months before his arrest, ASIO secretly installed a tracking device on Lodhi's computer at his workplace, a Sydney architecture firm. He reportedly accessed a government planning website to obtain satellite images of city buildings and transport infrastructure. But this is hardly a crime—the website, called iplan, is publicly available in order to facilitate the work of urban planners, architects and others.

Various media outlets, notably the main Fairfax newspapers, the *Age* and the *Sydney Morning Herald*, have labelled Lodhi the "alleged mastermind" of a major bombing plot, which supposedly included French citizen Willie Brigitte, who was deported from Australia on visa violation charges last October. By doing so, they have also implicated ul-Haque, Lodhi's supposed recruit, in the alleged conspiracy.

Without any independent corroboration, the newspapers have quoted supposed admissions by Brigitte, who has been detained and interrogated in France since he left Australia. French law has permitted the authorities to imprison Brigitte without trial on a vaguely-worded catch-all charge of "associating with a group with a view to preparing an act of terrorism".

Brigitte is said to have told a French anti-terrorist judge last year: "The LeT group based in Sydney, and formed around Abu Hamza [said to be Lodhi], was preparing a large-scale terrorist act in Australia." The only source for this quote appears to be the Australian police.

Ruddock has stoked these speculations by insinuating that both Lodhi's and ul-Haque's arrests are related to a possible terrorist ring linked to

Brigitte. "When Brigitte was identified and removed from Australia it was very clear that he had been undertaking some endeavour in Australia [that] was of very real and substantial concern," he told the Seven television network.

Brigitte and his lawyers have continued to insist upon his innocence. "He never participated in any way in a terrorist act, not in the preparation for a terrorist act, simply as that," his French lawyer, Jean-Claude Durimal told the Four Corners program in February.

When Brigitte was removed from Australia last year, Ruddock and the media declared that a "terror cell" had been smashed, yet the very fact that he was quickly deported on visa charges without even being detained or questioned by ASIO suggests that no real evidence existed against him. [see "More sensational "terror cell" claims: but where is the evidence?", 4 November 2003]

Lodhi's lawyer, Stephen Hopper, stated that the biased media coverage could jeopardise his client's right to a fair trial. Hopper said it would be difficult to find jurors who did not already believe that Lodhi was a terrorist. "No jury can be empanelled who hasn't been exposed to all sorts of deliberation about allegations," he told the *Sydney Morning Herald*.

By traditional legal standards, both the media and the government are guilty of subjudice, or contempt of court. In other words, they have improperly prejudiced any trial of Lodhi, and the same applies to ul-Haque. Moreover, since the trials are unlikely to be convened before the federal election, the government clearly hopes it will escape any political fallout from aborted trials, or acquittals.

A similarly cynical exercise was carried out last month in Britain. Amid blazing media headlines, the Blair government orchestrated mass arrests of Islamic men across northern England, on the pretext of investigating terrorism. Weeks later, the detainees were quietly released without charges, without any accompanying media hype. The government's political purpose had already been achieved: to whip up fears of terrorism in order to justify the war on Iraq and continuing attacks on democratic rights at home.

In Australia, Howard has yet another motive: to stem the eruption of opposition from within the security and military agencies to his government's repeated manipulation of intelligence material for political purposes. One of many revelations in recent weeks was a Rand Corporation report accusing ASIO of withholding information from the AFP. Ruddock's official web site currently features a radio interview in which the attorney-general boasted that Lodhi's arrest had put this claim "clearly to bed".

As usual, the Labor Party opposition has unconditionally backed the Howard government's witchhunt. Shadow attorney-general Robert McClelland welcomed ul-Haque's arrest as the first use of the new counter-terrorism laws, which Labor helped enact. "There's no point having legislation if the law enforcement authorities aren't prepared to apply it," he said.

Without access to the evidence, it is impossible for the *World Socialist Web Site* to judge with any certainty the allegations against ul-Haque and Lodhi. One thing is certain, however. The Howard government will extract the maximum political mileage out of the arrests, and more are likely to follow throughout the election campaign.

Against this backdrop, longstanding legal norms and basic democratic rights are being overturned. With Labor's support, Ruddock has already outlawed another organisation—the Palestinian Islamic Jihad. He is introducing new "consorting" laws to make it a serious offence to even associate with a terrorist suspect, and establishing closed-door trials for terrorist offences.

If there is a real danger of terrorist attacks on ordinary people in Australia, the Howard government is to blame. By participating in the illegal and brutal war on Iraq, unconditionally aligning itself with the Bush administration's global militarism and adopting Bush's "pre-

emptive strike” doctrine to mount neo-colonial interventions of its own, the government has fuelled deep disillusionment, resentments and hostilities that will undoubtedly provide terrorist outfits with new recruits.



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