

At the invitation of Senator Allison, I would like to submit to the committee some comments and questions on the proposed anti-terrorism laws.

Comment 1, - the "sunset" clause

Sunset clauses for acts such as this one do not have a lot of meaning. Hitler's "Enabling Act" of 1933 (also as a result of terrorism, - some of it created for the purpose) had a sunset clause of only 4 years. When new laws involve controls over what people are able to publicly comment on and hear, sunset clauses merely indicate how long the government has to deal with any opposition.

Comment 2, - social environment

The proposed anti-terrorism laws need to be considered within the changes that they would reasonably be expected to cause in the overall social environment and group mind-set of Australia. Some of these changes would include; -

a. An alienation of some culture groups within Australia, - particularly Islamic. The latter is already obvious, especially following the news of the rushed law changes in Parliament on Wednesday and Thursday 2nd and 3rd November. For the first time no attempt has been made by the Prime Minister or any other government ministers to reassure the Islamic sector.

b. The laws encourage the further development of a confused public culture of secrecy and "dobbing in".

c. The laws will act to suppress public comment unfavourable to government policies or actions. Such comment will tend to go "underground", and when discovered it will inevitably appear more like sedition.

d. Many of the above factors (and other factors not mentioned) influence public mental health, particularly in areas such as depression, and create emotions such as anger and hate. These could reasonably be expected to increase, but at the same time to be increasingly ignored.

Comment 3, - Government track record

The proposed anti-terrorism laws contain so much potential for future misuse, abuse, political manipulation and control of media and the people, that they should not be considered in isolation to the recent past. This recent past includes; -

a. The "children overboard" issue, the Tampa incident and the related rejection of internationally accepted laws of the sea, the setting up of the off-shore detention centres (and recent decisions not to close these even when empty), and the excising of Australian islands.

b. The misleading of the people and the entry into the Iraq war on the basis of completely false intelligence. Either our own intelligence service was completely incompetent, or the government exerted influence over what intelligence it received. Neither bodes well for the future under the new laws.

c. The statement, just prior to the Iraq war, that no decision had yet been made to join the war, when our special forces were in fact already in action in Iraq. This was a misleading of the people. While the action of the special forces should not have been revealed, the decision to join the war should have been.

d. The development, within the Immigration Dept., under Ruddock, of an arrogant culture lacking in humanity, that led to such events as illegal detention and illegal deportation, followed by a failure to rectify many such situations when they initially became known within the Dept., - and only grudgingly when they later became media sensations. A similar culture of arrogance and inhumanity may reasonably be expected to develop within ASIO and the Federal Police under these new laws, - which are also under Ruddock's guidance and oversight.

e. The complete rejection and ridicule, without evidence or argument, of any opposing comments to government policies, even when those comments come from well qualified, experienced and competent people.

Comment 4, - legal recourse

a. By definition, detention and control orders come under national security. When faced with such an order, the detainee, his (or her) lawyer, and the judge, will not be permitted to know the details, - only some very broad situation. On what basis can a detainee then successfully argue against the order? It appears that any legal recourse against a preventative detention order will need to happen within a few days, involve a lawyer who probably has no time for any research, and not involve contact with any other member of the public. Is a defense possible under such conditions?

b. As a preventative detention order could greatly change a detainee's employment, mental condition, and place in local society, is there any later recourse for wrongful detention? In fact it appears that wrongful detention is not possible under the Act, - even though it will inevitably occur.

c. How many preventative detention orders (for differently stated reasons) can a person be issued with in a year? For example, is it possible to face another order (for a differently-stated reason) as soon as, or before, you get out the door after completing the previous one?

Comment 5, - imprisonment where?

Where will detainees be imprisoned? A normal prison would not seem to fit the bill here, - too many people around who can work things out and talk. I wonder, - those off-shore detention centres that the government is now emptying of illegal immigrants but still retaining. This would be reminiscent of Hitlers "protective custody" under the "Enabling Act", - which usually meant a concentration camp.

Comment 6, - a practical stupidity

a. Everyone will know about preventative detention. When someone "goes missing" for 2 weeks, and family, friends and work-mates can get no sensible answer from anyone, does Ruddock really think they will not know what is going on? Of course they will know, and it will cause a lot of anger and fear (not a good combination). What really is the reason for secrecy here? Ruddock's stated reasons treat the people as fools.

b. Is there a problem here with people who disappear because of murder or criminal abduction? Will the new laws make the local police, who will be told nothing, less likely to act in the early (more critical) hours and days after such events? Will one parent (or other) assume that the other has been told of detention but can not say anything?

c. What will happen with demands to attend at a Centrelink office during a period of detention, or to a report from an employer that the detainee has not appeared for a job? Will the family then lose benefits?

Comment 7, - Innocence and guilt

Much has been said already about the detention of innocent people, in the sense that no charges need be laid in order to temporarily imprison them. However, the "culture" being signalled by Ruddock in recent media interviews appears to be one of assumed guilt for anyone being temporarily detained without charge. This is another step up from just detention of innocent people. In reply to questions about the "shoot-to-kill" provisions he replied, with emphasis, that detention involved "very serious charges", and this appears to be a sign of an underlying general attitude within the government. It seems that people who are detained under preventative detention are, in practice, to be assumed guilty of terrorism. An assumption of guilt by arresting police would probably not be what the wording of the Act implies, but it appears to be the culture that the government is developing. Within this culture "shoot-to-kill" makes sense, and if it all goes wrong, can never, under the secrecy of national security, be legally proved wrong.

Comment 8, - Treatment of detainees

The act provides for the humane treatment of detainees, but it worries me that if this does not occur there will be no way to prove that it did not occur.

Given that the culture will be one of assumed guilt, and that the prevention of a terrorist act will have been given the utmost importance, and that the whole procedure is covered in the secrecy and restrictions attached to national security, who will ever know for sure what happens?

Comment 9, - Subversion

I think that the section on subversion is one of the most dangerous sections of the Act, as it is this provision that allows for the control of criticism of government actions and policies. The control of criticism taken together with the increasing secrecy and the growing use of government propaganda ensures an ineffective opposition and a relatively easy path for future government changes.

A general comment on terrorism

a. I think that our government (and also others, - especially the American government) has not presented the phenomena of terrorism in very accurate way. This is no more the age of terrorism than was the time of the Roman occupation of Britain or Gaul. Terrorist groups are groups with an aim. If their aim coincides with ours we offer them guns and money. If their aim opposes ours, we call them cowards, criminals, slime, - and worse, - and we fight against them. America has been a large player in the selective supporting and opposing of terrorist groups for many years, and due to its methods and their results on the peoples and countries involved, has wound up soundly hated especially in South America, the Middle east, and in Asia and SE Asia. Australia has not been a big player in this often dubious and messy area.

b. The terrorist attack of 11th Sept 2001 in America had a long history of development behind it, based in American injustices, betrayals, arrogance, interference and manipulations across the Islamic countries. One thing it was not, was an attempt to invade America. It was a punishment for America, and followed a series of previous attacks outside of America itself. After the 2001 attack, some people in America asked "why do they hate us?" but no-one was then in the mood to consider the question.

c. The terrorism in Indonesia was primarily aimed at manipulating the Indonesian political scene after Suharto left, but many of its leaders had trained in Afghanistan and much of its funding came from Al Qaeda, and it consequently had a substantial element of anti-Americanism in it. It also contained some desires for a SE Asian Islamic state. It was not aimed at Australia, even after the East Timor incident. East Timor was an irritant that did set off some terrorist activities in other Indonesian areas to prevent a similar thing happening elsewhere.

d. Terrorists from Indonesia had frequently visited Australia prior to 2001 but I know of no hint (except from our government assertions, - which I do not trust) that they were at all interested in Australia itself prior to 2001.

e. Australia's very high-profile support of the American invasion of Iraq, contrary to John Howard's assertions at the time (now completely changed) did lump Australia in with America and make it a sort of lower-priority terrorism target, - but even so, I suspect that funding for substantial attacks within Australia would not have been considered worthwhile.

f. So far as I can work out, the Bali attack, in its initial planning, was aimed at a combination of Americans and aspects of Indonesian economy and politics. During the attack planning the Americans abandoned Bali as an R&R destination for its military (without telling Australia why) but the attack was still considered worthwhile for its expected effects on Indonesian tourism and on foreigners in general. This was also originally our government's approximate position, but that later changed to the suggestion (leaving the public and the media to turn it into a firm belief) that it was aimed at Australia.

g. The recent government assertion of imminent terrorism activity and the emergency passing of law changes in the last week, was not apparently based on any such imminent danger. Although it is being criticised as an attempt to divert attention from the Industrial Relations Bill, I do not think this was its main purpose. It had the effect of increasing public paranoia about terrorism, and consequently of helping the passage of the current anti-terrorism bill, plus

preparing the way for the announcement of laws to allow our armed forces to be used in Australia, on Australians, - with "shoot-to-kill" powers. That was its main purpose.

h. Downer's statement today (Sunday 6th November) that the recent pirate attack on a cruise liner could possibly be terrorism, although otherwise a pretty stupid statement, is also aimed at building up a public paranoia suitable for the acceptance of the law changes.

A conclusion

a. The changes in our laws, which include the present anti-terrorism law, but which also include future law changes such as the recently announced changes to permit our own armed forces to be used in Australian cities and towns, against Australians (and with "shoot-to-kill" powers), are the sorts of changes that would more suit a major terrorism invasion of our country plus a simultaneous violent uprising of thousands of Australians. That is just not real, - unless the future application of these laws produces it.

b. The government's assertions of major terrorism activities being prepared within Australia, and targeting Australia, are in contradiction of its own stand up till the London terrorist attack, and it just does not fit with the development and history and aims of the recent terrorism.

c. The current and future proposed new laws will allow the government unprecedented controlling powers over its own people. That, I think, is what they are aimed at, - not at preventing terrorism. In the absence of our own "bill of rights", we are about to grant the Howard government the means to dismantle our own democracy, - should he wish to make use of it.

d. America appears to be moving towards withdrawal from Iraq, as is Australia, in the near future. Although there is a developing rationale for the withdrawal, it may yet wind up something similar to the withdrawal from Vietnam (i.e. more of an escape than a withdrawal). When that happens, the actual terrorism threat to Australia will evaporate, but I suspect that the new laws will not.

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