

“Terrorist” cases unravel, exposing government-police frame-ups and lies

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Throughout the course of their election campaigns, the Howard government and Labor opposition have been almost completely silent on the so-called “war on terror”. This stands in sharp contrast to the last two elections. In 2001, the Howard government exploited the 9/11 terror attacks in the US to mount a ferocious scare campaign, including the depiction of asylum seekers as likely terrorists. The 2004 election was preceded by a wave of arrests of Islamic men. In both elections, Labor uncritically echoed all the government’s claims.

As recently as November-December 2005, the two parties joined hands to push through the federal and state parliaments a series of unprecedented measures, including “preventative detention”, “control orders” (a form of house arrest), the outlawing of “advocacy” of terrorism and new sedition offences. Another far-reaching amendment, backed by the Greens, changed the wording of all terrorist offences from “the” terrorist act to “a” terrorist act, allowing police to arrest and charge people without evidence of any specific terrorist plot.

The virtual silence in the 2007 election is testimony to the growing distrust and opposition among broad layers of the population toward the lies and dirty tricks that have characterised the “war on terror”, particularly the complicity of both parties in the five-and-a-half year incarceration of David Hicks at Guantánamo Bay and the failed frame-up of Indian Muslim doctor Mohamed Haneef.

Now, in the last two weeks of the 2007 election campaign, a number of highly sensationalized “terrorist” cases are unraveling, with damning details emerging of illegal police-government operations aimed at coercing innocent people into “confessing” guilt or becoming informers.

* This week, the Director of Public Prosecutions (DPP) dropped all charges against Izhar ul-Haque, a Sydney medical student, after a New South Wales Supreme Court judge, Michael Adams, ruled that “misconduct” by Australian Federal Police (AFP) and Australian Security Intelligence Organisation (ASIO) officers made their interviews with the young man inadmissible.

Justice Adams said ASIO officers had committed “the crime of false imprisonment and kidnap at common law” against ul-Haque in a deliberate attempt to coerce answers from him. Adams detailed how ASIO officers had confronted the young man, forced him into a car and then taken him to a park where he was threatened with serious consequences if he did not co-operate fully. Ul-Haque was then taken to his home, where as many as 30 ASIO, AFP and NSW police conducted a search, while his family watched, and then interviewed again amid continuing threats against him until 4am, even though ASIO only had a search warrant.

Justice Adams ruled that this constituted a “gross breach of the powers given to the officers given under the warrant”. One interrogation, in which officers insisted that ul-Haque confess to unstated crimes, was

“reminiscent of Kafka”. AFP officers demanded ul-Haque become their informant against Faheem Lodhi, a Sydney architect who was later charged with terrorism offences. Because the student refused to wear a wire and spy for the authorities, he was charged three months later, in April 2004, with “training with a terrorist organisation”. The training allegedly occurred during a previous visit to Pakistan, the country of his birth, even though Lashkar-e-Toiba (LeT), an Islamic group fighting against Indian control of Kashmir, was not even listed as a terrorist group at the time.

Court documents show that the AFP charged ul-Haque for two illegal purposes. The first was to pressure him into becoming an undercover informer. One AFP agent wrote in a briefing note to ASIO: “The AFP are hoping to use ul-Haque against Lodhi and although he is not co-operating with them at the present time, I believe when he is charged he may change his mind.” The other purpose was to satisfy political directives to charge as many people as possible under the terror laws. In previously suppressed evidence, a senior AFP officer testified that the police had been directed to “lay as many charges under the new terrorist legislation against as many suspects as possible because we wanted to use the new legislation”.

From where did that directive originate? It is not difficult to guess. At the time, the Howard government was already under pressure to produce prosecutions to justify its draconian laws. Ul-Haque’s arrest bore all the hallmarks of a fear campaign timed for the 2004 election. Amid a blaze of publicity, he was immediately consigned to solitary confinement in a maximum-security prison cell. Foreign Minister Alexander Downer went on national television to declare that ul-Haque had terrorist linkages, “that is for sure”.

Despite this week’s revelations, and four years of politically-motivated persecution of an innocent young man, Attorney-General Philip Ruddock has defended the handling of the case, claiming that Justice Adams’s ruling showed that the legal system worked effectively. With Labor’s support, every effort is being made to whitewash the affair. It has been referred to two closed-door inquiries, one by the AFP itself and another by the Inspector-General of Security and Intelligence, whose office is within the Prime Minister’s Department.

* The damage inflicted on the government and its security agencies by the ul-Haque affair could worsen, because Faheem Lodhi, whose prosecution was also launched in a blaze of prejudicial claims before the 2004 election, has appealed against his imprisonment. Significantly, Lodhi is the only person so far convicted under the terrorist legislation. Last year, he was found guilty of acting in preparation for an (unspecified) terrorist act, simply by possessing maps and instructions for making explosives, and sentenced to 20 years jail.

Lodhi's barrister Phillip Boulten SC told the NSW Court of Criminal Appeal his client had faced "guilt by association" evidence at his trial. All the evidence relating to French terrorist suspect Willie Brigitte—with whom the police linked Lodhi—was irrelevant and inadmissible. Boulten pointed out that 12 of the 28 witnesses at the trial testified solely about Brigitte, who had been deported from Australia without the allegations against him being substantiated.

Boulten described the prejudice to Lodhi as a "double whammy" because of the huge media publicity given to Brigitte in the period before the trial, including reports that he was planning to blow up Sydney's Lucas Heights nuclear reactor or attack the Rugby World Cup final in Sydney. "None (of the reported allegations) went even close to the evidence that was led at the trial," he said.

Boulten revealed that a star witness in the case, FBI informer Yon Ki Kwon, had since given conflicting evidence in a different case about how he had identified Brigitte as having trained at a LeT camp in Pakistan. Lodhi has also lodged a constitutional challenge to his conviction, arguing he was denied a fair trial by the operation of the National Security Information Act, which stopped his lawyers from seeing critical evidence.

* Federal Court Justice Ross Sundberg has ordered ASIO to release a list of documents upon which it relied in 2005, when it declared that American antiwar activist Scott Parkin and two detained asylum seekers were dangers to national security. Parkin was deported without any hearing, and two Iraqi refugees, Mohammed Sagar and Mohammad Faisal, had their detention on the Pacific island of Nauru extended to almost five years.

ASIO opposed releasing a list of the documents to the men's lawyers, but Justice Sundberg said that without the list the lawyers could not even decide if they had any basis to challenge the adverse security assessments. ASIO said it would appeal against the ruling, continuing a 12-month legal battle to prevent the release of any information.

Apart from Lodhi, not a single person has been successfully prosecuted under the terrorism laws. Four other people—Mohamed Haneef, Zac Mallah, Jack Thomas and John Howard Amundsen—had charges dropped, rejected by a judge, thrown out by a jury or had a guilty verdict overturned on appeal because the AFP and ASIO used statements extracted by torture.

Perhaps the greatest blow to the government has been the case of Mohamed Haneef, whose "terrorist" charges were dramatically dropped at the end of July. Last month saw the release of AFP emails confirming the existence of an earlier secret plan to thwart a magistrate's decision to release Dr Haneef on bail by revoking his visa. Haneef's lawyers used Freedom of Information (FOI) provisions to obtain an email sent by an AFP agent to a senior immigration department official on July 14, two days before Haneef's scheduled bail hearing.

AFP agent David Craig wrote to Peter White, the Immigration Department's assistant secretary in charge of the visa "character test": "Contingencies for containing Mr [sic] Haneef and detaining him under the Migration Act, if it is the case that he is granted bail on Monday, are in place as per arrangements today." The email directly exposes the role of Immigration Minister Kevin Andrews, who cancelled Haneef's visa and ordered him into indefinite immigration detention just hours after Magistrate Jacqui Payne granted the doctor bail.

Howard's entire cabinet national security committee is implicated because it was closely involved in every aspect of the handling of the Haneef case. It is inconceivable that Andrews revoked the visa without Howard's approval. Haneef's arrest on July 2, accompanied by lurid media headlines about a "doctors' jihad network," was clearly a bid to

whip up a new terrorist scare in the lead-up to the 2007 election, as in 2001 and 2004.

As the *World Socialist Web Site* stated at the time, revoking Haneef's visa was an extraordinary exercise of arbitrary executive power, effectively overturning a judicial decision. Payne had granted bail partly because the case against Haneef, who had already been detained for nearly two weeks without charge, was extremely weak. Haneef was accused of "recklessly" providing support for a terrorist organisation, supposedly because his old mobile phone SIM card was found in the bomb-laden jeep that crashed into Glasgow airport at the end of June.

Two weeks later, amid mounting public opposition to the victimisation of the young man, the DPP dropped the charge, declaring it had been based on "mistakes". Police finally admitted that the SIM card was not in the jeep. The immigration minister belatedly allowed Haneef to return to his family in India, but refused to reinstate his visa and continued to smear the young doctor. Andrews claimed he had secret police information that Haneef had prior knowledge of June's failed Glasgow and London bombing attempts.

Legally, the AFP email is documentary evidence that Andrews acted with "improper purpose" in revoking Haneef's visa. Solicitor Peter Russo said the document was proof that the government and the AFP conspired against his client. In August, a Federal Court judge ruled that the minister unlawfully cancelled the visa by wrongly applying a "guilt by association" test to Haneef, but Andrews has appealed against the ruling to the Full Federal Court.

Andrews's allegations against Haneef have been further shattered by another document obtained by Haneef's lawyers under FOI laws. When Andrews cancelled the visa on July 16, his Statement of Reasons said he gave "primary consideration to the protection of the Australian community". On the same day, however, the AFP's most senior counter-terrorism officer, Assistant Commissioner Frank Prendergast wrote in a "protected" (secret) document: "There is no currently available information held by law enforcement to suggest Dr Haneef has been involved in, or engaged in planning of, violent/terrorist conduct in Australia ... there is no information ... that he presents a danger to the community."

The AFP Commissioner Mick Keelty has moved to wash his hands of the Haneef debacle. Last month, Keelty gave an interview to the *Bulletin* magazine in which he said he had been "as surprised as anyone" when the DPP originally decided to charge Haneef. According to Keelty, he always thought the charges were "touch and go" and he told the DPP Damien Bugg of his "serious doubts". Minister Andrews, who has insisted that he cancelled Haneef's visa on the AFP's advice, immediately declared that Keelty's reservations had not been relayed to him.

With all concerned running for cover, Keelty was not the first to disown the case. In August, unnamed ASIO sources told the *Bulletin* that the intelligence agency had thoroughly investigated Haneef and determined that he was not a security risk. The sources said there was "growing discord" in the intelligence community over the AFP and government mishandling of the Haneef case.

It is these internal concerns, and fear that the anti-terrorism laws have become publicly discredited, that lie behind the Labor opposition's proposal for a judicial inquiry into the Haneef affair. Labor backed the persecution of Haneef every inch of the way, then called for an inquiry once the charges were dropped. Restating Labor's call after Keelty's interview, the party's immigration spokesman Tony Burke said: "We take a very hard line on anti-terrorism measures and we believe it is essential for there to be community support for our immigration and our anti-terror laws." Labor's legal affairs spokesman Joe Ludwig spelt out the purpose of any such inquiry—it would not "pick over" alleged abuses committed by the government and police but instead "ensure that we have robust security measures".

Labor's record demonstrates that a Rudd government will allow the perpetrators of these monstrous abuses of democratic rights and legal process to go completely unpunished. And Labor will be just as eager as the Howard government to utilise the terrorism laws for its own political purposes. Framing innocent people and carrying out highly publicized "terror" raids will resume, whichever party wins office, in order to divert and stifle growing political opposition and social unrest.

The Socialist Equality Party unequivocally opposes the bipartisan assault on democratic rights and demands the repeal of all federal and state "anti-terror" laws. That requires the development of an independent socialist movement of the working class, fighting for a workers' government that will guarantee democratic rights and civil liberties and enable ordinary working people to fully control all the decisions that affect their lives.

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