

Australia: British terrorist attacks used to detain doctor without trial

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The Howard government has seized upon last month's terrorist attacks in London and Glasgow to make first use of draconian and previously little-publicised detention powers enacted in 2004. The imprisonment of Brisbane-based Doctor Mohamed Haneef for almost two weeks before being charged today with a terrorist offence illustrates the police-state character of the barrage of "anti-terrorism" laws adopted in Australia since 2002.

Australian Federal Police (AFP) officers arrested Haneef at Brisbane airport on July 2, as he was about to leave the country. Sensational media claims that Haneef was secretly fleeing Australia in the wake of the failed British bomb plots quickly collapsed. Haneef had obtained emergency leave from the Gold Coast hospital where he works to travel to India, where his wife is ill after recently giving birth to a daughter.

The AFP has now charged Haneef with "recklessly" supporting a terrorist organisation by providing his mobile phone SIM card to those allegedly involved in the failed British bomb plot. This vague offence carries a maximum penalty of 15 years. The charge was laid at 7 a.m. this morning, after an interrogation session that began at 4 a.m., according to the *Sydney Morning Herald*. Yet, the police had the information about the phone SIM card from the outset, from their British counterparts.

Only yesterday, leaked government documents published in the *Australian* said the AFP had no evidence against Haneef, despite a massive operation against him, reportedly involving 220 federal and state officers. The *Australian*, a fervent backer of the "war on terror," conceded that the documents revealed the AFP's "vague and circumstantial evidence". It said investigators had made "around-the-clock" efforts to find a "smoking gun," all to no avail.

The documents point to the flimsiness of the material assembled by police. Haneef, who previously practiced medicine in Liverpool, allegedly lived with his cousins Kafeel Ahmed and Sabeel Ahmed, both of whom have been arrested in the UK. Haneef left his mobile phone SIM card behind when he came to Australia, which one of those arrested is alleged to have used. In recent alleged phone conversations, Haneef was congratulated on the birth of his child.

In effect, the AFP has been holding Haneef, potentially indefinitely, in order to conduct a "fishing expedition" designed to whip up public fears. State and federal police questioned five other medical health workers across Australia, including a second Gold Coast doctor, Mohammed Asif Ali. Both Ali's and Haneef's homes were raided twice. Possessions seized by the AFP include

Haneef's car, mobile phones, PDA, digital camera, email addresses, phone records, CDs, clothing and computer.

As early as July 4, the *Australian's* headline read, "Doctors linked to terror plot", and the *Sydney Morning Herald* shouted, "How a doctor's jihad network led to raids in Australia." No doubt, these lurid claims were fed by selective and prejudicial information from government and police sources in the UK and Australia.

Haneef's detention highlights the many powers the Australian police and security agencies now have in their arsenal to detain and interrogate people without trial. Haneef was held under sections of the Commonwealth Crimes Act that were amended by the 2004 Anti-Terrorism Act. As the WSWs warned in April 2004, although this legislation was presented in parliament as a response to the Madrid train bombing, it involved a deep attack on basic democratic rights.

Under section 23, anyone can now be arrested for the purpose of *investigating* whether they have committed a terrorist offence. As AFP Commissioner Mick Keelty emphasised on the Australian Broadcasting Corporation's "The 7:30 Report" last week, the law allows police to obtain evidence against an individual *after* they have been arrested, not before as was previously the case.

Although a person can ordinarily be held for questioning for only four hours, the Act enables police to apply to a "judicial officer" (a magistrate, justice of the peace or bail justice), for an extension of the "investigation period" of up to 24 hours. The police can also ask for a suspension of the questioning time limit for a non-exhaustive list of reasons, including to allow other "authorities," inside or outside Australia, "time to collect information", and "to collate and analyse information" from other sources.

There is no time limit on how long the questioning clock can be stopped and no limit on the number of times a "judicial officer" can approve such AFP requests. As Haneef's experience has revealed, with a willing magistrate, the provisions are broad enough to permit indefinite detention.

The Brisbane magistrate presiding over Haneef's case repeatedly granted police requests for further detention. On July 3, the AFP obtained permission to question Haneef for an additional 12 hours. On July 5, the magistrate granted a 96-hour suspension, until July 9. On that evening, the magistrate rejected another five-day suspension, but granted police an additional 48 hours to construct a case for why Haneef should be detained.

On July 11, Haneef's lawyer asked the magistrate to disqualify

himself from the case on the basis of bias. In response, the magistrate adjourned his decision until July 13, effectively extending the detention again.

Haneef, who initially elected not to obtain legal representation, is reported to have cooperated with the AFP's questioning. When he did request a lawyer after days in detention, the Brisbane Watchhouse contacted solicitor Peter Russo, who is not expert in anti-terrorism law, and whose typical clients, according to the *Australian*, are charged with petty crimes.

Russo told reporters he had only recently been allowed to see the details of the allegations against his client, and could not disclose them for national security reasons. Haneef has been denied access to newspapers and only allowed to speak to his wife once for one minute over the telephone.

The police and the government have given contradictory reasons for Haneef's detention. Keelty initially cited the "enormous time difference" between the UK and Australia. By July 6, he was claiming the need to search some 18,000 files on Haneef's laptop.

Ruddock said 120 gigabytes of data, equivalent to 31,000 document pages, stored on computers obtained during the raids needed to be analysed. It later emerged that Haneef only had a 40 gig hard drive. Dr Ali, who had already been cleared, had a computer with an 80 gig hard drive. In a blatant effort to smear Haneef's reputation and head off growing public criticism, Ruddock stated on July 9 that the reasons Haneef gave for his planned departure, to see his wife and newborn child, may have been "a cover for something else".

Yesterday, the AFP said it had dropped an application to extend the detention for another three days. That meant the police still had 12 hours in which to question Haneef, with time added for certain breaks such as meals and sleep.

Even though no charges had been laid, Haneef could have still been detained under the 2005 Anti-Terrorism Act, which allows for "preventative detention" of up to 14 days, or placement under a "control order"—a form of house arrest—for up to 12 months.

Individuals can alternatively be detained under the 2003 Australian Security Intelligence Organisation legislation (ASIO), which empowers ASIO, the domestic spy agency, to detain and interrogate anyone the agency suspects of "possessing information" related to terrorism, for up to a week without charge.

Whatever the outcome of Haneef's case, a precedent has been established for the arrest and detention of anyone the AFP, acting in concert with the Attorney-General's Department, considers suspect. According to the *Australian*, on July 10 Keelty defended Haneef's detention as part of a "new world order" not based on conventional policing.

Haneef's personal and financial affairs have been severely affected, and he was reportedly facing eviction from his apartment at one stage. Similar measures could just as easily be utilised against government opponents in the future, irrespective of whether a charge is ever brought.

Prime Minister John Howard resorted to fear mongering on July 4, claiming there were "people in our midst who would do us harm and evil if they had the opportunity". Ruddock similarly insinuated on July 11 that detentions like Haneef's were required to prevent "some terrible event" occurring in Australia. Both have

maintained that the anti-terror laws can be made more stringent, with Ruddock describing them as an "unfinished canvass".

The Labor Party supported the operation from the outset. Opposition homeland security spokesman Arch Bevis praised the "AFP, the Queensland police force and other security agencies". On July 12, Opposition leader Kevin Rudd said Labor would retain the laws if it won office later this year, and declared he had "confidence" in the AFP to "handle this manner in an appropriate way".

Haneef's detention has drawn considerable criticism among legal experts, civil liberties groups and ordinary people. Australian Law Council president Tim Bugg condemned the use of police powers to effect "indefinite detention by any other name". Prominent Melbourne barrister Lex Lasry QC attacked the government's claim that the complexity of terrorist offences across international borders necessitates detention without trial.

Former Australian High Court Chief Justice Gerard Brennan stated on July 4 that the anti-terror laws undermined the common law by enabling suspects to be imprisoned without trial. He said the exercise of any form of executive power, and particularly detention, demanded "transparency of operation—legally and politically". Brennan maintained that "assurances given" by "ASIO agents or police officers or ministers who are advised by them" were not "any kind of safeguard," nor was the use of "judicial or quasi-judicial officers".

Terry Hicks, the father of former Guantánamo Bay detainee David Hicks, warned that the authorities could keep "shifting the goal posts" to ensure they could keep holding Haneef. "I think it's absolutely disgusting that anyone could be held without a trial, without charges," he told ABC news. "I know this from David's facts and his position. This gentleman is going through the same thing."

Although it is too early to assess the outcome of the AFP charges against Haneef, there is every possibility that he has now been charged, based on information that the police had all along, simply to quell growing criticisms of the anti-terror legislation.



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