

Australian government unveils legal framework for police state

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In the lead-up to his September 27 “counter-terrorism summit” with the eight Australian state and territory leaders, Prime Minister John Howard last week unveiled a package of legislation that goes well beyond the already deep inroads made into essential civil liberties under the fraudulent banner of the “war on terrorism”.

With the tacit support of the Labor Party—which currently holds office in all the states and territories, and whose leaders instigated the call for the summit—Howard’s government is proposing unprecedented measures that directly target fundamental democratic rights: the freedoms of speech, association and movement, and the right not to be detained without trial.

Once again, as happened after the September 11, 2001 attacks in the United States and the Bali bombings of October 2002, the government is seeking to exploit a terrorist atrocity—in this case the July 7 London bombings—as a pretext for sweeping changes to the machinery of rule.

While no legal details have been provided of any of Howard’s proposals, the main lines are clear. They go far further than the previous “counter-terrorism” laws. What is being prepared is the legal scaffolding for a police state. In the name of fighting terrorism, broad provisions are being drafted that could be used to stifle political dissent and opposition.

Control orders: In secret court hearings, the Australian Federal Police (AFP) will be able to apply for 12-month control orders imposing draconian conditions on individuals, such as tracking devices, travel bans and association restrictions, simply because the security agencies accuse them of being “terrorist risks”.

Howard claimed these orders would be similar to apprehended violence orders (AVOs), taken out by individuals to protect themselves against domestic violence. But an AVO ordering a person to stay away from a place of residence bears no resemblance to an order permitting the police and intelligence services to electronically monitor a person’s movements and conversations, and bar them from travelling or meeting with political or religious colleagues.

Preventative detention: The police and the Australian Security Intelligence Organisation (ASIO) will have the power to secretly lock people away for up to 48 hours. This marks a qualitative shift in the power to detain people without trial. Victims will be imprisoned not because they are accused of committing any offence, or even alleged to have “information” relevant to terrorism (as with ASIO’s already unprecedented detention power, established in 2003), but because of what they are suspected of intending to do in the future.

At the September 27 summit, Howard will ask the premiers to pass state laws providing for longer periods of such detention, similar to the 14 days recently introduced by Blair’s Labour government in Britain. In effect, he is asking them to help bypass the Australian

Constitution, which bars the federal government from detaining citizens without trial for periods that would be viewed by the High Court as punitive.

Inciting violence: Howard is proposing to outdo British Labour by outlawing “inciting violence against the community”. The British “inciting terrorism” laws can jail people for their political views, such as expressing sympathy for terrorists or calling for an understanding of the social roots of terrorism.

Howard has chosen to go even further by extending the existing sedition offences to make it a crime to write or speak in a way that supports Australia’s “enemies,” or promotes ill-will or hostility toward any group in the community, including Australian military forces overseas. The maximum penalty for sedition will be increased from 3 to 7 years’ imprisonment.

Sedition laws are designed to suppress political and media criticism of Canberra’s underlying domestic and foreign policy. People could be jailed for opposing the war on Iraq, for example, if their views could be construed as encouraging attacks on Australian troops. At his media conference, in response to a specific question, Howard refused to rule out the possibility that journalists could be prosecuted for exposing Australian conduct abroad, such as involvement in the US torture at Iraq’s Abu Ghraib prison, if their reportage caused reprisals against Australians.

Advocating terrorism: Similarly, the government’s unilateral powers to ban organisations without any court hearing—agreed to by Labor late last year—will be extended to include groups that “advocate” terrorism. This is far-reaching, especially given that the Criminal Code definition of terrorism is wide enough to include many traditional forms of political dissent, such as demonstrations where injury or property damage occurs.

Expanded police powers: An array of ASIO and the federal police powers will be boosted, including to use closed circuit television surveillance, secretly enter and search premises, intercept communications and seize material. ASIO’s interrogation power will be bolstered by longer jail terms for providing false or misleading information.

The AFP will have new powers to stop, question and search people on the street, seize documents and obtain airline passenger information. Its proposed “notice to produce” powers could severely affect free speech and media scrutiny. They could be used, for instance, to compel journalists to hand over their notes and recordings, including those made during interviews with confidential sources.

Citizenship: Immigrants will have to wait three years—an extra year—before being eligible for citizenship. Applications can be rejected on security grounds and more readily revoked. These changes

will make it easier for the government to deport targeted individuals or detain them in immigration detention centres.

How such a vast expansion of the government's powers, which already exist for non-citizens, can be readily used for political purposes has been demonstrated by the current detention and planned deportation of an American anti-war activist Scott Parkin. After three months in Australia, his visa has been revoked on "national security" grounds, when his only "offence" appears to be participating in protests against the war on Iraq and the activities of corporate giants such as Halliburton.

Attorney-General Philip Ruddock has refused to give any reason for Parkin's removal, claiming that he cannot comment on "national security" decisions. If that is the case, then no one can challenge such deportations, no matter how flagrantly they violate freedom of expression.

A range of civil liberties, legal and media organisations have condemned Howard's proposals and pointed to some of their implications. NSW Civil Liberties Council president Cameron Murphy said: "It's very difficult to define when someone is inciting violence. It's an absolute nightmare." Australian Muslim Civil Rights Advocacy Network convenor Waleed Kadous asked: "What about someone who says that the people of Iraq have the right to resist the occupation? That would contravene these laws."

Australian Council for Civil Liberties president Terry O'Gorman told ABC television: "If you grant huge new increases in powers without any checks or any limitations or any oversight, then, by definition, it's a recipe for a police state."

The new laws have nothing to do with protecting ordinary people against terrorism, the threat of which the Howard government has itself heightened through its participation in the invasions of Afghanistan and Iraq. No new powers are needed to fight terrorism—every conceivable terrorist offence, from murder to kidnapping and arson, was already a serious crime before 2001, as was supporting, financing or planning such actions.

Significantly, apart from a vague reference to the July 7 bombings in London, Howard offered no evidence to justify the need for the latest measures. Asked by journalists at his media conference whether there was any increased risk of terrorism in the months ahead, he admitted that the government had no specific information or reason to raise its official terrorist alert level.

Even mainstream journalists, who have generally uncritically backed the government's erosion of basic legal rights since 2001, appeared taken aback by the far-reaching character of Howard's package. One reporter asked Howard: "[H]ow are you going to answer the criticism that these measures will go too far and that Australia is essentially being turned into some sort of quasi police state?" Howard claimed this was an "absurd proposition" but could offer no answer, except to say that court rulings would be required for "control orders".

The real reasons for the Howard government's escalating anti-democratic measures lie in the deep disaffection felt by broad layers of the population toward the war in Iraq and the growing social inequality at home. Over the past four years, the government has repeatedly seized upon terrorist atrocities, and whipped up fears and insecurities, both as a convenient diversion from its own political crises and to develop a legal framework that can increasingly be used to suppress social unrest and political opposition.

So far, Howard's "counter-terrorism" laws have been used primarily against Muslims, one of the most vulnerable segments of

society, but they have the potential to be utilised against any political opponents, as Parkin's deportation shows. Not even during World Wars I and II was anything remotely like this latest package introduced to curtail the civil rights of the entire population.

Significantly, Howard could not have brought forward his latest package without the assistance of the Labor Party. One of its leading lights, former NSW premier Bob Carr, first issued the call for the September 27 summit in the wake of the London bombings.

Since 2001, both federally and in the states, Labor has not blocked any of the sweeping "counter terrorism" provisions introduced by the Howard government, including ASIO's detention powers, the outlawing of organisations by executive fiat and the staging of terrorist trials behind closed doors. At the federal level, Labor has at times claimed to have moderated some of the most objectionable features of the legislation. But, meanwhile, state Labor governments have worked hand in glove with Canberra, handing over their constitutional powers to Howard and passing their own laws to complement the federal provisions.

Now, while saying they are waiting to see the details, Labor's state leaders have made it plain that they are ready to embrace Howard's new barrage, if not demand an even deeper assault on basic rights. Carr's successor in NSW, Morris Iemma, declared that his government had the "toughest anti-terror laws" in the country and "remains committed to working closely with the Commonwealth and all other states and territories against the threat of terrorism". His Queensland counterpart, Peter Beattie, said: "In a nutshell, there are things that we can agree to immediately, there are things we need to clarify, there are things we need to ensure there are safeguards on. But at the end of the day we'll work with the Prime Minister to make it a safer Australia."

None of them has expressed any disagreement with federal Labor leader Kim Beazley, who, far from paying even lip service to civil liberties, has sought to outflank the government from the right, declaring that Howard's proposals were inadequate to deter terrorists. This is in line with his speech to the Sydney Institute on August 4, in which he accused the government of leaving the country "unprepared" for the threat of terrorism, and called for a massive boost to the resources and powers of ASIO and the AFP. (See "Australian 'counter-terrorism' summit to discuss police-state measures".)

With Labor's help, the stage has been set for a summit at which the state and territory Labor leaders will be competing with Howard to see who can advocate the most all-encompassing and potentially totalitarian measures to expand the powers of the police-intelligence apparatus.



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