

Australia: Bipartisan political praise for police violence at APEC summit

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Last week Labor state Premier Morris Iemma and Liberal Prime Minister John Howard jointly hosted an event to thank some of the 4,000 state and federal police and 1,500 military personnel involved in the extraordinary police-state crackdown during the September 7-9 APEC summit in Sydney.

In the face of widespread public concern about the level of police violence, both politicians hailed the police mobilisation. Iemma borrowed a phrase from President George Bush, declaring “mission accomplished” while Howard said: “I totally support all of the actions taken by NSW Police during the APEC gathering.”

These statements were made after television clips were broadcast showing police throwing a female photographer to the ground, and repeatedly bashing a protester after he had been pinned to the ground by several officers. Media coverage also showed scores of heavily-armed riot police without their name badges, preventing members of the public from identifying them.

Video footage, broadcast on YouTube, recorded a NSW police officer saying that it was one of the policies of “the bosses” that cops did not wear identification badges during their summit duties.

Police smashed the camera lens of accredited APEC photographer, Paula Bronstein, who suffered bruising to her neck and jaw when police threw her onto a footpath. Bronstein, who works for Getty Images, said: “It was after we’d been taking shots of this woman being arrested and we were back on the sidewalk and the police started yelling ‘get back.’” An experienced photographer, who has won awards for her work in Pakistan and Afghanistan, Bronstein commented: “I’ve done a lot of conflict photography and you really don’t see a lot of that kind of unprovoked aggression.”

Other TV footage showed police threatening news crews, pushing them away from arrest scenes and holding up gloved hands to block cameras. The message behind the show of force was conveyed by the headline of the Sydney *Sun-Herald*: “Police Rule”. The newspaper noted: “Police ruled Sydney’s streets with an iron fist.”

In the course of the summit, Sydney became a testing ground for virtual martial law conditions aimed at putting down any political or social unrest. Riot police were armed with pistols, capicum spray guns, tear gas launchers, batons and shields. Many wore heavily-plated suiting and boots. They were backed by water cannon, teams of snipers, helicopters and buses converted into mobile prison cells.

NSW’s highest court, the Supreme Court, backed the unprecedented police powers adopted for APEC. In two special sittings, the court endorsed two key measures—a police ban on the proposed route of the main protest march and the police listing of “excluded persons” who could be automatically imprisoned for entering designated parts of Sydney.

On September 5, Justice Michael Adams granted an application by Police Commissioner Andrew Scipione for an order preventing the “Stop Bush Coalition” from holding a march through the city, even though the planned route went no closer than a kilometre from any APEC venue. As a result, the march was confined to just three blocks, between Town Hall station and Hyde Park.

Before the hearing even began, Scipione declared that police would stop marchers at a new blockade along the intended route, regardless of the court’s ruling.

In court, Adams voiced disquiet over the police application, and the fact that it was delayed until the last minute. He said it could be seen by some people as evidence of a “police state” and cause in itself to protest. “There’s no question that there would be many people in the community, and I’m not talking about most, but many, who would resent the extension of such powers to the police, even for such a limited period of time.”

Nevertheless, he ordered the march route changed after the commander of the NSW Police Public Order and Riot Squad, Chief Superintendent Stephen Cullen warned of “horrendous consequences” if protesters came anywhere near the newly-announced blockade.

Cullen told the court: “Police lines will come under attack and a full-scale riot is probable.... Based on my research, experience, current intelligence and evidence from internationally similar events—more recently G20 in Melbourne—I have absolutely no doubt that minority groups will engage in a level of violence not previously experienced in Sydney.”

Cullen denied suggestions that he was being alarmist or exaggerating the risks of violence. “Never in my career have I held such serious concerns for public safety as I do during the conduct of APEC, or more specifically this particular march.”

Cullen’s claims reflected weeks of effort by Howard, Iemma and federal Labor leader Kevin Rudd to depict APEC protesters as “violent” and “feral”. His testimony proved to be totally false. The march saw no large-scale clashes between police and protestors, despite repeated police attacks and acts of provocation.

Adams’s ruling underscored the almost unlimited power in the hands of the police and the judiciary to prohibit any public assembly. Under section 25 of the NSW Summary Offences Act, the Police Commissioner can apply to the court for such an order, without giving any reason, and the court can grant the application, also without giving any reason.

On September 6, in an exceptional late-night session, a three-judge Court of Appeal panel of the Supreme Court abruptly dismissed a legal challenge by four men listed by police as “excluded persons”. The four, Dan Jones, Paddy Gibson, Dan Robbins and Tim Davis-

Frank, objected that the blacklist violated the rules of natural justice, as well as the Australian Constitution's implied right of freedom of political communication.

Section 26 of the state government's APEC Meeting (Police Powers) Act 2007 gave the police commissioner unlimited power to compile an "excluded persons list" of people he was satisfied "would pose serious threats to the safety of persons or property (or both) in an APEC security area". Those blacklisted could be excluded or removed from any APEC "declared area", rendering them liable to immediate arrest and likely to be charged with related offences such as resisting arrest.

The police were not required to give "excluded persons" any notice, let alone a hearing, or even inform them that they were on the list. Nor was there any right to appeal to a court. These measures clearly breached the principles of natural justice, or procedural fairness, which specify that government agencies must give members of the public a chance to be heard and respond to adverse accusations before making any decision against them.

The four men said their exclusion prevented them from protesting against the invasions of Afghanistan and Iraq, the Australia-US nuclear agreement and the "WorkChoices" industrial relations legislation. However, the presiding judge, Justice Margaret Beazley ended the proceedings without even hearing from the defendants, the NSW and federal attorneys-general. She declared: "This case was not a strong one." At one point during the brief hearing, Justice David Ipp said: "This sounds like Alice in Wonderland".

In a brief, two-page judgment, delivered verbally, the court unanimously held that the banning of a limited number of people from a protest, in a limited area, for a limited amount of time, was "compatible with the maintenance of the system of representative and responsible government". The judges accepted that the bans "burden the freedom of communication on political matters" but said the law was "appropriate to achieve the end of public safety and the safety of leaders of other countries". The sweeping aside of basic civil liberties was thus dismissed as consistent with "responsible government".

Although the judges spoke of limited numbers of people and areas, the APEC Act set no such limits. Apparently, at least 27 people were on the list of "excluded persons". Their names were leaked to the media and their pictures splashed over the pages of the *Sydney Daily Telegraph*. But the Act allowed any number of people to be banned, even thousands. Moreover, section 6 of the Act gave the state Police Minister the power to designate any area within metropolitan Sydney as an "additional declared area", on the advice of the police commissioner.

Although these powers lasted only during the "APEC period"—August 30 to September 12—similar provisions could be imposed for any future political event. The Supreme Court's ruling confirmed earlier Australian High Court decisions that the so-called implied constitutional right of political free speech can be easily swept aside. All a government has to do is insist that a ban on protest or other political activity is needed for a purportedly legitimate purpose, such as public safety.

The power to blacklist "excluded persons" was just one of the extraordinary measures in the APEC Act. Others included stop and search powers, seizure of any items prohibited by regulations, and powers to issue directions, erect checkpoints, cordons and roadblocks, close roads and remove vehicles. The police commissioner could declare "restricted areas" within APEC zones, preventing anyone from entering without "special justification". Even if a person were

unaware that they had entered such an area, they could face up to six months imprisonment, or two years if they possessed a "prohibited item".

A presumption against bail applied to people charged with various offences, including assaulting a police officer, effectively giving police the power to lock people up without trial for the duration of the APEC period. Police were explicitly given the right to use "reasonable force", which could mean shooting to kill. Orders made under the Act could not be challenged in any court of law.

The APEC security operation featured another display of the ongoing militarisation of society. Air force FA-18 jets flew overhead, naval ships patrolled the harbour, army units searched premises, transport tunnels and vehicles, and heavily-armed SAS troops were placed on standby.

In one revealing incident, RAAF jets fired flares at a light plane piloted by a lawyer, forcing him to land at the suburban Bankstown airport, even though he had official permission for his flight. Local resident Bruce Downes told Sky News that FA-18 military aircraft fired "four or five flares in a westerly direction". He added: "These two fighter jets come out in the middle of nowhere and were firing flares at it. Right over the top of Penrith, it was amazing. I've never seen anything like it."

The Defence Department said firing flares was a normal procedure when intercepting such an aircraft, but refused to explain the specific incident. "Defence does not discuss arrangements surrounding how an unidentified aircraft is intercepted. Part of the repertoire of gaining an aircraft's attention is the use of flares," it stated. In the days before APEC, the commander of the military taskforce warned that planes that entered a 45-nautical mile no-fly zone around Sydney airport could be shot down.

By what legal power such actions were taken is not clear. No notification was given that the government had invoked the expanded military call-out legislation pushed through federal parliament last year, which permits the prime minister to call out the armed forces and give them the power to use lethal force.

During the weeks before APEC, Operation Deluge saw frequent military exercises across Sydney, which included SAS helicopters hovering and landing in the city, patrol boats speeding up the harbour and troops firing blanks ("simulated ammunition noises") in several locations, notably Martin Place railway station in the heart of the central business district. Through such so-called anti-terrorism exercises, increasingly held since 2002, the public is being conditioned to accept the sight of the military on the streets of major Australian cities.



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