

# Australian airport death used to justify new police powers

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Led by Prime Minister Kevin Rudd, the federal and state Labor governments in Australia have seized upon a fatal brawl at Sydney airport last week to bring forward plans for extraordinary legislation to outlaw organisations by executive order and jail their members and anyone else who "associates" with them.

Far-reaching powers modeled on the post-2001 anti-terrorism laws are set to be extended throughout the legal system, overturning basic legal and democratic rights on the pretext of combating "serious criminal activity" and protecting "public safety and order".

Yet the airport incident itself exposed the fact that the police and security powers already introduced in the name of fighting terrorism have nothing to do with protecting ordinary members of the public. A man was bludgeoned to death in front of horrified passengers inside the domestic airport terminal. The violence, alleged by police to involve about 15 members of two rival motorbike gangs, continued for at least 15 minutes and concluded before any police stationed at the airport arrived on the scene.

Obvious questions were raised. If members of the public were so easily exposed to deadly violence, what was the purpose of the hundreds of millions of dollars that have been spent on security measures at the airport, including for passenger and luggage screening and surveillance cameras, not to speak of the anti-democratic laws introduced as part of the "war on terrorism"?

Rather than these questions being answered, the incident was immediately used by media commentators and the Labor governments to demand further legislation. New South Wales (NSW) Premier Nathan Rees declared that his government would give police "whatever powers they need to crack down on bikie gangs". Rudd vowed there would be a national "zero tolerance" response to "this sort of behaviour by bikies and others engaged in organised criminal activity". NSW police chief Andrew Scipione declared that bikies behaved like terrorists and would be treated as such.

The Rees government first exploited the airport incident to justify new laws to covertly search homes and workplaces, which were then rushed through state parliament within 48 hours. There were also calls for airport police, who already have automatic pistols, to be armed with machine guns.

But the most draconian proposal—to be discussed by a national

meeting of attorneys-general—is to adopt so-called anti-bikie laws like those introduced in South Australia (SA) last year. The Rees government is leading the way by vowing to draw up even tougher measures than those in SA.

Titled the Serious and Organised Crime (Control) Act, the SA legislation creates powers that go far beyond dealing with motorbike gangs. Under the Act, the government and the police can—without giving reasons or disclosing any evidence—proscribe organisations, impose control orders on their members and "associates" and issue public safety orders prohibiting people from entering specified areas, all with little or no right of appeal to a court.

The legislation violates crucial democratic rights, including freedom of association, no punishment without trial and the right to see evidence. Legal profession and civil liberties representatives have strongly objected, pointing out that it is highly dangerous to allow a government to criminalise groups rather than punish specific acts.

NSW Council for Civil Liberties secretary Stephen Blanks told the WSWs that one of the most sinister aspects of the laws is that organisations can be outlawed based on "criminal intelligence" that will be kept secret. "That obviously sets the police up to make unsubstantiated and untestable allegations."

Blanks said police had already used laws introduced in the wake of Sydney's 2005 Cronulla Beach race riots against environmentalist activists engaged in political protests. "I would also expect that any group that talks about 'direct action' is a likely potential target [of the new laws]. That probably covers all of the socialist groups."

Under the SA provisions, 28 days after receiving an application from the police commissioner, the government can "declare" an organisation if the attorney-general is merely "satisfied" that its members associate for the purpose of "organising, planning facilitating, supporting or engaging in serious criminal activity" and that the group is a "risk to public safety and order".

A group could be outlawed for simply supporting a political protest, for example against a meeting of government or corporate leaders, that could allegedly lead to violence. Any offence, even a minor one, can be classified by a regulation as "serious".

Alternatively, "the serious criminal activity" could be organising a public meeting against Australian military intervention overseas. Those involved could be accused of planning to breach the anti-terror laws, which make it an offence to support anyone fighting Australian

forces.

The SA attorney-general "is not required to provide any grounds or reasons for the declaration" and "no information" provided by the police can be disclosed to anyone, including the banned organisation. There is also no right of appeal—declarations cannot be "challenged or questioned in any (legal) proceedings".

According to the NSW government, its laws will go further by allowing the police to obtain a banning order from a Supreme Court judge without notice. A group would have no right to challenge the order until it already had been proscribed. In the meantime, any contact with another member of the group—even sharing a cup of coffee—would carry a jail term of up to two years; and second or subsequent offences would attract up to five years.

Under the SA Act, anyone who associates with a group member can be jailed even if they did not know that the person was a member, but were only "reckless" as to that fact, and even if the contact would not have led to any criminal offence. And a "member" can be a prospective member or someone treated by other members as belonging to the group. "Associating" can mean merely communicating by letter, telephone, fax, email or other electronic means.

The anti-terrorism laws already feature four different methods of banning organisations by designating them as terrorist. These powers are being broadened, providing yet another means for proscribing groups for political reasons.

### Further police powers

In another extension from the terror laws, the SA police can ask a court, without notifying the individual, to impose a control order on a member of a declared organisation. A control order can prohibit them from communicating with specified people, entering certain premises or possessing particular items, with up to five years' jail for breaching an order.

Without even going before a court, the police can issue public safety orders, prohibiting specified individuals or groups from entering certain areas for 72 hours, and a magistrate can grant extensions by phone. No objection can be made unless the order continues for more than a week. Breaches of public safety orders can also mean five years' jail.

All these orders can be based on secret "criminal intelligence" evidence, stripping those affected and their lawyers of any right to view and challenge it. The Act also imposes a presumption against bail, gives the police wide powers to search premises and vehicles, and requires people to give police their personal details.

The SA Law Society has mooted a High Court constitutional challenge, but Australia's supreme court has proven no barrier to the

destruction of fundamental legal protections. It upheld similar provisions in the anti-terror laws (see: "Australian High Court radically expands scope of military power") and recently allowed the use of secret police evidence to be extended into civil law in a liquor licensing case (see: "Australian High Court widens use of secret evidence").

Australian Civil Liberties Council president Terry O'Gorman told the WWS that the laws highlighted the "leaching" effect of the anti-terrorism laws. "Those who opposed the terrorism powers were all assured, including by the Labor Party, that the powers would never be allowed to be used in other areas. Our scepticism is now proven justified."

"Not only is there no evidence to show that the laws will help the bikie gang problem, what happened at the airport was not due to a lack of police powers... And just as the terrorism laws have been used for political purposes, so will these, especially where there is no review by courts."

Having backed the previous Howard federal government's introduction of the terrorism laws, Labor is spearheading a sweeping expansion of their police-state provisions. Under conditions of deepening economic crisis, these powers will be used against political protests and social unrest.

Speaking at a national security conference in Sydney last week, Australian Federal Police commissioner Mick Keelty gave a glimpse of the underlying agenda. He told delegates that economic instability and discontent, rather than terrorism, was likely to pose the greatest threat to national security.

"As the global financial crisis bites, it will increase feelings of marginalisation and isolation," he said. Keelty cited studies showing an increased risk of "demonstrations, strikes and riots" in developed countries. The federal police were looking at British models "where community pressure is measured through coherence surveys," which "give an indication of where the hot spots are, not only for counter-terrorism issues, but also for community crime and community dissent".

Behind the smokescreen of media headlines such as "tough laws to 'smash gangs'," the police, security agencies and governments are increasingly preoccupied with monitoring and preparing to crack down on "community dissent".



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