

New Zealand Labour-led government extends draconian anti-terror laws

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A Bill that gives authorities greater powers over so-called returning “foreign fighters” passed its first reading in the New Zealand parliament on October 24, after a last-minute deal between the Labour Party and the Greens. The two are partners in the coalition government, along with the right-wing populist NZ First.

The Terrorism Suppression (Control Orders) Bill proposes “control orders” for people trying to return to New Zealand after allegedly supporting extremist groups overseas. This will vastly expand existing “anti-terror” laws and deepen the ongoing attack on basic democratic rights. It gives the authorities sweeping powers to designate anyone as a potential “terrorist” and impose severe restrictions on their rights and movements.

The Bill is being hastily pushed through ostensibly to deal with one person, the so-called “Kiwi Jihadi,” Mark Taylor. Despite being monitored by authorities, Taylor went to Syria to join ISIS in 2014, where he is currently in a Kurdish-controlled jail. His captivity was put in doubt after Turkey invaded the area following the recent withdrawal of US troops.

While doing nothing to facilitate Taylor’s return, Prime Minister Jacinda Ardern has said the government cannot legally leave him stateless. Some other countries, including Australia, have stripped citizenship from alleged foreign fighters who hold dual citizenship. Justice Minister Andrew Little previously declared Taylor should “expect to be the subject of an investigation” if he ever returned.

According to law professor Andrew Geddis, under the current Act it would be difficult for the government to prosecute Taylor without evidence that he had committed a terrorist act. “Standing around a fuel dump with an AK-47 isn’t a terrorist act,” he noted.

Prosecutors would have to prove he was “enhancing the ability of [ISIS] to carry out a terrorist act... What exactly that means we don’t know, because it’s never been prosecuted in New Zealand,” Geddis told *Stuff*.

The Bill is designed to circumvent such difficulties, while its applications go well beyond Taylor and other “foreign fighters.” It empowers police to apply to the High Court to impose control orders on anyone accused of engaging in purported terrorism-related activities overseas. Police would outline the level of risk a person allegedly poses and the orders they want. No actual trial, with the presentation and testing of evidence, is required.

The wide-ranging restraints include curfews, reporting regularly to a police station, wearing an electronically monitored bracelet, restrictions on mobile phones, internet use and even bank accounts, and limits on who they can see. The orders can be extended if the person is deemed to pose an ongoing risk, and a penalty of up to 12 months’ imprisonment for non-compliance applies.

Civil rights lawyer Michael Bott told Radio NZ that the Bill is “over-reaching” and an “over-reaction to a limited problem.” People who have not been convicted of any offence can have draconian orders placed upon them because “of how some person overseas labelled you,” he said. The possibility for “political manipulation,” as occurred with Ahmed Zaoui, an Algerian asylum seeker falsely classified by the NZ security agencies as a high security risk, is very strong.

Bott noted that the level of proof required is based on a “balance of probability,” a substantially lower evidential threshold than the “beyond reasonable doubt” provision in criminal law. Hearings would be held in secret and an interim order issued in the person’s absence, without legal representation and on

the basis of evidence they have not seen. Bott concluded that the legislation would not make the country safer from terrorism “and is open to abuse.”

Like governments in the US, Europe and internationally, the Ardern Labour government is using the pretext of fighting terrorism to enact police-state measures. Their real purpose is to prepare to suppress political opposition from workers and young people to austerity and war.

The government has already exploited the Christchurch mosque attacks in March, in which 51 people were killed by fascist gunman Brenton Tarrant, to greatly expand the powers of the state. Ardern has led an international campaign to censor the internet, while at home urgent measures have been imposed to render high-powered firearms illegal, to censor news, including the forthcoming trial of the alleged shooter, and empower police to regularly carry firearms.

The Green Party is playing a pivotal role facilitating the shift to the right. In 2003, the Helen Clark Labour government passed the Counter-Terrorism Bill, on which the new law is based. Any person could be designated a “terrorist” or “associated person” solely on the word of the director of the Security Intelligence Service, with no right of judicial review. The definition of a “terrorist act” was made so broad that even routine protests and union activities could be proscribed.

At the time, the Greens made a show of opposing the Act. Former Greens MP Catherine Delahunty said recently the party had a “tradition” of opposing anti-terrorism laws because they were “very narrowly focused, potentially reducing human rights for certain people.”

Whatever limited opposition the Greens provided in the past has now dissolved. The new legislation could not have passed its first reading without the Greens’ support. Initially the Greens vowed to oppose it. Justice spokesperson Golriz Ghahraman said it relied on definitions such as “terrorism” from other countries that don’t have the same “standards” as New Zealand.

Without the numbers, Labour turned to the conservative National Party opposition, which agreed to back it. In 2015, the then National government had passed a law which provided for the cancellation of passports for anyone suspected of travelling overseas to join extremist groups, but did not make it an offence to do so, nor place restrictions on those returning.

Following negotiations, National reneged on its promise to support Labour’s Bill on the grounds that it did not go far enough. It wanted to lower the age at which someone could be subject to the orders to 14-years-old and give authorities the ability to lock up anyone for 72 hours on arrival in New Zealand.

At the eleventh hour the Greens came to Labour’s rescue, throwing its support behind the legislation to enable it to proceed. Ghahraman said the Greens negotiated changes that “ensured that foreign convictions and deportations won’t be accepted without proper scrutiny and we’ve ended the use of secret evidence without an advocate.”

In fact, the changes are extremely vague and guarantee nothing. The court is required to simply “give regard to the reliability of overseas jurisdictions” when foreign convictions are used as evidence. Where non-disclosable information is used, the court must request that the solicitor-general appoint a Special Advocate who is able to hear the non-disclosable information and act “on behalf” of the returnee.

The Green Party’s embrace of this legislation, with its anti-democratic powers, further exposes its right-wing and anti-working class character.



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