

Lengthy terrorist trials underway in Australia

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Two major terrorist trials began last month in Australia, with the public subjected to an almost daily media diet of sensational stories about alleged plots to kill and maim thousands of people. Much more of the same can be expected, because the trials—involving 12 Muslim men in Melbourne and nine in Sydney—are likely to run for the entire year and possibly into 2009.

The proceedings—the country’s largest ever terrorist prosecutions—can only be described as show trials, conducted amid massive security displays. The federal Labor government and its police and intelligence agencies, in partnership with their Victorian and New South Wales state counterparts, are pursuing a highly-orchestrated operation initially launched by the former Coalition government.

In November 2005, just days after Prime Minister John Howard suddenly recalled parliament to deal with an alleged imminent “security threat,” more than 400 federal and state police were mobilised to arrest most of the defendants in much-publicised house raids. For more than two years, the men have been locked away in solitary confinement in “super max” cells, treated as the worst prisoners in the jail system.

All have pleaded not guilty. The Melbourne men have been charged with being members of an unnamed terrorist organisation—which allegedly consisted only of themselves—providing resources (themselves) to the same terrorist organisation and raising finances for the group. The Sydney charges are even more vague: “conspiring to perform acts” in preparation for a terrorist attack. “Conspiracy” is a notorious charge, traditionally laid when there is no evidence of an actual crime.

None of the charges alleges any specific terrorist plans, targets, dates or locations. Under changes to the anti-terror laws rushed through federal parliament on the basis of Howard’s 2005 “alert”, anyone can be convicted without such evidence. The prosecution only has to show that “a” terrorist act was contemplated.

Denied the right to have their cases heard individually, the accused have been put on trial en masse. So many lawyers, police, prison warders and security guards are involved in the Melbourne trial, which began on February 13, that it was considered too large for the Victorian Supreme Court building.

For the Sydney trial, which commenced on February 25, the state government built a new court, declaring it the “most secure” in Australia. “Make no mistake—this is the Fort Knox of Australian courts,” Premier Morris Iemma boasted in opening the facility. The court complex features more than 500 closed-circuit cameras, and airport-style screening of all attendees, with X-ray machines and walk-through metal detectors. Riot squad police and sniffer

dogs patrolled the building on the trial’s first day.

If one were to believe the media coverage, the arrested men were on the brink of assassinating Howard, killing 1,000 people, blowing up a major sporting event or causing “mayhem” in Australia, all in the name of “violent jihad”.

Headlines in the Melbourne *Herald Sun*, Murdoch’s tabloid, have included: “Plot to assassinate Howard” and “Every day a cop must die, terror trial told”. The *Australian*, Murdoch’s national daily, was little different: “Muslim group ‘planned mass murder’”. According to the rival Melbourne *Age*: “Accused plotted mayhem, court told”.

All these claims are reportedly based on dubious interpretations of highly-selective extracts from nearly 500 phone calls and other conversations between several of the Melbourne men, which were allegedly secretly-recorded by police and the Australian Security Intelligence Organisation (ASIO) over an 18-month period.

The “Howard assassination plot” scenario, for example, is derived from a September 2004 conversation, in which the group’s alleged religious leader, Abdul Nacer Benbrika, was purportedly asked by another defendant, a 19-year-old follower, “If John Howard kills innocent families ... Muslims, do we have to kill him?” Benbrika apparently failed to reply to the question, which arose in a religious lesson, or at least no reply was reported to the trial jury by prosecutor Richard Maidment SC.

Nevertheless, Maidment told the jury the conversation was a clear discussion on killing Howard. If that were the case, surely the police would have arrested the men immediately, in order to protect Howard. Instead, they waited another 14 months before rounding up the group.

Maidment’s opening address to the jury took two weeks, during which time he was able to make his claims without having to produce witnesses. He suggested no new evidence that added to what had been already alleged by the authorities after the men were arrested. Much of the prosecution case rests on the men’s possession of Islamic fundamentalist literature and videos, some of which praised resistance to the US-led occupation of Iraq.

Notably, however, Maidment referred to an undercover agent who infiltrated the group and acted as a provocateur to incite and entrap Benbrika. Posing as a Turkish Muslim man “interested in violent jihad,” the agent, known as SIO39, professed a knowledge of explosives and invited Benbrika to a remote location to demonstrate his skills by igniting ammonium nitrate, a commonly used fertiliser. In other words, a police agent conducted the only explosion attributed to the group.

Benbrika and his followers are not the first to face terrorism-related charges as the result of an agent provocateur’s activities. In

2005, a jury acquitted Zek Mallah in Australia's first terrorism trial after hearing that a police agent posing as a journalist offered the young man \$3,000 for a videotape of Mallah uttering ludicrous threats against federal government agencies.

When the defence lawyers—after two weeks—finally had the opportunity to respond, they scoffed at the prosecution's allegations. Representing one of the men, Trevor Wraight said that at no point during the hundreds of hours of surreptitiously recorded conversations had any of the men used the term "violent jihad". The prosecution had "made up" the term.

James Montgomery SC said the supposed terrorist organisation was so unstructured and poorly conducted it would be better termed a "disorganisation". Benbrika "couldn't organise a booze-up in a brewery," he stated. Benbrika's barrister, Remy van de Wiel QC, said the men were nothing more than a bunch of typical males, full of "bravado, bluster, nonsense", all "wanting to be heroes in their own lunchtime".

Another barrister, Julian McMahon, accused the prosecution of "shock and awe" tactics, based on the "President Bush doctrine," by presenting photographs of people being beheaded by Muslim extremists designed to seduce jury members and lead them to pre-judge the accused. It was akin to "McCarthyism" to suggest that the men were guilty just because they read and viewed such material. Gerard Mullaly said the views and opinions expressed were "undoubtedly fundamentalist and extreme" but "there is still no law against what you think. It's not a crime to be angry about what you think are injustices wherever they are in the world."

The Melbourne trial is expected to last for nine months, while the Sydney trial will hear at least three months of legal argument before a jury is even empanelled. The accused and their lawyers have expressed frustration at the length of the trials, with one barrister saying his client felt hamstrung by the fact that the jury would be "drip fed" by the prosecution for six months before he would have his say.

It is not yet possible to come to any definitive conclusions about the evidence against the 21 men, although it is full of holes and contradictions. What is clear is that the timing of the mass arrests served the purposes of the Howard government and the state Labor leaders. In 2005, they faced growing opposition from the legal profession, civil liberties groups and the public as they sought to push through new counter-terrorism legislation.

Howard's terrorist "alert" was used to ram through, within just 36 hours, the first installment of the Anti-Terrorism Act 2005, changing the wording of all terrorism offences from "the" terrorist act to "a" terrorist act. By removing the need for the police to prove any specific terrorist plot, this amendment paved the way for the arrests, which were then staged to justify Howard's claim that the law had to be tightened up to avert an immediate threat.

By the end of 2005, the entire Act had been passed, with the support of the then Labor opposition. The measures permitted two new forms of detention without trial—"preventative detention" and "control orders"—and outlawed encouraging or expressing sympathy for terrorism. Sedition offences were widened to cover "urging disaffection" with the government, promoting "feelings of ill-will or hostility between different groups" and urging conduct to assist an "organisation or country engaged in armed hostilities"

against Australia.

The treatment of the accused is setting precedents for the anti-terrorism laws to be used to incarcerate people for years in draconian conditions, stripped of basic legal, democratic and political rights, before they can challenge the case against them. The defendants, some of whom have serious mental health problems, have held hunger strikes against being locked in Guantánamo Bay-style isolation cells, shackled and dressed in orange, and denied contact visits with their loved ones.

The conduct of these trials demonstrates that there is no difference between the Howard and Rudd governments when it comes to the "war on terror". Prime Minister Kevin Rudd has pledged to maintain the anti-terrorism laws introduced since 2002, while convening a judicial inquiry into the most notorious "terrorist" frame-up—last year's witch hunt against Indian Muslim doctor Mohammed Haneef—in order to try to restore "public confidence" in the legislation.

In Haneef's case, the "facts" alleged by the police, government and media, after a massive operation involving more than 600 security personnel, proved to be completely false, compelling the Director of Public Prosecutions to drop the charge. Now the Labor governments, with the assistance of the media, are going to extraordinary lengths to use the current trials to shore up the somewhat discredited "war".

If a genuine terrorist threat does exist in Australia, it is the responsibility of the Howard government and its Labor partners, and the Rudd government, which is continuing the thrust of their policies, both domestically and internationally: deepening the "free market" program at home while backing US-led military aggression throughout the Middle East and Central Asia.

Incensed by the invasions of Afghanistan and Iraq, the alienation and hostility among Muslim and Middle Eastern young men has been fuelled by persistent anti-Muslim fear-mongering, which is continuing through these trials, as well as worsening economic and social inequality, which has produced high levels of disadvantage in Islamic and other immigrant communities. If Islamic fundamentalists, egged on by police provocateurs, can exploit marginalised young men, the root causes lie in the program being pursued by the same governments staging the trials in Melbourne and Sydney.

While Muslims have thus far been the prime targets in the "war on terror", the trials are also serving a wider political purpose. They are part of bolstering the police-intelligence apparatus as a whole for dealing with social unrest and political dissent among working people as economic conditions deteriorate.



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