

Australia: Leaked “Anti-Terrorism” Bill details draconian police-state plans

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A leaked copy of an “in-confidence” draft of the Anti-Terrorism Bill 2005 has confirmed the police-state character of the measures being drawn up by the federal Howard government, with support from the Australian state and territory chief ministers. Under the guise of combatting terrorism, the legislation will introduce unprecedented and draconian police and intelligence powers.

Australian Capital Territory (ACT) Chief Minister Jon Stanhope posted the document on his official web site last Friday, provoking furious denunciations by Prime Minister John Howard and other ministers, who had planned to keep the legislation under wraps until November 1. Their intention was to push it through both houses of parliament in just two weeks, without any serious debate by MPs, let alone genuine public scrutiny and discussion.

The secret draft puts into black and white what was agreed by Howard and the Labor Party chief ministers—including Stanhope—at a two-hour closed-door Council of Australian Governments “counter-terrorism summit” on September 27. Taken as a whole, the Bill represents a wholesale assault on fundamental democratic rights, including freedom from arbitrary arrest, free speech and the freedom of political association.

First and foremost, the legislation provides for extensive detention without charge or trial, on the flimsiest of pretexts. With no notice or legal hearing, any person can be thrown into secret “preventative detention” or placed, by a “control order,” in isolation under house arrest.

Any application made by such a person to a court to overturn the internment could take weeks, if not months, effectively giving the federal government (and the state and territory governments, which have pledged to pass matching legislation) unchecked powers.

In order to evade the Constitution, which bars the federal government from imposing “punishment” on Australian citizens without trial, preventative detention by the Australian Federal Police (AFP) will be limited to 48 hours, but the states and territories have agreed to extend this to 14 days for their respective police forces.

Moreover, the AFP can hand its prisoners over to the Australian Security Intelligence Organisation (ASIO) for up to

a week of detention and interrogation, under the powers granted to ASIO in 2003. In addition, there is nothing to prevent continuously repeated detentions, provided that the authorities allege they are necessary to thwart a new terrorist threat.

To obtain a preventative detention order from an “issuing authority” (a specially appointed judge or magistrate), all that the AFP has to allege is that the person is “reasonably suspected” of intending to engage in a terrorist act or possesses something connected with the preparation of such an act.

Those detained cannot inform anyone—except a lawyer—of their incarceration. They can contact a family member or employer, but only to report that they are “safe”. If they or their lawyer, or a family member, or anyone else, discloses that they have been locked up, the penalty is five years jail.

All conversations, including with their lawyer, are monitored, violating the principle of lawyer-client confidentiality. “Prohibited contact orders” can also prohibit contact with their own lawyer, and the police can prevent them from speaking to any lawyer who does not have an ASIO security clearance.

Detainees aged 16 to 18 can speak to their parent or guardian, but only for two hours a day.

Deadly force can be used to break into houses to drag someone away for detention. The Bill authorises police to use lethal force to stop someone “fleeing” custody, if they deem it necessary to prevent serious injury to another person. The police are only obliged to call on the person to “surrender” (“if practicable”) before opening fire.

This specifically allows for the “shoot-to-kill” policy used in the gunning down of an innocent Brazilian immigrant worker, Jean Charles de Menezes, by British police in a London subway carriage last July. Like Menezes, the person “fleeing” may not even know that their pursuers are police officers.

“Control orders” go even further than detention. They can last even longer—up to 12 months—with provision for successive orders. They can range from full house arrest to imposition of tracking devices and bans on contact with nominated, or all, people.

In effect, the victims can be barred from working, publicly campaigning against their internment or communicating with their associates. They can also be blocked from contacting any lawyer who has been “specified” as a prohibited contact

person. A breach of these conditions also brings five years jail.

An order can be imposed on the vaguest possible grounds, such as that it would “substantially assist in preventing a terrorist act”.

The peak legal body, the Law Council of Australia, has pointed out that detention and control orders could easily be used to round up people to prevent planned anti-war or anti-corporate demonstrations, like the protests in recent years against gatherings of politicians or corporate executives. The scope for political repression is great, because “terrorism” is defined so broadly that it can cover many traditional forms of protest, such as blockading a building in pursuit of a political cause.

None of these powers has anything to do with fighting terrorism. In fact, the Howard government itself has played a key role in inflaming the threat of terrorism by its support for and participation in the invasions of Afghanistan and Iraq.

The underlying motivation behind the legislation is revealed in its criminalisation of a wide range of political free speech. Under the Bill, it will, for the first time, be a crime for an organisation to “advocate” terrorism, which includes “directly or indirectly counselling or urging” a terrorist act and “directly praising” terrorism.

The Attorney-General (currently Philip Ruddock) can use this power to unilaterally ban any group as a “terrorist organisation,” thus exposing all its members, supporters and financial donors to years of imprisonment. The provision can extend to outlawing political parties and publications that express any sympathy for, or even call for an understanding of, the causes of terrorist actions.

Secondly, the Bill dramatically expands the scope of sedition, and more than doubles the punishment, from three to seven years imprisonment. Sedition will include “urging disaffection” against the Constitution, the government or either house of parliament. Previously, the law referred to “exciting disaffection,” which indicates active agitation, rather than political argument.

Sedition will also include promoting “feelings of ill-will or hostility between different groups” or urging conduct that is intended to assist an “organisation or country engaged in armed hostilities” against the Australian military.

If applied during the Vietnam War, the latter clause would have seen people charged for raising the slogan “Victory to the NLF”. Today, it could be used to jail anyone supporting the right of the Iraqi people to resist the criminal US-led occupation of their country.

The Bill also imposes life imprisonment for “recklessly” giving funds to a person or group that could be used for terrorism, even if no terrorist act occurs or the funds are not used for a specific act. This measure could be used against anyone who donates to a religious, political or humanitarian cause that is later accused of links to terrorism.

The Bill extends to the police wide-ranging powers to stop,

interrogate and search people in public places, and to seize items. The government can also declare “prescribed security zones,” in which police can exercise these powers without having to allege any specific connection to a planned terrorist act.

Magistrates can order people, including lawyers, to hand over documents and records, overriding all existing protections of confidentiality, lawyer-client privilege and incrimination of a person.

Secret surveillance cameras can be installed in airports and aircraft, and airline and shipping company passenger details can be seized, as can the customer records of financial institutions.

ASIO’s powers to secretly enter premises and access computers and other equipment will be strengthened.

Overall, the Bill dramatically extends the previously unimaginable powers already handed to the government and its security agencies in the 26 “counter-terrorism” Acts adopted since 2001.

Prime Minister Howard has made clear that whatever fine-tuning is performed on the Bill before it is introduced into parliament on November 1; none of its essential features will alter. Despite an outcry from members of the public, civil liberties groups and legal bodies over the totalitarian measures contained within it, Howard declared on Monday that it would not be watered down. “What is going to be in that legislation is what I announced and what the states agreed to [on September 27] ... no more and no less.”

Howard also unveiled a dramatic increase in the size of ASIO, doubling its staffing levels from 980 to 1860 by 2010-11. This will far exceed the levels reached in the 1980s, toward the end of the Cold War, when the spy agency employed a record 760 personnel. Already the organisation’s size and budget have almost doubled since the September 11 terrorist attacks in the United States, with its numbers boosted from 584 in 2001 and a budget rising to \$171.7 million in 2005-06.

Throughout the Cold War and the Vietnam War, ASIO had a notorious record of spying, harassment and dirty tricks directed against government opponents and critics, including socialists, trade unionists, journalists and “suspect” public servants. The “war on terrorism” is now being utilised to extend the political policing powers of the state machinery far further, explicitly trampling over fundamental civil liberties and legal rights previously regarded as sacrosanct.



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