

Howard government leaves “Bali nine” alleged drug runners to their fate

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The fate of nine young Australians arrested on the Indonesian resort island of Bali on April 17 for heroin trafficking has been treated with complete indifference by the Howard government. While concerned at the possible public reaction if the nine are convicted and sentenced to death, Canberra’s overriding consideration is to maintain its increasingly close relationship with Jakarta, and in particular with the Indonesian police and military.

Those arrested are aged from 18 to 29. Four of them—the only female Renae Lawrence, 27, Martin Stephens, 29, Michael Czugaj, 19, and Scott Rush, 19—were detained at Denpasar airport with 8.3 kilograms of heroin strapped to their bodies preparing to leave for Australia. Andrew Chan, 21, was arrested without drugs after he had boarded a Sydney-bound flight. The remaining four—Tach Duc Thanh Nguyen, 27, Myuran Sukumaran, 24, Si Yi Chen, 20, and Matthew Norman, 18—were arrested at a hotel where police say there was a small amount of heroin and drug-related equipment.

Most of those arrested come from economically-disadvantaged backgrounds. While police have alleged at least two of the nine are part of a drug syndicate, the others were “mules”, or drug couriers, working for as little as \$US5,000 despite the risks involved. Several claim that they were tricked into the operation and that they and their families were threatened with death if they did not cooperate.

All nine are being held in squalid conditions in Indonesian jails. Under Indonesian law, they can be interrogated without charge for up to 70 days before state prosecutors take over the case. Media coverage shows that the nine prisoners are under acute psychological stress, and Indonesian police have indicated they will seek the death penalty for all of them.

The arrests have already provoked protests from family members and others. The information used by Indonesian authorities to make the arrests was supplied by the Australian Federal Police (AFP). It appears that the AFP knew the identities of those involved and could have arrested them before they left Australia or waited until they returned.

If either had happened, the nine would have been charged under Australian law and would not be now facing a possible death sentence.

The “Bali nine” case has become something of a media sensation because it comes as Australian Schapelle Corby is being tried in Bali for importing 4.1 kilograms of marijuana. Corby has no criminal record and insists that the drugs were planted at an Australian airport—an assertion that is supported by the fact that there is no economic logic in buying marijuana in Australia to sell in Bali. The trade is in the opposite direction.

There are anomalies in the Indonesian police investigation and prosecution case, including the failure of the Indonesian authorities to properly process evidence. But, as with the “Bali nine”, the Australian government has issued no protest. While the prosecution has not pressed for the death penalty, Corby faces a lengthy prison term.

The AFP’s actions in the case of the Bali nine raise important legal issues. Terry O’Gorman, president of the Australian Council for Civil Liberties, has publicly asked why they are helping Indonesian authorities mount a case when a conviction could clearly result in a death penalty.

Under a 1999 treaty between Indonesia and Australia, both countries can refuse to cooperate in a police investigation if the crime under investigation carries the death penalty. Opposition to the death penalty is also enshrined under section 22(3) of the 1988 Extradition Act. The Australian attorney-general can only extradite a prisoner if assurances have been received that the death penalty will not be imposed or carried out.

Both the Howard government and the AFP have ignored the 1999 treaty. AFP commander Mick Keelty defended the actions of his officers, declaring: “The policy is that we will not give evidence that will, or information that will, directly cause or result in somebody receiving the death penalty. But the reality is in this case, it would appear, on the allegations, that these people have been caught red-handed with heroin in Indonesia.”

Keelty’s comments are aimed at evading the issue. The

previous policy hinged not on whether the accused had been caught red-handed but whether he or she faced the death penalty. By providing information to the Indonesian authorities that led directly to their detention on a capital charge, the AFP has breached the previous guideline and established a new precedent for future cases.

Prime Minister John Howard has refused to comment in detail on the case, but has unequivocally backed the AFP. He told the media “I would always encourage the Australian Federal Police to cooperate with our counterparts in neighbouring countries in the apprehension of suspected drug offenders.... I hope they will be dealt with fairly and justly by the process.”

Responding to criticism of the AFP’s actions, Howard told ABC radio on April 22: “The Australian Federal Police took an operational decision and I totally support the ... decision. As to the detail of it ... it’s something that the police themselves should talk about, but any suggestion that there’s some kind of policy or political overtone in this is one that I reject. There is not.”

Far from criticising the AFP, opposition Labor Party leader Kim Beazley was even more strident in his support. “I think it’s a bit nitpicking to worry about where the folk were arrested,” he declared. “The cooperative relationship between the Australian and Indonesian police is a critical thing, not just simply in the issues related to the movement of illicit drugs, it is a critical thing in relation to our ability to handle the terrorist threat in this region. So I have nothing critical to say about collaboration between Federal police and the Indonesian police and I back up the Federal police.”

Beazley’s comments confirm that the paramount consideration in the response of the Australian political establishment to the Bali nine case is to preserve close relations with Jakarta at all costs. For three decades before Suharto’s fall in 1998, successive Australian governments—Labor and Liberal—maintained the closest ties with the military dictatorship. These were disrupted in 1999, when, to secure Australian control over Timor oil and gas reserves, Canberra led a military intervention into East Timor that resulted in the formation of a tiny “independent” statelet on the half-island.

For the last five years, the Howard government has eagerly sought to mend soured relations with Indonesia, which has always been a central element of Australian foreign policy in the broader Asian region. Reforging ties with the Indonesian military and the police, which up until Suharto’s fall were part of the armed forces, has been a key component of Canberra’s strategy.

In the wake of the September 11, 2001 attacks on the US, Canberra utilised the “war on terror” and US pressure on Jakarta to foster closer ties. The Howard government

exploited the Bali bombing in October 2002 to the hilt to establish a direct police presence in Indonesia. AFP officers and agents from the Australian Security and Intelligence Organisation (ASIO)—Australian internal spy agency—were prominent in the investigation of the bombings.

During the Bali terror attack investigations, Howard made clear that the death sentence in terrorist cases was no obstacle to the closest cooperation with Indonesian authorities. In fact, Canberra and Washington pushed President Megawati Sukarnoputri to issue a presidential decree containing draconian new anti-terrorist measures providing for detention without trial and the death penalty. At the time, Howard had no compunctions about publicly criticizing what he regarded as the limitations of the Indonesian police and legal system.

Since then Indonesia-Australia relations have forged ahead on all levels. Howard cynically used the Boxing Day tsunami to further enhance the bilateral relationship, promising \$A1 billion in aid and quickly dispatching military assistance. The visit to Australia by Indonesian President Susilo Bambang Yudhoyono last month was greeted in the Australian media as the crowning achievement of the prime minister’s efforts. The two leaders signed an agreement setting the basis for wide negotiations on a range of issues, including a new security pact, to replace the one torn up by Jakarta after Australia’s East Timor intervention.

Howard is not about to do anything to upset these flourishing relations. Any criticism of the Indonesian police and court system, which remain largely unchanged from the Suharto era, risks a reaction in Indonesian ruling circles against “Australian interference”. Moreover, if the AFP were to stick to the principle of not cooperating in death penalty cases, then Australia-Indonesia police collaboration on a range of issues would be directly affected, including so-called terrorist cases and drugs.

In these circumstances, the Australian government has decided to turn the other cheek as nine Australian citizens confront the distinct possibility of the firing squad.



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