

The End of Justice in Australia

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The right-wing government of John Howard proposes to introduce through Federal Parliament a draconian anti-terror legislation, the [Anti-Terrorism Bill 2005](#). If passed, the Bill would make it easy for the government and the police to arrest and detain without charge Australians from Muslim and Arab backgrounds on suspicion of planning to commit act of terrorism. The Bill would abolish the fundamental right of Australian citizens, the right to personal liberty in peacetime. It is the end of justice for those deemed 'Un-Australian' by the Howard Government.

The Bill provides the police with immunity from prosecution and reduces the rights of the accused and the defence practically to nothing. Australian Federal Police will have the power to secretly detained suspects and witnesses for 14-day preventive detention without charge. Alternatively, place them under indefinite 12-months "control orders" that would limit the movements of suspects. The Bill establishes the primacy of suspicion over fact, since measures restricting liberties, potentially leading to house arrest, could be imposed on individuals not for what they have done, but according to what the Attorney General thinks they could have done or could do.

As Prime Minister John Howard stated, "it is not necessary for the prosecution to identify a specific terrorist act". Thus, this Bill deliberately turns its back on the rule of law and establishes a new form of political regime, a police state. Although the Bill is a second draft, and some improvements have been made to the original, the changes are only window-dressing and designed to mislead the Australian public. The Howard Government may abolish *habeas corpus* which prevents authorities from detaining people indefinitely without charges. Without *habeas corpus*, the Government can simply detain its opponents freely.

Furthermore, Australian Police will be armed with tough new anti-sedition powers. Under the new sedition law which is crafted to criminalise dissent and curtail the right to free speech "any person or organisation could be charged with sedition without, as existing law requires, having urged force or violence", said Journalists' Union president Chris Warren. "It is completely anachronistic," Australia Press Council chairman Ken McKinnon said.

In addition, anti-war demonstrators and anyone who provide moral support to the Iraqi people resisting the violent U.S. Occupation and defending their country would be unlawful. The Howard Government proposes to make it an offence, punishable by seven years' imprisonment, for "any person" who "urges another person to engage in conduct to assist, by any means whatever, an organisation or country ... engaged in armed hostilities against the Australian Defence Force". This is interesting because the war on Iraq was "an illegal act of aggression" and in violations of UN Charter. The UN legitimises resistance – by any means – against foreign occupation.

The historic judgement by the Italian judge Clementina Forleo, Judge for the Preliminary Hearing in Milan on 24 January 2005 adds legitimacy to the Iraqi struggle against the U.S. Occupation. Judge Forleo ruled that the accused (five North African citizens) “cannot be classified as terrorists”, but resistance fighters. She said: “[T]hat resistance [to] U.S. occupation forces in Iraq by sending fighters does not amount to terror”. The judgement was supported by an overwhelming majority of the Italian Legal Community. This historic judgement is supported recently by the German Federal Administrative Court which ruled that the attack launched by the U.S. and its allies against the nation of Iraq was a clear war of aggression – as specified in Article 4, Paragraph 4 of the UN Charter – that violated international law. It follows that some parts of the Australian Anti-Terrorism Bill is in contravention of the UN Charter.

After the arrest of 18 Australian citizens on suspension and on unsubstantiated allegations of “blotting” to commit act of terrorism, a euphoria of fear engulfed Australia. It should be borne in mind that these people have not committed crimes, and there is no evidence, but allegations that they are planning to commit crime. The accusations are reminiscent to that of Iraq possession of weapon of mass destruction (WMD) which proved to be a fabrication to justify a war of aggression. Lawyers for the detainees described their imprisonment conditions as ‘Guantánamo-like’. “They’re all kept in solitary confinement, they’re kept in Guantánamo Bay style conditions and they’re very oppressive,” said Adam Houda, a lawyer representing nine of the detainees.

According to the Australian Muslim Civil Rights Advocacy Network, the “vast majority” of the Muslim community in Australia was opposed to the proposed draconian anti-terrorism laws. John Howard is now embarking on bullying and dividing the Muslims community in Australia by calling on Muslims to do battle with those “within their midst” who advocate a “perverted, fanatical form of Islam”. We know now that the majority of the detainees, who have spent years at Guantánamo, were sold to the U.S. military and the C.I.A. by bounty hunters and criminals. Australians are advised to spy on each other and to act as police officers.

In the U.S. more than 1,200 people have been arrested and detained without charge since September 11, 2001, in most cases for no grounds other than of being Arabic, Muslim, or South-East Asian in origin. Most have since been released, but some are still being held without charges, as argued by Marjorie Cohn, a Professor of Law at Thomas Jefferson School of Law. The detainees have been deprived of their rights to challenge their detention. They have been abused, tortured, and prevented from practicing their religion, all in flagrant violation of the Geneva Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ratified by the U.S.

In addition, despite lack of any substantial evidence of terrorism in Australia, the Government uses terrorism rhetoric to instil fear in the Australian community and incite racism against Muslim Australians. Anglo-Saxon Australians are now given a licence to attack Muslims anywhere in Australia. The Melbourne Age reported on November 13, 2005 that, “‘Fatimah’ [a Muslim woman] was punched, kicked, spat on and abused, told to ‘go home to her own country and left with an injury to her right eye’. Her sister, she said, had a knife thrust towards her face”. The Murdoch media, led by the West Australian *The Sunday Times* (13 November 2005) is labelling every Muslim a “terrorist”, and the victims are always, Australian women of Muslim backgrounds. Defunct racist politicians such as John Stone of the National Party are attacking Islam, and advocating the banning of Muslim immigrants and abolishing multiculturalism.

Australia is the only Western country without a national Human Rights Bill or equivalent. With a national Human Rights Bill, it would make it difficult for the Howard Government to implement laws that are thought to breach human rights, such as the anti-terrorism laws. What Australia needs is a Bill of Rights to counter the rise of Islamophobia and protect not only members of Australian Muslim community from the racism and injustice, but also all Australians.

Finally, if the Howard Government is really serious about protecting Australians from the threat of terrorism, the best protection is to stop practising terrorism and withdraw Australian forces from Iraq.

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