Australia: Latest “terror plot” claims unravel in court

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For 24 hours last week, the Australian media featured the latest terrorist scare campaign. On April 16, front-page newspaper articles appeared with headlines such as “Grand final terrorist plot” (*Sydney Morning Herald*) and “Terror group plot to hit MCG” (*Australian*). They reported claims that in 2005 a group of 12 Islamic men currently on trial in Melbourne had been on the brink of attacking the country’s largest annual sporting event—the Australian Football League (AFL) grand final at the Melbourne Cricket Ground.

The *Australian*’s story began as follows: “A terrorist strike on the 2005 AFL Grand Final at the Melbourne Cricket Ground was averted just two months before the game, after police raids on members of an alleged homegrown Muslim terror cell disrupted preparations for the attack.” The article went on to report that the jury in the trial had been told that “after plans to attack the MCG were foiled”, the group decided to target Melbourne’s Crown casino during a car racing weekend or the AFL’s pre-season NAB Cup football final early in 2006.

The reports fitted a familiar pattern. Similar media claims have accompanied each trial under Australia’s counter-terrorism laws, introduced in 2002. In every instance, unsubstantiated allegations have been presented as proof that ordinary Australians face grave dangers from terrorists, either “foreign-trained” or “homegrown”. So far, only one case has ended in a conviction, however. Every other trial has ended in acquittal by a jury, or the withdrawal of the charges, or the overturing of a conviction on appeal because of coercive police methods.

The Melbourne trial and another running concurrently in Sydney are the largest and most protracted terrorist trials yet conducted in Australia. The 12 defendants in Melbourne are charged with being members of an unnamed terrorist organisation, apparently consisting only of themselves, while 10 Islamic men in Sydney face charges of conspiracy to carry out an unspecified terrorist act.

Most of the men were arrested in large police raids in November 2005, just days after the previous prime minister, John Howard, declared there was an imminent terrorist threat and recalled parliament to push through harsh amendments to the terrorism laws. Howard publicly insinuated that the men were guilty, saying the arrests highlighted the rise of locally-based terrorists and demonstrated the need for stronger police powers, including new forms of detention without trial.

From the outset, the latest claims, made by a prosecution witness, Izzydeen Atik, a former associate of the men on trial, appeared suspect. Atik offered no details of the supposed “terrorist strike” on the football game—he specified no methods or weapons, and provided no evidence of any actual preparations. His allegations were based solely upon a supposed conversation with the group’s alleged leader, Abdul Nacer Benbrika, in which Benbrika told him that money to finance the attack on the Grand Final had been seized by the police in raids on members’ homes in July 2005. Yet, every media outlet, including the Australian Broadcasting Corporation, published sensational reports of the “plot”.

Within a day, the claims began to unravel. Once defence lawyers commenced their cross-examination of Atik, it soon emerged that he had suffered bouts of mental illness and previously been convicted of fraud.

Questioned by Benbrika’s lawyer, Remy van de Wiel QC, Atik said he had suffered from schizophrenia, experienced hallucinations and heard voices in his head while living in Sydney in 2002. He admitted he had been facing jail terms for credit card frauds at the time, but denied making up his psychiatric problems in a bid to stay out of prison. Van de Wiel told the court of a 2002 psychiatric report in which Atik claimed birds often told him their problems and that he had seen a female “devil”.

Atik admitted he had lived in a $450-a-week beachfront townhouse in 2004 and 2005, employed a $500-a-week butler and drove a $500-a-month luxury BMW car, all financed by committing frauds.

Van de Wiel accused Atik of fabricating the entire conversation with Benbrika. The lawyer said Benbrika lived by a strict code of Islam, had no television set and showed no interest in Australian Rules football. Atik had claimed that Benbrika used the term “NAB Cup” during the conversation, yet the name of the competition had remained Wizard Cup during 2005 and did not change sponsor to NAB until the following year.

Under cross-examination, it was also revealed that Atik only told the police late last year about the alleged plan to attack the

football matches. Atik was originally arrested along with other defendants in November 2005. When first interviewed, he told police he knew nothing about terrorist plans and swore he would have gone straight to police if he had known of any such plots.

In April 2006, after being incarcerated in virtual solitary confinement for five months with the other accused, Atik applied for bail on the ground that he suffered from severe paranoid schizophrenia and was in urgent need of treatment. Dr Mark Ryan, a psychiatrist who had treated Atik told the court he had a severe mental illness. A police officer testified that Atik had called them to the prison and offered to "tell us everything" but declined to be interviewed on tape. Nevertheless, Crown prosecutor Richard Maidment QC insisted that Atik was a key member of Benbrika's group, and a risk to public health and safety, and therefore could not be released.

Last September, Atik was committed for trial. He also faced charges of skipping bail on earlier fraud offences. Since then, it seems, he has become a police informer, with the same prosecution authorities now presenting him as a credible witness. No information has been released on whether, and if so why, both sets of charges have been dropped. Obvious questions are raised: what deal has Atik struck with the police and prosecution to testify against the remaining defendants?

The fact that the authorities are now relying upon Atik's dubious testimony, arranged in unknown circumstances two years after the initial arrests, points to serious weaknesses and problems in the entire prosecution. Atik appears to have become the second police informer involved in the case. In April 2006, media reports revealed that police used an undercover agent to infiltrate Benbrika's Islamic fundamentalist circle and that the agent acted as a provocateur to incite and entrap Benbrika. The agent asked Benbrika to accompany him in late 2004 to test explosives, secretly supplied by the police. The resulting minor explosion on a remote hilltop was the only blast allegedly conducted by any member of the group.

Benbrika was not the first to be set up by the police and Australian Security Intelligence Organisation (ASIO) using undercover provocateurs. In 2005, Zek Mallah was acquitted in Australia's first terrorist trial after the jury heard that a police agent posing as a journalist had offered the troubled young man $3,000 for a videotape of Mallah uttering wild threats to attack federal government buildings. Late last year, the prosecution dropped a terrorist-related charge against another Islamic young man, Sydney medical student Izhar ul-Haque, after a Supreme Court judge accused police and ASIO officers of illegally kidnapping and detaining him to try to force him to become an informer.

Each case has displayed a common modus operandi. Provocateurs and informers have been recruited, prejudicial allegations have been splashed throughout the media, and politicians have done their best to blacken the names of those arrested. These methods have been driven by the political demands of the federal and state governments and their security agencies to whip up fears of terrorism and obtain convictions, in order to justify further extensions of the counter-terrorism laws introduced since 2002.

With the help of these witchhunts, matching federal and state laws have been passed that define terrorism so sweepingly that it can cover political dissent, outlaw expressions of support for resistance to Australian military operations, give the security agencies vast surveillance powers, establish four different types of detention without trial, and allow the government to ban organisations by executive order.

The only conviction underlines the regressive nature of these laws. In June 2006, Sydney architect Faheem Khalid Lodhi was convicted on circumstantial evidence of preparing to commit an unspecified terrorist act. Because of the wording of the laws, the police did not have to prove that Lodhi planned a specific time, place or method. Instead, the prosecution relied heavily on citing Lodhi's political and religious views—particularly his opposition to the invasion of Iraq—as proof that he was intent on terrorist retaliation.

Growing distrust in the "war on terror", fuelled by the ul-Haque affair, on top of last year's collapse of the allegations against Indian Muslim doctor Mohamed Haneef and the government's complicity in the five-year military detention of David Hicks at Guantánamo Bay, became a potent factor in last November's election defeat of the Howard government.

What has been revealed about the police methods in the current terrorist trials, however, is another indication that nothing has changed under the Rudd Labor government. Labor, which now occupies office in every state and territory, as well as federally, is fully committed to maintaining the barrage of terrorism laws that have made the current trials possible, and which trample over fundamental legal and democratic rights.