

Australian terrorist laws a cover for anti-democratic measures

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The Australian government's so-called Foreign Fighters Bill, a far-reaching 160-page piece of legislation, was introduced into the Senate yesterday, just hours after being released the night before. Opposition leader Bill Shorten immediately wrote to Prime Minister Tony Abbott pledging that the Labor Party would do "all in our power" to facilitate the bill's passage through parliament within a month.

Under the cover of combatting "jihadists" fighting with, or supporting, Islamic extremists in Syria and Iraq, the Abbott government and Labor opposition are now pushing through parliament two bills that substantially extend the police-state framework already erected over the past decade.

With Labor's backing, the Abbott government is fanning media terrorist scares and anti-Muslim hysteria as a means of securing the passage of "anti-terrorism" laws that could be readily used for political repression amid conditions of war and a deteriorating economic and social crisis.

Tranche 1, the National Security Legislation Amendment Bill, initially drawn up under the previous Labor government, primarily expands the surveillance and computer hacking powers of the domestic political spy agency, the Australian Security Intelligence Organisation (ASIO).

Tranche 2, the misnamed Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill, contains criminal offences and government, police and intelligence agency powers that go far beyond the supposed purpose of protecting people from the small number of Islamist extremists allegedly fighting in the Middle East.

Tranche 3, yet to be released, will compel Internet and phone companies to keep all telecommunications and social media data for two years, giving the police and intelligence agencies a comprehensive picture of everyone's movements, political and personal contacts

and online activities. This regime will dovetail with the mass surveillance conducted by the US-led global spy network, as revealed by National Security Agency whistleblower Edward Snowden.

The mainstream media has deliberately buried the details of the "Foreign Fighters Bill." Its violation of basic legal and democratic rights is so great that the bill's Explanatory Memorandum lists 13 rights under international law that it erodes. These include the rights to life, freedom from arbitrary detention, the right to a fair trial, prohibitions on cruel, inhuman or degrading treatment or punishment and freedoms of association, expression and movement.

The bill's five most significant features are:

1. Life sentences (up from 10 or 20 years' imprisonment) are imposed for a range of "foreign incursion" offences, which have been redefined, from joining or supporting "armed hostilities" in a *specified* foreign country to cover "hostile" or "subversive" activities in *any* other country.

"Subversive activity" is defined so broadly that it could include any conduct that "creates a serious risk to the health or safety of the public or a section of the public." This definition, which echoes how terrorism is defined throughout the terror laws, is wide enough to include many forms of political activity or advocacy.

As Justice Minister Michael Keenan emphasised, anyone even sending money overseas for these purposes could now be jailed for life. In addition, people can be jailed for 10 years for entering any "declared area" overseas, unless they can produce evidence that their trip was *solely* for a recognised "legitimate" purpose, such as a family visit.

2. Anyone can be jailed for five years, or groups can be outlawed (making all their members and supporters liable to imprisonment) for "advocating" terrorism, even if no act of terrorism occurs and they are merely "reckless" as

to whether any terrorism would occur.

“Advocating” includes urging, promoting, encouraging or “counseling” (and “praising” in the case of a group). This formulation can cover general statements of sympathy for, or calls for the understanding of the root causes of, terrorism.

3. Passports and visas can be secretly suspended, without any notice or right of appeal, on vague and arbitrary grounds, such as that ASIO considers that a person *may* leave Australia to engage in activity that *might* prejudice the “security” of Australia or a foreign country, or *might* pose a risk to the country’s “security.”

Those whose passports or visas are revoked can also be cut off all welfare payments, including pensions and family benefits.

4. Control orders, which can include house arrest—a form of detention without trial introduced in 2005—can be imposed on anyone where the police merely “suspect” (instead of “consider”) that the order would “substantially assist in preventing a terrorist act.”

The grounds for control orders will be expanded to cover anyone suspected of participating in terrorist training, engaging in “hostile” or “subversive” activity in a foreign country or who has been convicted in Australia or a foreign country of a terrorist-related offence.

This will likely mean a major increase in the number of control orders imposed, and their transformation from temporary into effectively indefinite orders on those ever convicted or suspected of terrorism offences. So far, only two people have ever been subjected to control orders—former Guantanamo Bay detainee David Hicks and Jack Thomas, who was originally convicted on the basis of statements extracted via torture in Pakistan.

5. Homes and other premises can be surreptitiously entered and secretly searched by the Australian Federal Police, without the occupier being notified for up to six months. Victims will be stripped of the right to observe any such search, an essential protection against the planting of incriminating material by the police.

After rapidly being given its first and second readings in the Senate yesterday, the bill was referred to a bipartisan government-Labor parliamentary committee for an “expedited” two-week review. This is a charade, given Labor’s vow of support. The same committee signed off on the first “national security” tranche of the laws with only minor and cosmetic changes.

Attorney-General George Brandis said the committee would consider a call by a government backbencher, former counter-terrorism police officer Jason Wood, for

another provision in the bill, expanding the use of preventative detention orders, to allow the police to interrogate detainees. The police can already question people for lengthy periods, if they arrest them, before laying charges (Muhammed Haneef was held for 12 days in this fashion in 2007) and ASIO can secretly detain and interrogate people suspected of having “information” relevant to terrorism.

The “Foreign Fighters” bill contains a barrage of other anti-democratic measures, which are outlined in the accompanying article.

The unity within the parliamentary establishment on the “anti-terrorism” barrage is by no means confined to the government and Labor. During yesterday’s debate on the “national security” bill, Glenn Lazarus, the Senate leader of mining magnate Clive Palmer’s Palmer United Party (PUP), declared the “clear and unequivocal support” of PUP and Senator Ricky Muir of the Australian Motorist Enthusiasts Party for that bill.

Lazarus, in fact, proposed a strengthening of the measures, calling for the penalty for publicly identifying an ASIO agent to be increased from one to ten years’ imprisonment. The bill already imposes a 10-year jail term on anyone, including journalists, disclosing information about a covert intelligence operation—a provision that could have been used to block the exposures that led to the unraveling of the frame-up of Haneef.

The Greens, who have voted for crucial elements of the terror laws over the past decade, while posturing as critics of aspects of them, signaled their readiness to assist the government by giving the legislation a veneer of “checks and balances.” The Greens and independent Senator Nick Xenophon have moved several cosmetic amendments to provide the appearance of judicial or official scrutiny of the bill’s implementation, while keeping the draconian measures themselves intact.



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