

Australia's foreign interference laws threaten whistleblowers and media freedom

James Cogan
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An exchange on June 28 in the parliament, prompted by questions from Green senator Andrew Bartlett, underscored the fact that Australia's sweeping new "foreign interference" laws have immense implications, not only for whistleblowers, but for the right of media organisations to publish leaked information. Aspects of the legislation, relating to espionage and secrecy, appear to call into question what millions of Australians consider to be fundamental democratic rights and the freedom of speech.

Bartlett highlighted remarks made in an interview by Liberal-National Coalition government member Andrew Hastie—the former special forces officer who chairs the Australian Parliamentary Joint Committee on Intelligence and Security, which drew up much of the legislation.

Hastie insisted that the laws were needed, in part, to criminalise "seeking to get secrets from the United States." He declared that Australia could not allow "radical transparency." Asked to define this term, he said: "Radical transparency is Julian Assange dumping a whole bunch of Commonwealth secrets out for public consumption."

In parliament, Bartlett challenged the government over Hastie's statement. He commented: "The things he [Assange] exposed and, more specifically and definitely, that Edward Snowden exposed, are things that governments wanted hidden—things so-called democratic governments were doing to their own people. So now we have that definition—'radical transparency is Julian Assange.' These laws are attempts to criminalise and attack people like Julian Assange. Let's not forget that Julian Assange is acknowledged as, and registered as, a journalist and actually won a Walkley Award for his work exposing governments acting against their own citizens."

Government minister Zed Seselja denied that Assange and WikiLeaks were specific targets of the legislation. He then declared, however:

"With the exception of secrecy offences, it's not appropriate to carve out journalists from the application of most of these offences. For example, the espionage offences apply where a person intends to or is reckless as to whether their conduct will prejudice Australia's national security or advantage the national security of a foreign country. There must also be a link to a foreign principal. If a journalist engaged in the relevant

conduct, and these circumstances existed, it would be appropriate for the espionage offences to apply."

Seselja's "explanation" raises staggering questions about the right to whistleblow on government criminality, and the right of the media to publish leaks that reveal it.

The legislation defines "national security" in the most sweeping terms. It includes, for example, the "protection of the integrity of the country's territory and borders from serious threats" and, "the country's political, military or economic relations with another country or other countries."

"Foreign principal" is likewise defined in a broad and vague fashion. It includes foreign governments, bodies, state-owned entities and political organisations.

A "foreign political organisation" is defined as everything from a "foreign political party" and a "foreign organisation that exists to pursue political objectives."

In a totally subjective characterisation, which could be interpreted in a completely different manner by opposed tendencies on the political left and right, "foreign political organisation" is also defined as "a foreign organisation that exists to pursue militant, extremist or revolutionary objectives."

It is incumbent on all defenders of civil liberties and free speech to subject the foreign interference legislation to the most detailed, critical and public scrutiny.

Underpinning the legislation, and a central factor in its development, is the fact that Australia is in a formal military alliance with the United States. It hosts major US military facilities and provides basing arrangements for US ships, aircraft and troops. Its armed forces and intelligence agencies provide information to their US counterparts as part of the alliance and the Five Eyes network, and receive and store information in exchange.

In 2002–2003, Australian agencies were receiving briefings on the American attempt to fabricate a case against Iraq, with false claims its government was concealing "weapons of mass destruction." At the same time, the same agencies were receiving information from other international, "foreign" sources, who were disputing and refuting the US claims.

In February 2003, Andrew Wilkie, then an Australian intelligence officer, resigned from his position and publicly denounced the case against Iraq as a tissue of exaggerations and

lies. His revelations were a factor in the development of mass demonstrations in Australia and internationally against the looming Iraq War. The anti-war movement most certainly had the potential to lead to widespread democratic calls for an end to Australia's "political" and "military" relations with the United States.

Wilkie could not be charged with any crime and has since become an independent member of parliament.

What would have been the situation if the new "foreign interference" laws had existed in 2003? Could Wilkie have been charged with espionage for exposing the fact that, based on information from "foreign organisations," the US and Australia were preparing an illegal war of aggression? Could his actions have been labelled a "threat" to the "country's political, military or economic relations" with another country—that is, with the United States, under conditions where both Australia and the US were preparing a terrible crime?

In 2010, Australian citizen Julian Assange, in his capacity as editor of the WikiLeaks media organisation, published a series of leaks, sourced within the US military, which exposed American war crimes, lies and diplomatic conspiracies.

Among the information revealed by the leaks was the US embassy's cultivation, over decades, of what it calls "protected sources" among Australian politicians, including an entire cabal that was functioning at the highest levels of the Rudd Labor government.

After the Washington-inspired coup that ousted Prime Minister Kevin Rudd, the government of new Labor Party prime minister and beneficiary of the coup, Julia Gillard, declared that WikiLeaks had engaged in "illegal activity." The legal profession and the media stridently objected to that characterisation because, under Australian laws, nothing Assange and WikiLeaks had done was illegal. They had, as a media organisation and its editor, acted in the public interest and were protected.

What is the situation facing WikiLeaks under the new foreign interference legislation? Could it be classified, not as "media," but as a "foreign organisation" seeking to "influence" Australian politics by exposing the extent of US intrigues in the country, and by revealing war crimes committed by the US?

In the United States, WikiLeaks was defined last year by the CIA director as a "non-state hostile intelligence agency." If WikiLeaks had been defined in such a fashion in Australia, then Assange, an Australian citizen, could have potentially been charged with espionage, for assisting it in publishing the leaks.

Millions of ordinary people, of course, welcomed WikiLeaks' activity because it fulfilled the democratic right of the vast mass of the population to know the truth. Assange not only published extensive information on the criminality of US imperialism. He also shed light on the constant efforts by the American government and its agencies to influence and determine the focus of Australian policy and politics.

The greatest source of "foreign interference" in Australian

affairs is its military alliance with the United States.

In 2013, Edward Snowden leaked US National Security Agency (NSA) documents that exposed rampant spying on the world's population, including by joint US-Australian intelligence bases operating on Australian territory. He did so to expose the extent of the illegal activities of the Five Eyes network, which includes the Australian government.

Snowden's actions could well have been viewed by the Australian government as "militant" or "extremist." Under today's laws, if an Australian journalist, rather than publications in other countries, had been the first to publish the NSA leaks, would they have risked espionage charges, since they exposed the extent of Australian intelligence spying on other countries, and purportedly damaged "national security?"

Many questions relating to the scope and operation of the new foreign interference legislation have not been publicly canvassed. Most people have never even heard it, much less had the opportunity to hear it discussed and debated. One of the reasons for this is that the new laws were rammed through the Australian parliament in barely three days, without being subjected to anything even remotely considered as scrutiny.

The Australian people have been denied their right to be informed about, let alone to vote on, the most serious and punitive legislative measures to be enacted since the Second World War.

It is a fundamental precept of democracy that power derives from the consent of the people. The Coalition and Labor parties have no legitimate authority to deprive the population of the democratic rights that have been achieved through decades, and even centuries, of struggle against tyranny and despotism.

The Socialist Equality Party (Australia) is holding public meetings over the next weeks, beginning on Sunday July 15 in Sydney, in order to inform workers and youth about the dangers inherent in these laws, and the necessity for the development of a broad-based movement demanding the repeal of the foreign interference laws and all anti-democratic legislation.

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