New Zealand: Charges dropped after "anti-terror" police raids

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New Zealand Solicitor-General, David Collins QC, announced on November 8 that terrorism charges would not proceed against 12 of the 17 people detained in a massive "anti-terror" police operation three weeks earlier. Far from backing down, however, the Labour government has indicated its determination to exploit the lurid but untested claims surrounding the incident to justify even more draconian counter-terrorism laws.

The arrests were carried out on October 15 following raids involving 300 police in Auckland, Wellington, Palmerston North, Hamilton, Christchurch, Whakatane and Ruatoki. Sixteen people appeared in the Auckland District Court on firearms charges, which remain in place. Twelve had their cases referred to the solicitor-general for consideration on October 29 under the Terrorism Suppression Act (TSA). The Act requires that Attorney-General Michael Cullen approve such charges, but he delegated the authority to the solicitor-general.

The raids took place in the traditional homelands of the Tuhoe Maori tribe in the remote Uruwera Ranges. The entire area was placed under siege as armed police and officers wearing camouflage gear arrived via vehicle convoys and a helicopter. Police claimed that between 20 and 40 people had been participating in bush training camps in the Uruweras, involving the use of firearms and other weapons. The operation was followed by a full-blown media scare campaign about "terrorists" training for attacks against prominent public buildings and figures.

The dropping of the terrorism charges confirms the threadbare character of the case against the 12. Collins stated that while the police had provided evidence that a number of the accused were involved in "very disturbing activities", it was insufficient to meet the "high threshold" of evidential requirements for charges to be laid under the TSA. He was quick to praise the police for their "professionalism and integrity" and highlight the supposed deficiencies of the legislation.

Collins criticised the TSA as "unnecessarily complex, incoherent and as a result almost impossible to apply to the domestic circumstances observed by the police in this case". The government promptly declared it would act on Collins's comments and refer the Act to the Law Commission for review and strengthening. According to Prime Minister Helen Clark, the main issue was that in its current form, the legislation was designed with external terrorist threats in mind, and was never framed to deal with domestic cases—a shortcoming that would be addressed in any rewrite of the law.

The hysteria surrounding the raids has already provided a convenient pretext for pushing through long-planned amendments to the 2002 Act. These were reported back to parliament from a select committee within days of the raids and easily passed their second reading on October 24, less than two weeks later. Among the new provisions is a vague new definition of a terrorist act as one which is intended to "induce terror in a civilian population". The charge carries a possible life sentence. The changes also remove the power to designate "terrorist" groups from the High Court and place it solely in the prime minister's hands.

There has been rising opposition to the police raids and plans to undermine basic democratic rights through changes to the anti-terror laws. Demonstrations involving several thousand people have taken place. These included a *hikoi*, or protest march, by 200 members of the Tuhoi tribe and their supporters. They travelled hundreds of kilometres from Whakatane to Wellington via several regional centres to protest their treatment outside parliament.

Simmering tensions erupted on November 3 outside the Labour Party conference. Delegates had to run a gauntlet amid cries of "shame" from 150 protesters as they entered the venue. The protesters alleged that a Labour Party delegate assaulted one or more of their number. Television footage appeared to show conference delegate Len Richards using a megaphone to strike a protester in the face. The altercation happened after Richards and fellow delegate Jill Ovens emerged to purportedly attempt to tell protesters the Service and Food Workers Union, which Ovens represents, was "on their side".

Coverage of the incident overshadowed Clark's keynote speech, in which she justified the police operation. Breaching legal restraints on *sub judice*, the prime minister virtually declared that the accused were guilty, saying it was "distressing and abhorrent" for a "disaffected" group to be engaged in paramilitary training as alleged by the police. The clash with protesters underlined the growing isolation of the Labour

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government which, after eight years in office, has presided over unprecedented attacks on democratic rights and social conditions.

Various erstwhile "lefts" and middle class radicals have stepped in to defend Labour. Chief among these has been commentator Chris Trotter who used two of his weekly *Dominion Post* newspaper columns, entitled "From the Left", to justify the raids. Trotter glowingly described Police Commissioner Howard Broad as an "honourable and decent police officer and no redneck" and condemned the victims of the raids as "arrogant" for turning their backs on the long traditions of peaceful protest and "incorporating firearms and explosives into their political repertoire".

In fact, as the decision to drop the anti-terror charges demonstrates, the evidence against the accused would not have stood up in court. The police were clearly keen to use the operation to establish a precedent for widespread surveillance and eavesdropping under the anti-terror laws. Hundreds of pages of intercepted communications as well as photographic and video surveillance will not now be tested in court as they were obtained under warrants issued under the Terrorism Act and can only be used to support charges under that act. Collins admitted that it was "unlikely" the interception warrants could have been obtained under any other legislation.

Prominent Queen's Counsel, Peter Williams, engaged by the Tuhoe tribe to look into a possible class action suit, described the police tactics used in the raids as illegal. Speaking after visiting the Ruatoki area, Williams said the police did not have the right to take the occupants of one particular house into custody unless they had been charged with offences. People were taken into custody at gunpoint. Some residents, including young children, were detained for many hours, and the armed raids and searches were terrifying for the innocent adults and children exposed to them.

The dropping of charges was the second failure of a major anti-terrorism case in little more than a month. In September a high-profile "security risk" immigration case against Algerian asylum seeker, Ahmed Zaoui, foundered when the Security Intelligence Service (SIS) was forced into an ignominious u-turn and drop its opposition to Zaoui remaining in the country after declaring for five years he was a suspected terrorist and should be deported.

In a bid to salvage the Uruwera Ranges terror scare, two major Fairfax-owned daily newspapers—the *Dominion Post* and *Christchurch Press*—took the extraordinary step on November 14 of defying a legal injunction and publishing portions of the 156-page affidavit of secret police evidence that had been rejected by Collins. The affidavit was obviously leaked to the press by the government or the police in order to justify their actions. Clark publicly endorsed the decision to publish, despite its dubious legality, saying that "everyone" was frustrated by not knowing what was "worrying the police".

The *Dominion Post* published a sensational front-page report, headed "The Terrorism Files", selectively highlighting bits of conversation threatening to blow up opposition leader John Key should he become prime minister, use extreme violence to "hurt" the country, engage in "guerrilla" war, blow up installations and kill "Pakeha" or European New Zealanders. Some conversations referred to the use of IRA and Al Qaeda training manuals.

Much of this could have been just hot air and braggadocio. None of the material in the police affidavit suggests that any of the accused had taken any concrete steps to put their threats into action. One of the accused, Aucklander Jamie Lockett, described as a 46-year-old "bodyguard-turned private prosecutor", is on record as claiming that he and others accused knew their conversations were being bugged and deliberately set out to "wind up" the police. The presence of police provocateurs among the "terrorists" can also not be ruled out, given the lengthy period of time they were under police surveillance.

A far smaller article in the *New Zealand Herald* on November 17 reported that the October 15 raids turned up a tiny arsenal—just four weapons and 230 rounds of ammunition. The police have not revealed what other weapons were seized in other property searches using warrants obtained under the Terrorism Act. Of the 16 people facing firearms offences, just two have been charged on the basis of items found during the huge police operation on October 15.

The New Zealand terror scare follows the pattern of similar operations around the world—sensationalised media coverage of "terrorist threats", the imposition of anti-democratic legislation tearing up long-established democratic rights and legal precedents, extensive police surveillance and the heavy mobilisation of security forces. Under the guise of fighting terrorism, police-state measures are being prepared for use against wider social unrest as social inequality and economic instability deepen.

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