

Socialist Equality Party public meeting

# Australian anti-terror laws: framework of a police state

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*The World Socialist Web Site is publishing today the report by Nick Beams, Socialist Equality Party national secretary, to SEP public meetings in Sydney and Melbourne on November 22 and 29 on the Australian government's "Anti-Terrorism Bill 2005".*

*Students, unemployed, blue and white collar workers and retirees attended the meetings, expressing the deep-seated popular opposition that exists to these anti-democratic laws.*

*Beams' report, which covered the dangerous implications of the new laws, the bi-partisan support provided by the Labor Party, Greens and the Australian Democrats, and the global economic and political factors underlying the legislation, generated a wide range of questions and discussion.*

*Sam, a year 11 student, explained after the Melbourne meeting that his grandfather had been jailed by Franco's fascist regime in Spain and he was concerned that the same conditions were being created in Australia. A young student from Germany at the Sydney meeting said she was deeply worried about the international nature of the attack on democratic rights.*

In a statement of the Socialist Equality Party published on November 3 we explained that the anti-terror laws introduced by the Howard government, supported by the Labor premiers and territory chief ministers, constitute "the juridical scaffolding for a police state."

This characterisation is not some kind of journalistic hyperbole, or an epithet produced for its political effect but, as we shall demonstrate, is grounded on a sober, historically-based, analysis of the new laws and their political implications.

The significance of the so-called anti-terror measures has been widely noted in legal circles. On October 31, the president of the Human Rights and Equal Opportunity Commission, John von Doussa, explained that they had the same goals as a police state.

"It might sound over-dramatic to say that the proposed laws are of the kind that may identify a police state, but let us reflect for a moment on that proposition," he said. "The defining characteristic of a police state is that the police exercise power on behalf of the executive, and the conduct of the police cannot be effectively challenged through the justice system. Regrettably, that is exactly what the laws which are currently under debate will achieve."

In an article published in the *Sydney Morning Herald* on November 1, leading Sydney barristers Ian Barker and Robert Toner pointed out that under the bill's provisions the government will have the power to control, monitor and jail people who have not committed a crime and have not been charged with committing a crime.

"Today," they wrote, "we are on the edge of a slide into our own 21st-century form of fascism; secret arrest, secret detention, secret interrogation, by secret people. This will be a product of the Anti-Terrorism Bill, itself kept secret until the last minute to avoid scrutiny by

those it will put at risk: the Australian public."

In other words, there is a decisive shift under way to new forms of rule, outside the previous legal and political mechanisms.

While the Marxist movement has always explained that the bourgeois-democratic constitutions of the capitalist state do not guarantee the maintenance of democratic rights, it has also insisted that moves by the ruling classes away from their previous forms of rule have great political significance. And that applies in the case of the Howard government's anti-terror laws.

Consider the way the legislation has been introduced. The new measures were unveiled, not through the production of a government white paper discussing the issues, or through draft legislation presented to the parliament for consideration. Rather, the measures were first proposed at a meeting of the government and the state premiers and territory chief ministers on September 27, with the stipulation that they had to be kept secret. The reason was clear in the uproar that followed the posting of the draft bill on the web site of the ACT chief minister John Stanhope.

One of the reasons for the involvement of the state premiers was that the provision for so-called "preventative detention" for 14 days—a key provision of the new measures—directly flouted the Commonwealth constitution. The federal government therefore needed the support of the states to impose such detention. In other words, the legislation involved organised subversion of the constitution.

Form and content are always intimately connected, and so it is in this case. New laws which abrogate basic democratic rights cannot be introduced through the traditional parliamentary mechanisms, but require secretive and outright conspiratorial methods, befitting their content.

One of the most significant parts of the legislation is the revival of the laws of sedition, which had fallen into disuse. Significantly, in the light of the present neo-colonial activities of the Australian military, the last time they were used was against an Australian patrol officer, Brian Cooper, for advocating the independence of PNG, then under Australian colonial rule, in 1960. Cooper was jailed and subsequently committed suicide.

The new laws allow for the criminalisation of criticism of the government and, most importantly, for giving support to resistance against Australian military interventions. In other words, if one were to say that the Iraqi resistance forces today have a right to oppose the US-led occupation by military means, including against Australian forces, and that this struggle should be supported, then such statements could be deemed to be seditious.

The revival of the sedition laws has come under criticism on the grounds that they are anachronistic. But as far as the government and the attorney-general Philip Ruddock are concerned that is why they need to be modernised. In other words, having lapsed into disuse over the past fifty years, they need to be brought up to date and used.

In an article published in the *Sydney Morning Herald* of November 14, Ruddock maintains that there is no threat to free speech because reference to “disaffection against the government” is already in the act and many people have expressed disaffection without being arrested. But then he strikes a different tone.

“If they urge or assist the use of violence and taking lives, it would be a different matter, and the government would call on the full force of the law.”

But this is precisely the situation when someone calls for support to be given to resistance against the Australian military operating in Iraq, the Solomon Islands, or in Papua New Guinea.

Free speech is not threatened, according to Ruddock, because “the existing and proposed laws allow for free speech by making sure people can call upon a good faith defence.”

So pervasive has become the doctrine of the all-powerful state that Ruddock writes these lines in the belief that no one will notice that they overturn fundamental precepts of existing jurisprudence, in particular the doctrine of the presumption of innocence. Under this doctrine, the defence is not obliged to show anything. It falls upon the state, the prosecution, to prove, beyond a reasonable doubt, that a crime has been committed.

We can see the same idea running through the arguments accompanying the presentation of the new legislation. Significantly, they were elaborated in the clearest form not by the Liberals but by the Labor leaders, when they committed themselves to supporting government amendments to the existing anti-terror laws in an emergency re-called session of the Senate on November 3.

In his speech, the Labor leader in the Senate Chris Evans set out why the opposition was supporting the legislation.

“We are debating this bill today as a result of a specific terrorist risk, identified by our security agencies. The Leader of the Opposition and the shadow minister for homeland security have received briefings on the specific threat that we are dealing with. As the alternative government of this country, Labor accepts the advice provided to us by the security agencies.”

A little further on, he emphasised the point: “Labor takes the view that we must take the advice of the security agencies and the government in good faith.”

And again: “The government and the government’s security agencies argue that this legislation is necessary and urgent.... We can only accept that advice, given our obligation to Australian security. People might well express cynicism, but the bottom line is that the government and the security agencies have argued that it is urgent. As an alternative government we have no choice but to accept that argument as part of our obligation to ensure the protection of Australia.”

The fact that the very same government and security agencies insisted that the war against Iraq was “necessary and urgent” because of the “weapons of mass destruction” possessed by Saddam Hussein, and the imminent threat that they would be used, is simply brushed aside on the grounds, as Evans put it, that “we are where we are” and “we have to deal with what we have to deal with.”

In a speech lasting just over 15 minutes, Evans insisted on at least ten occasions that Labor had no choice but to accept the advice of the government and the police and spy agencies on this issue of national security.

One of the leaders of the Labor “left”, John Faulkner, made clear that he had no differences with Evans’s position. The opposition, he said in a speech lasting barely three minutes, had to “take the government at its word” and would “not play politics with national security.” So much for reports of a left-wing rebellion against Beazley’s support for Howard. It turned out to be nothing more than a mouse riot.

The logic of the position enunciated by the Laborites is clear: it simply means that there should be no real discussion of so-called national security

issues. Parliament, alone any opposition to the demands of the military, police and spy agencies. The intelligence agencies need only to brief the government of the day, together with relevant members of the so-called opposition parties. Then their demands must be acceded to without opposition. Parliament’s only role is as a rubber-stamp, providing the illusion that some form of democracy remains. During the whole process no information about the necessity for the new measures can be revealed, for that only jeopardises the work of the police and intelligence agencies.

It follows from this doctrine that any questioning of the motives of either the government or the security apparatus constitutes a danger to national security, which ought to be made a criminal offence.

So far, the government has not advanced such a proposition, but its supporters in the mass media are getting ready to do so.

Seizing upon the police raids in Sydney and Melbourne, right-wing *Sydney Morning Herald* columnist Miranda Devine launched an attack on the writers of letters to the editor who have denounced the Howard government and the state premiers. She was particularly incensed by the comments of one letter writer from Queensland, expressing the views of many, who denounced the raids as “politically motivated” pointing out that “John Howard has proved time and again that he will stoop to any means to get what he wants and this is no exception.”

Devine also accused Democrats leader Lyn Allison of taking a “cosmic trip of conspiratorial fancy” for daring to suggest what many others believe, that it would not be beyond the bounds of possibility for Howard to have organised for the raids to take place.

“Their perverted world view, so twisted with cynicism and distrust that they are not sure if the sky is blue, or if there is even a sky, doesn’t allow them to comprehend a terrorism threat for what it is.”

Following the lies over weapons of mass destruction and all the other bogus reasons trotted out by Bush, Blair and Howard prior to the invasion of Iraq—not to mention the earlier lies from Howard and his ministers about children being thrown overboard from refugee boats—it requires no great intellectual effort to understand who exactly has the perverted world view.

But Ms Devine and those for whom she speaks are not content with simply denouncing the critics of the government. They want to set them up as enemies of the state, who should be dealt with as such.

Accordingly, she writes: “The opposition Western democracies face from within, from armchair critics in an era of instant comment and saturation information, has the potential to undermine national security as never before.”

Clearly the implication is that such opposition should be silenced, under conditions where maintenance of national security has become the paramount task. And Devine goes on to outline the new doctrines being developed to advance this perspective.

“Outrage over the counter-terrorism bill amendments ignores the fact that it is not Howard who dreamed up these laws in his Kirribilli study, but the police and ASIO which requested the changes to make their job of keeping us safe from terrorism possible. They are not magicians armed with crystal balls: they are men and women who sit in cramped rooms with headphones, listening to 240 hours of telephone intercepts and trying to piece together evidence that will avert a catastrophe.”

Here we have a total inversion of all the precepts of bourgeois parliamentary democracy and the emergence, at least in outline form, of a police state. It is fundamental to all bourgeois democratic regimes that the authorities of the state—the army, the police and the spy agencies etc.—should be under civilian control, that is, responsible to parliament and its members. However, according to Devine, criticism of the measures proposed by these bodies from “armchair critics” undermines national security. Clearly it should be halted. And if mere letter writers undermine national security, then far more dangerous must be any criticism from members of parliament. That should be shutdown in the interests of

national security as well.

Ms Devine is by no means a lone voice. Her sentiments are echoed by Greg Sheridan, the foreign editor of *The Australian*. In a column published on November 12, he also took issue with the suggestion by Democrats leader Lyn Allison that the police raids may have been orchestrated by Howard.

According to Sheridan this “bizarre desire to see the world as an endless series of conspiracies naturally reinforces the conspiratorial world view of the radical Islamists.

“Who can blame a radical Islamist for interpreting the actions of the Australian state as malign and directed at Muslims, if even the Australian Democrats can apparently interpret the most gravely serious police actions in this light?

“In other words, what seems like just normal nonsense and tomfoolery from marginal players in Australian politics feeds into the fantasies and dark paranoia of more disturbed or dangerous players. This is why political leaders, and media and intellectual leaders too, have a responsibility to act and speak with some restraint.”

It follows that, if such “restraint” is not exercised voluntarily, it should be imposed. While Sheridan does not go this far—at least not yet—that is precisely the logic of his argument.

Any objective examination of the government’s legislation demonstrates that it involves the overturning of fundamental precepts of bourgeois parliamentary democracy, which in some cases stretch back hundreds of years.

Such a vast shift in the political landscape must have deeply rooted causes. It cannot simply be ascribed to the motives or evil intent of the various political figures currently implementing the measures.

It is neither accidental nor coincidental that the Bush, Blair and Howard governments, having carried out the invasion and occupation of Afghanistan and Iraq, should be engaged in a deepening assault on democratic rights at home—both of which are being conducted in the name of the “war on terrorism”.

There are two interconnected processes that characterise world capitalism in the present epoch: 1) the re-emergence of colonialism by the imperialist powers, with the US playing the leading role, as they seek to bolster their global position against each other; and, 2) the deepening social polarisation within each country as previous social reforms are dismantled.

In the 1930s, as authoritarian and fascist forms of rule were introduced in one country after another, Leon Trotsky made the very important point that the differences between the so-called democratic powers—the US and Britain in particular—and the fascist regimes—Germany and Italy—lay in the material conditions in which they had developed. In the final analysis, British democracy rested on the great wealth Britain had at its disposal, derived from the resources of the empire, which made possible concessions at home. Likewise, its trans-Atlantic cousin, the United States, had grown rich and powerful on the exploitation of the resources of a whole continent.

What is the situation at the beginning of the twenty-first century?

American capitalism no longer has the unchallenged superiority over its rivals that it once enjoyed. Rather, it is engaged in a conflict with its old rivals in Europe (not the least of the reasons for its invasion of Iraq was to prevent them from assuming control of the country’s vast oil reserves) while anxiously wondering how it will contain the emergence of “strategic competitors” in the East, especially China. American industry once dominated the world. Today, General Motors announced it will slash 30,000 jobs and close nine plants in the hope that this will prevent the need to declare bankruptcy.

So far as Britain is concerned, the glory days of empire are but a faded memory as it pursues its alliance with the United States as a counterweight to the continental powers.

The Australian government of Liberal Prime Minister Howard eagerly joined the US-led invasion of Iraq, just as the Hawke Labor government was one of the first to sign up for the US-led Gulf War a decade before. In both cases the motivation was the same: to secure US support for Australian imperialism as it seeks to advance its interests in the Asia-Pacific region.

At the same time, the Howard government is pursuing what the usually fairly conservative *Sydney Morning Herald* economics commentator Ross Gittins describes as a “class war” through its industrial relations legislation—laws which Howard maintains are necessary in order to meet growing competition from India and China.

The attack on democratic rights is not an incidental feature of the present situation. It is rooted in processes taking place in the very foundations of the global capitalist system. The inherent crisis of the profit system means that the struggle for markets, resources, spheres of influence among the major capitalist powers is assuming ever greater intensity, accompanied by an assault on the social position of the working class. This is what is driving the bourgeoisie in every country to change the political mechanisms through which it has ruled in the past period. New forms of rule have to be developed to impose a new agenda.

The necessary conclusions must be drawn. Because the onslaught against democratic rights is ultimately rooted in the eruption of contradictions at the very heart of the capitalist system, the defence of these rights requires a strategy which tackles the problem at its source. It requires no less than the development of an independent political movement of the working class, grounded on an international socialist strategy and directed against the capitalist system itself.

All the parties operating within the official political framework, as well as their various “left” supporters, are organically hostile to such a perspective. And this is the fundamental reason why they cannot and will not mount a defence of basic civil liberties and democratic rights.

This is an international phenomenon. In the US, the Democratic Party has no fundamental difference with the aggressive assertion of US military power—after all it was the Democrats under Clinton who adopted the program of “regime change” in Iraq. In Britain, the invasion of Iraq and the attack on democratic rights that has followed has been organised by the Blair Labour government, with the support of the trade unions. In Germany, we have a grand coalition of the SPD and the CDU to attack the working class, while in France, now under a three month state of emergency using laws first invoked in 1955 to suppress opposition to French colonialism in Algeria, the so-called parties of the “left” are deeply hostile to the youth in the suburbs as they join calls for the maintenance of “law and order”.

The Beazley-led Labor Party is not a peculiarly Australian phenomenon. It is only one of the more grotesque expressions of an international tendency.

What of the Greens? Here we find all sorts of windy rhetoric designed to cover their real position. During the Senate emergency session on the anti-terror amendments held on November 3, Greens leader Bob Brown denounced the “outrageous” abuse of parliament by the prime minister, attacked the legislation as a diversion from the “draconian” industrial relations laws and warned of the threat to “great and important liberties in our democracy”. But when all the bluff and bluster was over, Brown declared the Greens would support the legislation.

Tasmanian Greens Senator Christine Milne wanted it placed on record that “nothing is heightening the threat of terrorism in Australia more than the decision of the prime minister, John Howard, and his government to go into the war in Iraq and his unswerving backing of the Bush administration.”

Her NSW counterpart Senator Kerry Nettle denounced the “extensive, draconian, extreme powers” that have already undermined fundamental tenets of the legal system. She pointed to the “enormous” outpouring of

opposition “despite the lack of leadership” from the Labor Party and noted that not one significant legal figure had backed the government.

But when it came to the vote, the Greens remained silent. Not a single voice was raised in opposition. Since the emergency session of the Senate, the position of the Greens has emerged even more clearly.

Responding to recent revelations that the Director of Public Prosecutions had first raised the need for the amendment almost eight months ago, Brown issued a statement denouncing the government for failing to act in a timely manner. That is, Brown completely supports an amendment which significantly widens the government’s attack on fundamental democratic rights, and criticises it from the right.

It is an axiom of politics that the value of every crisis is that it reveals, in ways not possible in normal times, the real nature of all political tendencies.

The emergency recall of the Senate on November 3 was such a crisis. Now the lessons of that experience need to be drawn. It demonstrated above all else that the defence of democratic rights cannot be undertaken through the existing political framework.

Historically, democratic rights have only been attained through the independent political struggle of the working class—they have never been granted from on high, through either courts or parliaments, but have only been won through a struggle from below. They can only be defended in the same way, through the development of an independent movement of the working class. And the development of such a movement will transform the political situation.

No one should make the mistake of thinking that the various reactionary governments around the world are operating from a position of strength. On the contrary, there is a growing hostility towards them. Witness the fact, for example, that within the past three years in Australia we have seen two of the largest demonstrations in history—the protests against the invasion of Iraq in February 2003 and the demonstrations this month against the government’s industrial relations legislation.

These regimes remain in power not because of any inherent strength, but because of a crisis of perspective in the working class. That is, the alienation from and hostility to the existing parties has yet to find expression in an independent political movement.

Under conditions where all the old organisations of the working class have degenerated, the development of such a movement requires the fight for a socialist strategy and the construction of a new socialist party to lead it. This is the perspective of the SEP and the ICFL.



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