

Australian law to protect spy operations triggers media debate

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One of the police-state measures in the Abbott government's barrage of "terrorism" laws has generated a revealing debate within the media and political establishment about the media's key role in managing and manipulating public opinion in the so-called "war on terror."

At issue is section 35P of the Australian Security Intelligence Organisation (ASIO) Act. It was inserted by the ASIO powers bill, which was passed by parliament a month ago, without one vote being cast against it.

This provision puts a major new power in the hands of the government and ASIO, the main domestic spy agency. The attorney-general can now authorise "special intelligence operations," in which ASIO agents infiltrate and act as provocateurs within targeted groups or political parties.

ASIO operatives are not only granted civil and criminal immunity for these illegal activities. Under section 35P, anyone, including a journalist, who "discloses information" about an operation can be jailed for five years. If that information could "prejudice the effective conduct" of the operation, they can be imprisoned for 10 years.

If these laws had been in place a decade ago, they could have blocked a string of revelations of government-AFP-ASIO frame-ups that helped expose the methods of the police/intelligence agencies and discredit the "war on terror." One of the most prominent cases was that of Dr Mohamed Haneef, whose lawyers courageously leaked to the media police documents showing there was no evidence against the young Indian doctor.

The introduction of section 35P points to a stepping-up of such operations in the latest "terrorist" scare campaign about Islamic State in Iraq and Syria (ISIS),

which is being used to justify Australia's involvement in the renewed US-led war in the Middle East.

Over the past decade, undercover ASIO and Australian Federal Police (AFP) agents have already entrapped victims into making alleged vague terrorist threats or preparations, resulting in major prosecutions, accompanied by sensational media headlines about terrorist plots.

In 2008, for example, there was Operation Pendennis. Muslim cleric Abdul Nacer Benbrika and six followers were jailed after a police infiltrator offered Benbrika ammonium nitrate and took him to a remote hilltop to demonstrate how to detonate the explosive. That was the only "bomb" exploded by anyone in Benbrika's group. Nevertheless, they were convicted of being members of "a terrorist organisation."

Section 35P also provides a wider mechanism for jailing members of any political party who expose an ASIO infiltration of their own organisation. ASIO has a 65-year history of such operations, directed almost exclusively against socialist parties and protest groups. This activity will no doubt escalate as public opposition grows to the bipartisan program of war, austerity and the overturning of basic legal and democratic rights.

Initially, as last month's parliamentary vote demonstrated, there was almost universal agreement within the ruling elite to back the extraordinary powers being handed to the government and the intelligence apparatus.

Attorney-General George Brandis insisted that section 35P could prevent damaging leaks, especially by whistleblowers like Edward Snowden, Chelsea (Bradley) Manning and Julian Assange. The Labor Party's shadow attorney-general Mark Dreyfus claimed credit for the proposal, which originated from the previous Labor government, and pointed out that Labor

introduced similar powers to shield the AFP's undercover operations.

The Greens, who posture as critics of aspects of the "terrorism" laws, opposed the five-year jail term for disclosures that did not "prejudice" operations, but backed the 10-year sentence for damaging revelations. "We accept, as the Greens, that there should be some limits on revealing information that could potentially endanger an operation," the party's deputy leader Adam Bandt told parliament.

A September 29 editorial in the *Australian*, the Murdoch media's national flagship, denounced several journalists for objecting to possibly being jailed for reporting on intelligence operations. The editorial accused the objectors of being "complacent" about the threat of terrorism.

Concerns, however, began to be raised within the establishment about the implications of section 35P. While couched in terms of opposing "censorship" and protecting "press freedom," these concerns essentially related to the media's function in shaping public opinion, particularly in dealing with sensitive revelations that could be politically embarrassing for the government of the day.

Notably, in an October 23 speech, News Corp co-chairman Lachlan Murdoch warned against muzzling the media, while arguing that "responsible" journalists could be trusted to serve the best interests of the "nation." He pointed out that his grandfather Keith, who in 1915 defied British war censorship to alert the Australian government to the World War I defeat being suffered by the British-led Australian forces at Gallipoli in Turkey, thus helping to bring the catastrophic operation to an end.

News Corp and Seven West Media, another media conglomerate, launched a public campaign for an amendment to section 35P to exempt a report published in the "public interest" by a "professional" journalist, where the report did not identify an undercover agent.

Responsive as ever to the media owners, Labor Party leader Bill Shorten wrote to Prime Minister Tony Abbott last week asking him to amend the laws. In reply, however, Attorney-General Brandis insisted that section 35P should remain as it is, but the attorney-general should disallow any unwarranted prosecution of a journalist.

An editorial in last Saturday's *Australian* (without

mentioning its earlier editorial) condemned Brandis's proposal, saying it could make prosecutions under section 35P look "political," thus undermining "public understanding and support" for the intelligence agencies. It insisted that "small amendments" were necessary to "better safeguard Australia's interests."

The editorial's main argument was summed up by its headline, "Responsible journalism assists national security." Arguing that "good editors would never jeopardise such operations," it declared: "To the contrary, the responsible reporting of their work, while it might occasionally embarrass governments, enhances public understanding and support for such agencies."

The editorial pointed to two considerations. The first was the media's role in promoting terror scares, often involving information from spying operations, in order to create the pretext for expanding police state powers. The *Australian* gave the example of Operation Pendennis, which led to the jailing of Benbrika's group, during which the *Australian* and other outlets ran false headlines that it planned to blow up a football grand final.

The second consideration was the media's role in damage control in the event that exposures occur that are harmful to the state apparatus—such as the leaks by Edward Snowden revealing that the Australian Signals Directorate had bugged the phones of Indonesian President Susilo Bambang Yudhoyono, his wife and inner circle. In this case, the *Australian* had "enhanced public understanding and support" by revealing the supposed rationale for the operation—to probe links between the presidential palace and various Islamic groups—despite the government's objections.

Far from being concerned about the draconian powers being given to the security apparatus, however, the campaign launched by the media owners, echoed by Labor, has the opposite agenda. It seeks to retain the media's capacity to manipulate public opinion so as to protect and enhance the security apparatus that will be directed against the working class.



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