

Australia: Labor joins Howard government in blocking Haneef inquiry

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16 August 2007

Last week, in a move largely unreported by the media, the Labor Party joined the Howard government in defeating Senate motions by the Greens and Democrats for parliamentary inquiries into the Haneef affair.

By blocking with the government, Labor lined up yet again behind the witchhunt of the young Indian Muslim doctor, Mohamed Haneef, despite the collapse of the “terrorist” case against him.

Both the Greens and Democrats sought to establish committee hearings into the government’s attempt to railroad Haneef to jail for up to 15 years on a baseless charge of “recklessly” supporting terrorism.

Amid blazing headlines about a “doctors jihad network”—fed by malicious police and government leaks—Haneef was arrested on July 2 and detained for nearly two weeks without charge. Then, after he was eventually charged, and a magistrate ordered him released on bail, the government cancelled his visa and ordered him into indefinite immigration detention in a blatant attempt to override the judicial ruling.

Once the public became aware of the lies being peddled by the government and the police against Haneef, the case rapidly unravelled, forcing the Commonwealth Director of Public Prosecutions (DPP) to drop the charge. The DPP said “mistakes” had been made, including a false allegation that Haneef’s former mobile phone SIM card had been found in the jeep that crashed into Glasgow airport on June 30.

To most people it was obvious that this was no simple police “mistake”. Some 500 federal and state police had been mobilised in an unsuccessful bid to find evidence against Haneef. The affair bore all the hallmarks of another campaign by the Howard government to boost its electoral fortunes and whip up new fears of terrorism. From the outset, Prime Minister John Howard and leading government ministers publicly insinuated that the police had good reason to detain Haneef. In a major speech, Howard specifically declared that the arrest was an important reminder that the “war on terror” had reached Australian shores and would continue for decades.

It also became clear that Howard’s inner cabal had orchestrated the entire operation, with the prime minister admitting that the cabinet National Security Committee had discussed the decision to revoke Haneef’s visa. The collapse of the case became a damning exposure of the modus operandi of the government and its security agencies in pushing terrorist scares to justify draconian treatment of “suspects” and the passage of ever-more extensive “anti-terrorism” legislation.

Equally, the affair became a debacle for the Labor opposition, which backed the government every inch of the way. Moreover, Labor utilised the opportunity to reiterate its support for all the anti-terror

measures, including detention without trial, semi-secret trials and the executive outlawing of organisations, introduced at both federal and state level since 2002.

In the perfunctory debate in the Senate last Thursday, Labor’s spokesman Joe Ludwig was even more vehement than the lone government speaker, backbencher Guy Barnett, in opposing the Greens’ call for a Senate inquiry. Ludwig denounced the motion as “completely inappropriate and entirely improper”, accusing the Greens of “trampling through a criminal law investigation that is currently on foot”. He claimed it was unbelievable for the Greens to suggest, “that there is a power to politically orchestrate investigations”.

Ludwig also opposed a separate Australian Democrats’ motion for an inquiry into the anti-terrorism laws themselves. He declared that Labor would “make no apology” for supporting “strong anti-terrorism measures” and “voting down these inquiries”. Labor approached these issues as “the alternative executive”, he emphasised. His comment underscored Labor’s commitment to utilising the police-state powers should it win office in the federal election due later this year.

Ludwig said Labor had suggested a judicial inquiry into the Haneef affair, because such an inquiry was “essential to ensuring public confidence in the government’s handling of this matter—and equally Australia’s anti-terrorism measures”. But he insisted that no inquiry should be conducted while police investigations were continuing, and while Haneef was challenging his visa cancellation in the Federal Court.

Given that Australian Federal Police Commissioner Mick Keelty has said investigations into Haneef will proceed for many months, despite the dropping of the charge against him, this would mean delaying any inquiry until well after the election.

On the face of it, the Greens’ call for the Haneef affair to be referred to the Senate Legal and Constitutional Committee was wide-ranging. The proposed hearings would have examined aspects of the government’s role, including Immigration Minister Kevin Andrews’s decision to cancel Haneef’s visa, and the role of other ministers, such as Howard and Attorney-General Philip Ruddock.

However, Greens Senator Kerry Nettle emphasised to journalists that the inquiry was “really important” in order to “understand why the mistakes were made in the case of Dr Haneef”. She added: “Sometimes we do see governments have to accept that people really need to have some answers to these questions.” Not only did she echo the official line that the problem was one of “mistakes,” she appealed to the Howard government to see the benefit of the Greens’ proposal.

Nettle was even more explicit in the Senate chamber when she moved the resolution. “I would have thought that public confidence in

the government's ability to handle the issue of terrorism was something the government itself would want," she declared. Nettle urged senators of all parties to see that lessons "need to be learned from this", and posed the question: "Do you want the public to have confidence in the government's ability to deal with issues relating to terrorism?"

The Greens' primary concern was precisely the same as Labor's: how to overcome the political damage done to the entire "counter-terrorism" framework by the rapid collapse of the Haneef case under the pressure of public opinion. While Nettle criticised features of the terror laws, her position echoed repeated warnings issued by the mainstream media outlets—the Murdoch and Fairfax chains alike—that Haneef's treatment had generated public cynicism in the "war on terror".

In a final bid to win her colleagues' support, Nettle offered to extend the reporting date of the proposed inquiry until after the police and legal cases had concluded. She also volunteered to support Labor's idea of a judicial inquiry. But her pleas cut no ice. Labor (and the Democrats) lined up with the government, making it crystal clear that the so-called opposition would allow no political or public probing into the Haneef case, no matter how much the Greens promised that it would serve to reassure the public.

Under conditions of growing popular disgust at the "me-tooism" of Labor and its leader Kevin Rudd in relation to virtually every government measure, the Greens are pitching for voters to give them the "balance of power" in the Senate, promising to act as a moderating influence on whichever party forms the next government. At the height of the Haneef affair, on July 21, Nettle issued a Greens' media release declaring: "After the election, the Greens hope to be able to work with the government to make the terror laws fairer."

Over the past five years, the three or four Greens in the Senate have tried to refine and legitimise the terror laws by proposing amendments that would only marginally affect their scope. Far from exposing or opposing the monumental fraud of the "war on terror", they have sought to add legitimacy to it.

The Greens revealed their real position in November 2005, when Howard declared a "terror alert" and convened an emergency session of the Senate to pass a crucial amendment to the terror laws, altering the wording of all offences from "the" to "a" terrorist act. The effect was to allow anyone to be convicted without any evidence whatsoever of a specific terrorist plot—not even its location, date or method of attack. The Greens voted for the change.

The Howard government has refused to make any apology to Dr Haneef. It continues to cast aspersions against his reputation at every opportunity, even claiming his return home to his wife and baby in Bangalore, India once the terrorist charge was abandoned was "suspicious".

Nevertheless, Haneef has said he wishes to return to Australia to resume his training as a medical registrar at Queensland's Gold Coast Hospital, which has offered to keep his post open for him. Last Thursday and Friday, his lawyers took his case to the Federal Court, arguing that Immigration Minister Andrews's revocation of his visa was unlawful.

To justify this extraordinary exercise of executive power, Andrews declared Haneef had failed the Migration Act's "character test" because the minister "reasonably suspected" he had an "association" with people "reasonably suspected" of criminal activity, namely his second cousins, Sabeel and Kafeel Ahmed. Kafeel drove the jeep into Glasgow airport and subsequently died of his burns. Sabeel was not

accused of involvement in the Glasgow bombing or earlier failed London attack, but British police later charged him with withholding information about the attacks.

Haneef's lawyers mounted two main arguments in court. One was that the doctor should not have failed a "character test" simply because he was related to his second cousins. Barrister Darryl Rangiah told Justice Jeffrey Spender: "Any visa holder who is the parent, child, spouse, cousin, in-law ... of one who is a suspected criminal fails the character test." He noted that the Act did not define "association".

The judge agreed that a family relationship was not sufficient for determining bad character under the Act. "This concept of guilt by association is unlikely to have been intended by the Parliament of Australia," he said. However, Spender suggested Andrews cancelled the visa because he suspected the doctor had "more than an innocent association" with his cousins.

Haneef's lawyers' second argument was that Andrews revoked the visa for an "improper purpose"—that is, for the purpose of blocking Haneef's release on bail. Justice Spender conceded that "the chronology is suspicious". He added that "realistically" one could think that Andrews's decision was designed to "stymie the effect of the decision of the magistrate".

In order to prove this unlawful motivation, Haneef's legal team is believed to have formally requested that Andrews appear to be cross-examined at the hearing, but the minister claimed parliamentary privilege because parliament was sitting.

Justice Spender said he expected to hand down his ruling on August 21. If he were to rule in Haneef's favour, however, the government would likely appeal to the Full Federal Court and, if necessary, all the way to the High Court. Andrews could also quickly revoke the visa again on spurious grounds. He has sweeping powers upon which to declare that Haneef has failed the character test. Under section 501 of the Migration Act, the grounds include a "significant risk" that the person would "incite discord in the Australian community" or "become involved in activities that are disruptive".

Together with the terror laws, these powers—fully supported by Labor—form a toxic mix of measures designed to allow federal governments to whip up fear campaigns at will, and to intimidate, victimise and silence political dissent.



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