

CHAIN REACTION

THE NATIONAL MAGAZINE OF FRIENDS OF THE EARTH AUSTRALIA :: WWW.FOE.ORG.AU

the politics of **COUNTER- TERRORISM**

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EARTH NEWS

Premier's Award To Sue Coleman Haseldine

Sue Coleman Haseldine, a Kokatha Mula Traditional Owner from the west coast of South Australia, has won the inaugural Premier's Award for excellence for indigenous leadership in natural resource management.

Sue was nominated for the award because of her work as an activist, environment protector and cultural teacher in her homelands, which include Yumbarra and Pureba Conservation Parks and Yellabinna Regional Reserve, part of the largest stretch of stunted mallee woodlands in the world.

Sue regularly leads trips of up to 600 kilometres into the bush to clean and maintain rock waterholes for native animals. Earlier this year, the Kokatha Mula held a blockade to protect the Yumbarra Conservation Park from mining exploration activities.



Sue Coleman Haseldine (right) pictured with Marcina Coleman Richards and Simon Prideaux. Photo: Cat Beaton.

Kokatha Mula <<http://kokathamula.auspics.org>>

Ten Most Polluted Sites

The Blacksmith Institute has published its 2007 list of the world's top ten most polluted sites. The sites, drawn from a 'dirty thirty' short list, include a chemical weapons centers, the Chernobyl nuclear power site, a coal industry hub, a lead production site,

and two heavy metal mines. Many of the sites are in remote mountain areas and are linked to mining. Consumers in rich countries are indirectly responsible for some of the pollution, the report notes, citing nickel and lead as examples.

The report is posted at:
<www.blacksmithinstitute.org/ten.php>

'Clean Coal' And Other Greenhouse Myths

The Australia Institute published a report, 'Clean coal' and other greenhouse myths, in August. The report analyses the following 16 arguments:

1. Coal can be part of the solution.
2. Carbon sequestration can be the centrepiece of policy.
3. Nuclear power can be the centrepiece of policy.
4. Renewable energy is always benign.
5. Renewable energy can support our current level of energy use.
6. Renewable energy cannot provide baseload power.
7. Voluntary 'greenpower' schemes can make a difference.
8. Buying carbon offsets is the same as actually reducing emissions.
9. We can plant enough trees to get us out of trouble.
10. We need to wait for new technology.
11. The hydrogen economy will save the day.
12. Expanding public transport is the answer.
13. It won't cost anything.
14. Higher energy prices mean lower living standards.
15. Australia will meet its Kyoto target.

16. There is no point ratifying the Kyoto Protocol.

G. Wilkenfeld, C. Hamilton and H. Saddler, August 2007, 'Clean coal' and other greenhouse myths, Australia Institute Web Paper, <www.tai.org.au/documents/downloads/WP108.pdf>.

Earth's Vital Signs In Bad Shape

The Worldwatch Institute released "Vital Signs 2007-2008" in September. The report tracks and analyses 44 trends in these areas: food, agricultural resources, energy and climate, global economy, resource economics, environment, conflict and peace, communications and transportation, population and society, and health and disease.

The report is available as hard copy or PDF for US\$18.95 from <www.worldwatch.org/node/5327>

Green Electricity Watch

The 2007 Green Electricity Watch survey results have been released by the Total Environment Centre, the Australian Conservation Foundation and WWF-Australia found.

The report ranks 52 green power schemes for households on their ability to reduce greenhouse emissions and support growth in new renewable energy in Australia. Criteria also include the clarity and accuracy of information the retailer provides, and penalties are given for misleading practices.

The report stresses the distinction between accredited and non-accredited schemes. Non-accredited green power has been available for years whereas accredited green power results in new renewable energy generation and therefore a reduction in greenhouse emissions.

Green Electricity Watch
<www.greenelectricitywatch.org.au>

Oceanagold Accused Of Strong-arm Tactics In Philippines

Melbourne-based mining company OceanaGold has been accused by Filipino villagers of harassment and the use of strong-arm tactics to pressure them to accept its plans to develop a large gold and copper mine, according to a new report released by Oxfam Australia in September. The report is the result of five years of investigative work by Oxfam Australia.

Oxfam, 2007, "Mining Ombudsman Case Report: Didipio Gold and Copper Mine", <www.oxfam.org.au>

Tax-deductible Carbon Offsets

Legislation to allow tax deductions for the cost of carbon offset schemes passed through federal parliament in September. The Greens were unsuccessful with their efforts to require that trees planted under carbon offset schemes remain in the ground for at least 100 years and be native species, and that carbon offset forests must first be subject to an assessment of the water usage required to sustain them.

In August, the Australia Institute published a report, Carbon Offsets: Saviour or cop-out?, which concludes that that Australia needs a compulsory accreditation scheme for offsets projects.

Christian Downie from the Australia Institute said: "The evidence indicates that offsets from renewable energy are the most effective, followed by those from energy efficiency projects, with forestry projects ranked last."

Meanwhile, the Vatican announced in July that it would be the world's first carbon-neutral sovereign state, having accepted a donation which it will use to fund a reforestation project in Hungary. An official from the Vatican's council for culture compared reducing energy consumption to the "penance" of offset schemes such as the Vatican's forest project. In Australia, Cardinal George Pell continues to dispute



anthropogenic climate change, to link environmentalism with paganism, and to promote the nuclear industry.

Christian Downie, August 2007, "Carbon Offsets: Saviour or cop-out?", Australia Institute Research Paper #48, <www.tai.org.au/documents/downloads/WP107.pdf>

Uranium Sales To Russia

Proposed uranium sales to Russia will be controversial regardless of the outcome of the November 24 federal election. A Greens resolution was 'negatived' due to Coalition and Labor opposition in the Senate on August 14. The resolution noted the deteriorating state of human rights, democracy, and freedom of expression in Russia; the bashing and murder of sleeping activists protesting against the planned construction of a uranium enrichment centre; and Russia's support for Iran's nuclear program.

Dirty Energy Threatens Health Of 2.4 Billion

The medical journal The Lancet has produced a set of reports on energy and health and made them available on its website. The reports consider access to electricity and energy poverty, transport, agriculture, nuclear and renewable power, and a range of other energy issues, and the effect each has on health.

One of the reports finds that 2.4 billion people worldwide are exposed to pollution from inefficient burning of solid fuels like wood, coal and dried cow dung. This causes around 1.6 million premature deaths each year -- roughly double the level of deaths from air pollution in cities -- and many more non-fatal cases of respiratory diseases.

Energy and Health
<www.thelancet.com/online/focus/energy_health>



Austrian Nuclear Report

The Austrian government has produced an excellent, comprehensive report which, in the words of Austrian environment minister Josef Proll, concludes that "in spite of nominal safety improvements in nuclear power plants a long list of 'near-misses' documents that severe accidents can never be excluded; nuclear installations can only marginally be protected against terrorist attacks; proliferation continues to be a serious problem and a sustainable solution of the radioactive waste problem is not in sight."

<www.nirs.org/climate/background/austriangovtreport607.pdf>



FoE AUSTRALIA NEWS

Friends of the Earth, Australia is a federation of independent local groups. You can join FoE by contacting your local group. For further details, see: <www.foe.org.au>. There is a monthly email newsletter which includes details on our campaigns here and around the world. You can subscribe via the FoEA website.

Holly Creenaune Wins Human Rights Award

Holly Creenaune from FoE Sydney has been awarded a University of Technology Human Rights Award. The Award, presented by High Court Justice Michael Kirby, cited her “tireless commitment to a range of social justice and human rights organisations and activities including Indigenous rights, climate change and environmental justice”.

Holly is active with FoE Sydney, the Australian Student Environment Network and the Sydney Nuclear Free Coalition among other causes and organisations. Congratulations Holly!



Holly Creenaune accepting a UTS Human Rights Award from Justice Michael Kirby.



Ms Ursula Rakova from the NGO Tulele Peisa and Mr Bernard Tunim from Piul Island in the Carterets who talked about their personal experiences of climate change in a recent speaking tour of the east coast of Australia. Photo: Toby Parkinson

On The Frontline Of Climate Change: Carteret Islanders National Speaking Tour

After months of organising, FoE recently hosted a speaking tour featuring Ursula Rakova and Bernard Tunim from the Carteret Islands. We held public forums in Brisbane, Newcastle, Sydney, Canberra and Melbourne and ‘roundtables’ in most of these cities, bringing together aid and development organisations, churches, environmental groups and academics to hear the Carteret story of dislocation and relocation.

We had a successful two-day lobby trip in Canberra, where we visited Coalition, ALP, Democrat and Green politicians and staffers as well as having high-level meetings with AusAID and the Department of Foreign Affairs and Trade.

Oxfam Australia joined us as partners for the tour. This was our first major collaboration with Oxfam since

the 2004 carbon equity tour. Local partners and supporters included Aid/watch, Mineral Policy Institute, Greens senator Kerry Nettle, Australian Ethical Investment, City of Yarra, Sisters of Mercy and Rising Tide in Newcastle.

We are currently deciding what level of work we can do in future with the NGO Tulele Peisa (‘Sailing the waves’), which has been set up to support the relocation from the Carterets to Bougainville.

Recordings of some of the public forums and photos from the tour can be found at: <www.foe.org.au/climate-justice>

Tulele Peisa
<www.tulelepeisa.org>

Your Carbon Accountability

Thinking of trying to offset your greenhouse emissions? Carbon offset schemes have a number of problems that make them ineffective at best, and potentially dangerous at worst.

FoE has just launched a new program to raise awareness about the flaws in offset schemes. Your Carbon Accountability argues that:

- affluent people in rich nations need to be making the biggest lifestyle changes and reducing their contribution to global warming;
- we need to minimise the impact of greenhouse emissions now — we can’t afford to think that the greenhouse emissions from a plane journey can be ‘neutralised’ over fifty years; and
- we need systemic change so that it becomes easier to not fly, not drive and not hyper-consume — this requires concerted political action at all levels and some fundamental changes in our political economy.

Your Carbon Accountability recognises that air travel is sometimes unavoidable. FoE Australia suggests that if you must fly, donate a meaningful amount to the FoE climate justice campaign rather than a trivial amount trying to offset your carbon. Your financial support will help to address the political and economic factors driving climate change.

Read more at <www.foe.org.au>

Australian Nuclear Free Alliance

The Australian Nuclear Free Alliance (formerly the Alliance Against Uranium) is celebrating its tenth year of bringing together Indigenous people and environmentalists to stand strong in opposition to uranium mining and the nuclear fuel chain.

In August, around 100 people participated in an Alliance meeting held in Werre Therre country, near Alice Springs. The site is directly across the road from one of the federal government’s proposed nuclear waste dump sites.

The Alliance was formed in response to the threat that as many as 26 new uranium mines might be developed under the Howard government. The fact that only one new mine has

begun operation in the past decade is a testament to the strength and perseverance of Traditional Owners and the anti-nuclear movement.

FoE Australia acts as the secretariat of the Alliance.

Many thanks to Jayne Alexander, Nat Wasley, Michaela Stubbs, Sophie Green and everyone else who worked to make the 2007 meeting a success.

More information:
<www.foe.org.au/anti-nuclear/issues/alliance>

Traditional Owners Speak Out: No Nuclear Waste Dump In The NT

In June, Traditional Owners and community members from areas proposed for the federal government’s nuclear waste dump undertook an east-coast speaking tour. Speakers shared their stories and experiences and raised concerns related to contamination of the country that sustains their communities, livelihoods and culture.

Speakers included Mt Everard Traditional Owner Audrey McCormack; Harts Range community members Priscilla Williams and Mitch; Muckaty Traditional Owner Dianne Stokes; and Donna Jackson, a Larrakia/Wulna woman and coordinator of the Top End Aboriginal Conservation Alliance.

The tour also featured an exhibition of artworks from affected communities, photos of the proposed dump sites and a short film.

The tour was supported by The Poola Foundation (Tom Kantor Fund), Northern Territory government, Australian Conservation Foundation, Friends of the Earth, The Wilderness Society, Medical Association for Prevention of War, Australian Student Environment Network, Arid Lands Environment Centre, Bob Hawke Prime Ministerial Centre, and Nuclear Free Australia.

George Monbiot: What Australia Should Do To Stop The Planet Burning

George Monbiot is an internationally renowned journalist, acclaimed author, academic and environmental and political activist in the UK who writes a weekly column for The Guardian newspaper. In his most recent book, Heat, he presents compelling arguments about what we need to do to prevent catastrophic climate change.

In July, George delivered a presentation via an interactive video conference where attendees at the Melbourne University venue were able to ask questions after his presentation. He focussed his talk on what we need to do internationally and in Australia to work towards a liveable future for our children.

George’s presentation can be downloaded from: <www.foe.org.au/resources/audio-centre>. His website is: <www.monbiot.com>



Traditional Owners Speak Out: No Nuclear Waste Dump in the Territory



FoE INTERNATIONAL NEWS

Friends of the Earth International (FoEI) is a federation of autonomous organisations in 73 countries. Our members campaign on the most urgent environmental and social issues, while working towards sustainable societies. For further information see <www.foei.org>.

Order Your Friends of the Earth International 2008 Calendar

FoE International is delighted to announce the arrival of its second annual calendar. The theme for the 2008 calendar is food and agriculture, and it is illustrated with powerful images from an international photo competition. You can view some of these images at <www.foei.org/en/get-involved/shop/calendar>.

This A4-size calendar is trilingual (English, French and Spanish) and key environment-related dates are noted. It is printed on chlorine-free 100% recycled post consumer paper.

Please contact your nearest Friends of the Earth group to order a copy (see inside back cover). All proceeds support FoE's work campaigning for sustainable food systems and other worthy projects.

Public Hearing On The World Bank

On October 15 in The Hague, the Netherlands, the World Bank Campaign Europe held a public hearing under the auspices of the Permanent Peoples' Tribunal. It was held one week before the annual meeting of the World Bank.

There is growing criticism of the World Bank for increasing poverty by imposing harmful economic policy conditions; for environmental devastation; for contributing to conflict; and for failing to respect local peoples' rights.

Witnesses from all Southern continents gave testimony of the impacts of World Bank policies and practices, especially in

the areas of conditionalities and fossil fuel project funding.

The conclusions of the October 15 hearing will put donor governments under pressure to set more precise objectives for how taxpayers' aid money should be spent, and to withdraw their contributions to the World Bank if real change is not happening.

A live video stream of the public hearing is available at <www.engagetv.com>

Indigenous Representatives In Bolivia Address The 'Countries Of The World'

The Meeting for the Historic Victory of the Indigenous Peoples of the World gathered hundreds of representatives in October in Bolivia, ending in Chimoré with a statement addressed to the 'countries of the world'. The meeting's objective was to discuss the Declaration of the Indigenous Peoples' Rights approved by the UN.

The indigenous representatives pointed out that "after 515 years of oppression and domination, here we are, they haven't been able to eliminate us. We have faced and resisted ethnocide, genocide, colonisation, destruction and looting policies. Capitalism, especially interventionism, wars and environmental disasters threaten our way of living as peoples".

The Real World Radio podcast is available at <www.radiomundoreal.fm>.

FoE International addresses UN on climate justice

On September 24, the chair of FoE International, Meena Raman from Malaysia, warned world leaders that climate justice needs to be urgently addressed in the fight against global warming. Meena spoke at the UN

'informal' Climate Summit, a meeting attended by 80 heads of state.

"Industrialised nations which have contributed disproportionately to climate change must take the lead in radically reducing their emissions of greenhouse gases," she said.

"The eight most powerful industrialised countries - the G8 - account for 43% of the emissions causing climate change, yet have only 13% of the world's population. That's climate injustice, because climate change impacts most severely upon the world's poorest people."

Watch Meena's speech at <http://webcast.un>

World Social Forum 2008: Global Day of Action

A week of mobilisations will culminate in a Global Day of Action on January 26, 2008.

From the Zapatista uprising in 1995 and the Seattle demonstrations in 1999, a worldwide alliance of movements against neo-liberal globalisation, war, patriarchy, racism, colonialism and environmental disasters appeared. In the first phase, this movement focused on big international mobilisations, such as Genoa against the G8 or Cancun against the WTO.

In recent years the movement has grown, rooted in national struggles and local realities. Everywhere in the world, mobilisations have appeared in different fields - student movements, workers issues, poverty and violence against women, environment and climate change, indigenous people and migrants' rights, etc.

The main challenge today is to link locals and national struggles with the worldwide goals, to give more strength to our struggles, alternatives and campaigns, and to enlarge our alliances. That's the purpose of the 2008 Global Day of Action: act locally to change globally!

Organise an event in your part of the world! Check out <www.wsf2008.net>.

letters to the editor



Carbon trading and Nicholas Stern

I read Kevin Smith's 'Obscenity of carbon trading' (Chain Reaction #100) with disappointment. While I agree that carbon trading is what we call another capitalist confidence trick, I think the disparagement of Nicholas Stern is wrong.

Kevin Smith is critical of an approach to climate change that only considers economic concerns. So the Stern review has limited relevance to non-economists. Surely though this a welcome first step to getting economists on-side with a position a general environmental analysis could approve?

The surprising thing for me with Smith's polemic is the omission of a telling sentence from the summary of conclusions in the Stern report: "climate change is the greatest market failure the world has ever seen and it interacts with other market imperfections".

An older friend of mine suggests that the most influential pieces of are not polemical.

David Hughes
Melbourne

Plane stupid

Why is it that environmentally-aware people are choosing to contribute to climate chaos? Recently I have noticed a lot of "activists" are jumping on airplanes to participate in earth saving activities. It's a bit of an oxymoron, when you consider just how damaging this form of transport really is.

With its increasing popularity and affordability, air travel will soon take over as a leading cause of climate change. Currently air travel is responsible for 3.5% of the total carbon dioxide emissions worldwide, but the Intergovernmental Panel on Climate Change estimates that by 2050 that will increase to 15%.

There has been a lot of hype about offsetting air travel, with Virgin Blue offering to offset your flight for "as little as \$1". In my opinion there are a lot of problems with offsetting. A big one is that offsetting often involves the planting of trees. Trees eventually start emitting carbon dioxide rather than sucking it up. Not much of a solution!

There are plenty of alternatives to flying which require a little bit more effort but make a big difference.

For more information check out: <www.planestupid.com>, <www.grida.no/climate/ipcc/aviation/index.htm>, and <www.monbiot.com>.

Angela Nagle
Mayfield, NSW
(Abridged)

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Photo: Mark Evans (www.hooroo.com)

editorial

The Politics of Counter-Terrorism

Anthony Kelly and James Whelan

Since 2001, over 40 security-related laws and statutes have been passed in Australia. Australia's internal security infrastructure, police and intelligence agencies have been expanded to an unprecedented degree. This special issue of Chain Reaction explores the impacts of this wave of counter-terrorism expansion and the challenges from Australia's civil society.

In late 2001, whilst governments throughout the Western world were hastily drafting counter-terrorism legislation in the wake of the September 11 attacks, human rights networks, legal and civil liberties organisations were quick

to warn of the dangers of undermining basic rights and freedoms.

Six years later, these concerns have largely been realised. The war in Iraq has indeed escalated the global terror threat. Muslim communities are targeted and increasingly isolated. We have witnessed a startling overreach of executive power made possible by these laws.

Less visible has been the shrinking of our treasured and precious political space, the space within which we can safely voice our dissent and work for change. Restrictions on political space can be legal or political, as well as internal

inhibitions. This political 'chill effect' limits our ability to take political action in subtle ways, silencing us, encouraging activists to reign in their own behaviour whilst preventing others from even becoming active.

Most explicitly, this shrinking of political space has been experienced by Muslims, as described by many of the contributors to this issue. Muslim people in Australia have felt the full brunt of this extraordinary legislative and policing mentality, and the resultant fear, isolation and insecurity as highlighted by Agnes Chong from the Australian Muslim Civil Rights Advocacy Network. Marika Dias from the Federation of Community Legal Centres highlights the silencing of political and religious communications in Muslim communities. Nina Philadelphoff-Puren asserts, when discussing the silencing of Mamdouh Habib, "We must not turn away".

'Enemy creep' is a feature of counter-terrorism politics around the world – the gradual shift in the definition of terrorist to fit a widening circle of dissenters. We are seeing this in Australia. Asylum seekers have languished on islands and in camps for years on dubious national security grounds, while US peace activist Scott Parkin was deported due to a secret ASIO assessment. In 2006, Victorian police utilised counter-terror powers to search activists from the Black GST protest group. Environmental activists faced charges designed to thwart terror attacks on shipping. A political artist had public work removed unlawfully by local police on the grounds that it could be seditious. In 2007, the houses of activists associated with the G20 protests were raided by officers from a NSW counter-terror unit. The massive security operation surrounding the APEC summit in Sydney provided a chilling picture of how counter-terror laws and resources are increasingly shifting toward the containment of domestic protest movements.

None of this is happening in isolation from the economic or political context. Counter-terror laws are made in a world of vast socio-economic inequities, and at a time in which governments are highly aware of the social upheavals likely with rampant climate change. Counter-terror initiatives are coordinated globally as an adjunct to decades of militarised corporate globalisation.

Since 2001, counter-terror regimes have been blatantly used by autocratic and democratic countries alike for the containment of internal conflict and liberation struggles. The listing of many overseas political organisations – including the Kurdish PKK, which poses no perceivable threat to Australia – as "terrorist organisations", and the recent charging of Aruran Vinayagamoorthy and Sivarajah Yathavan for allegedly "making funds available" to the Tamil Tigers in Sri Lanka are prominent examples of Australia's complicity in this.

But things are shifting. Five years ago David Hicks was largely ignored by the Australian public. It took years of dogged advocacy and mobilisation but public pressure was eventually brought to bear. These days, as we saw with Dr

Haneef's detention earlier in 2007, the public response is a rapid mobilisation of concern and outrage. Australians are becoming sensitive to the complex injustices and human rights violations perpetrated in the name of our "security" – Hicks's five years of detention without trial, the injustice over Jack Thomas's control order, Scott Parkin's deportation, the treatment of the Barwon 13.

This shift in public response has largely been due to the tireless efforts of people like the contributors to this special issue of Chain Reaction and the organisations they represent. In effect, Australia's counter terror-regime has been shadowed by an unprecedented campaign of popular human rights education.

Australian human rights, legal and civil liberties networks have been examining and challenging counter-terror laws. There have been senate enquiries, public meetings, forums, countless submissions made and now a growing list of legal challenges and defence strategies. Numerous groups, such as Civil Rights Defence, have demonstrated the importance of grassroots street protests and defiant acts of public support.

This Chain Reaction issue represents a cross-section of this movement in Australia. Over six years a range of standpoints and strategies have emerged. Phil Lynch, from the Human Rights Law Resource Centre, highlights the importance of strengthening international human rights mechanisms and the role of the Special Procedures of the UN Human Rights Council as it relates to Australia's counter-terror laws.

Spencer Zifcak from New Matilda argues that the need for a human rights act is "more acute now than at any time since this country went through an eerily similar 'war on communism' fifty years ago".

Other contributors highlight the continuing need for solidarity and support for those imprisoned, deported or swept up by politicised charges, national security hysteria, enemy creep, and those communities targeted and ostracised.

As activists we need to recognise that we are working in a changing environment. This means more than adopting safer and more security-conscious practices. Brian Martin discusses some basic initiatives that activists and groups can undertake to build resilience to increasing levels of political repression.

By working strategically and with a greater ability to mobilise the community, the array of legal bodies, human rights networks and grassroots activist groups can form a chain of protection against injustices in name of the "war on terror". But if we are to build movements capable of stopping wars and dangerous climate change, as Holly Creenaune warns, Australian social change movements must place the protection of our political space high on our agenda.

Anthony Kelly is the editor of <activistrights.org.au> and a trainer with Peace Brigades International. James Whelan is co-director of The Change Agency.

National Security and Counter-Terrorism

Andrew Lynch and George Williams

Until September 11, Australia had no national laws dealing with terrorism. It and other forms of political violence were dealt with by the ordinary criminal law. Since March 2002 we have enacted 44 new terrorism laws, or a new law around every seven weeks.

In our view, new laws were needed to deal with terrorism. A legal response was required to signal that as a society we reject such violence and to ensure that our police and other agencies have the powers they need to protect the community. Laws were also needed to fulfil our international obligations as a member of the United Nations.

Governments across Australia deserve credit for recognising this. In hindsight, our legal system prior to September 11 reflected complacency about the potential for political violence in Australia and the region. However, systemic issues must be addressed if we are to avoid repeating the errors of the past five years.

First, laws have regularly been made without sufficient justification that the change is needed. A new anti-terror law should be enacted only where the argument for it has been powerfully made so as to justify it as a means of dealing with a specific and identifiable problem.

It is not surprising that our political leaders, as members of parliament and law-makers, have turned to new laws as a front-line response to terrorism. New legislation is at least within their control and is a symbolic and potentially practical response. However, while our elected representatives may want to be seen to act in response to the attacks that have taken place, we need to be realistic about what new laws can achieve.

New laws cannot provide long-term solutions. Legislation is unlikely to tackle the causes of terrorism, nor to deter a terrorist from a premeditated course of action. Further, law-making may direct attention away from the debate over other, more effective, responses. As the drivers of change after a terrorist attack, grief, fear and political opportunity are some of the worst possible motivations.

Second, our response after September 11 has been essentially reactive. The rush to legislate after an attack has been a hallmark of Australian counter-terrorism. Each new attack and set of disturbing images has meant one or often several new laws. However, by itself, an attack does not mean that the government needs new powers. This can only be determined after careful scrutiny of our existing laws in light of what can be learnt from the attack.

Unfortunately, new laws are often made with such haste that a careful assessment of where we already stand has been made near impossible. The laws passed after the London bombings were enacted so quickly that they came into force

before two ongoing inquiries into the effectiveness of our existing laws could report.

The cycle of an attack followed by a new law is dangerous. Driven by fear and the need to act, we run the risk of an ongoing series of over-reactions. This is the dynamic that terrorists rely upon. What they cannot achieve by military might, they seek to achieve by stimulating our fears. By our own actions we may isolate and ostracise members of our community, who instead of assisting with intelligence gathering become susceptible targets for terrorist recruitment. Through our over-reactions and short-term thinking, we may actually make ourselves more vulnerable to terrorist attack.

Third, we have lost sight of the vital need to preserve fundamental freedoms. The object of the laws cannot be national security at all costs. The goal should be to protect the community from terrorism but only while ensuring that we retain the freedoms that make Australia the country it is. This involves some give and take.

Some basic rights like privacy should be limited in appropriate circumstances to ensure that our police and intelligence services can deal with a threat. On the other hand, many other changes cannot be justified because they disproportionately undermine democratic principles. The new sedition laws are an example. They potentially imprison people for what they say rather than for what they do, and arguably for little gain in preventing a terrorist attack. We should not damage our democracy and liberties in this way in the name of defending them against terrorism.

Australia is especially vulnerable to this. As the only democratic nation without a national bill of rights, we must rely upon the parliamentary process or the good sense of our political leaders. These are ineffective checks at a time of community fear and, in any event, are not safeguards that are now regarded as sufficient in any like nation. While it is encouraging that the ACT now has a Human Rights Act and Victoria a Charter of Human Rights and Responsibilities, protection for our speech and other rights is also needed at the federal level.

Fourth, public debate on our laws is often not based upon a realistic assessment of the risk and an understanding of the limits of the law. There has always been and will always be a risk of a terrorist attack. If the goal is to eliminate that risk, we will fail.

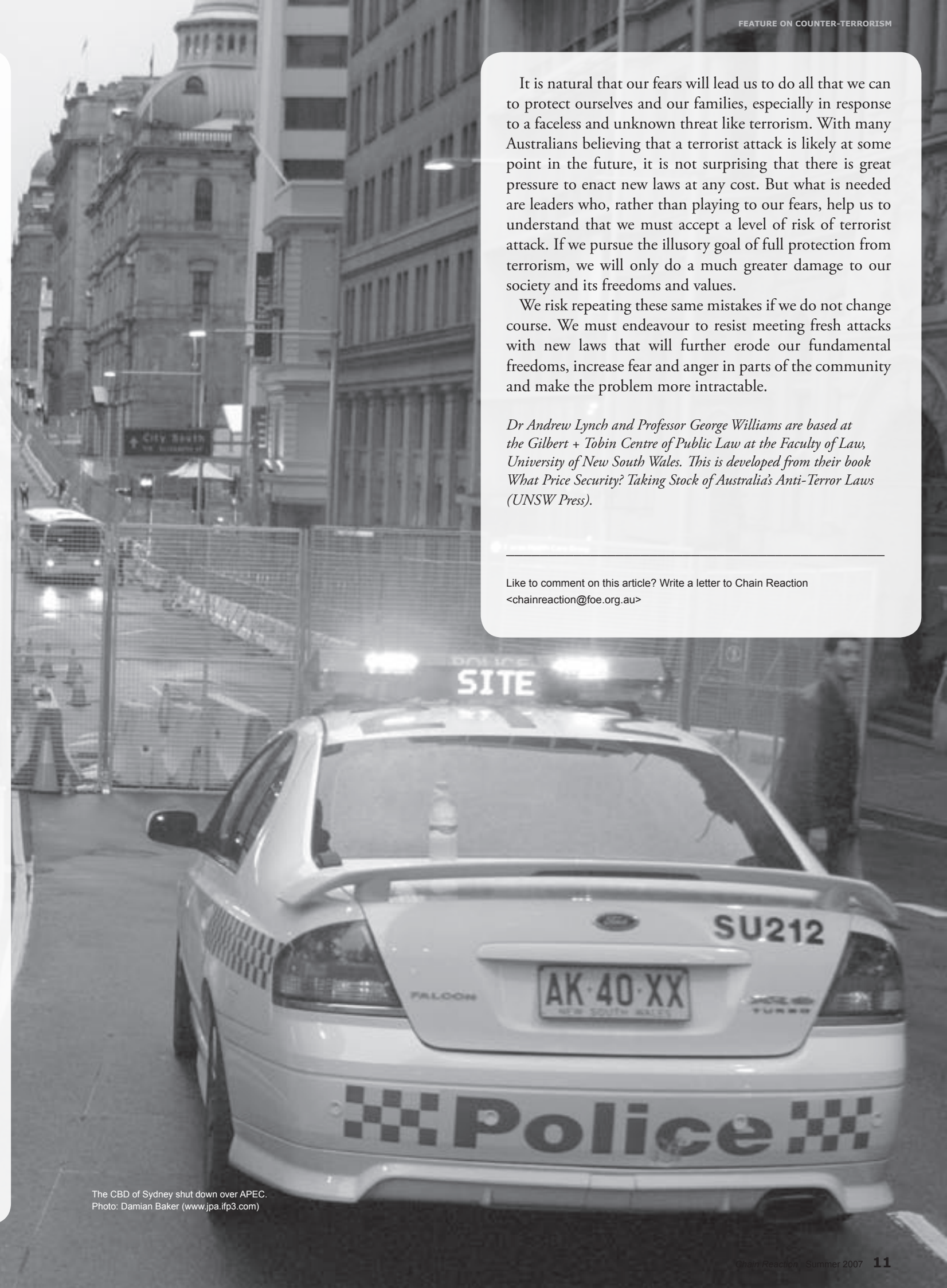
The law, no matter how stringent, cannot guarantee our security. Moreover, as history shows, the more repressive or draconian the law, the more that some people will be likely to take extreme action. The law can thus also become part of the problem that we are seeking to mitigate.

It is natural that our fears will lead us to do all that we can to protect ourselves and our families, especially in response to a faceless and unknown threat like terrorism. With many Australians believing that a terrorist attack is likely at some point in the future, it is not surprising that there is great pressure to enact new laws at any cost. But what is needed are leaders who, rather than playing to our fears, help us to understand that we must accept a level of risk of terrorist attack. If we pursue the illusory goal of full protection from terrorism, we will only do a much greater damage to our society and its freedoms and values.

We risk repeating these same mistakes if we do not change course. We must endeavour to resist meeting fresh attacks with new laws that will further erode our fundamental freedoms, increase fear and anger in parts of the community and make the problem more intractable.

*Dr Andrew Lynch and Professor George Williams are based at the Gilbert + Tobin Centre of Public Law at the Faculty of Law, University of New South Wales. This is developed from their book *What Price Security? Taking Stock of Australia's Anti-Terror Laws* (UNSW Press).*

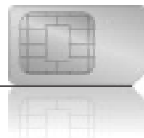
Like to comment on this article? Write a letter to Chain Reaction
<chainreaction@foe.org.au>



The CBD of Sydney shut down over APEC.
Photo: Damian Baker (www.jpai.fpa3.com)

Maps, Snaps, Taps and SIM Cards: Tools of an Accidental Terrorist

Agnes Chong



When the Chaser team arranged for an American tourist to take snaps of the Sydney Harbour Bridge, no security guard came to question what he was doing even after fifteen minutes. When Chas Licciardello himself dressed up in a bad Arab costume, stuck on a big bushy beard, and walked onto the bridge with a camera, he was stopped within three minutes. He hadn't even got to the same spot where the American tourist had loitered. When the same experiment was repeated at Lucas Heights, the American tourist took plenty of pictures and was pointed out where to get security clearance to visit the facility. When the Arab Chas approached the facility, a security vehicle screeched right up to him within three minutes, and he was told that no photographs were to be taken in the vicinity at all.

This is comedy of course, but comedy is truly great when it rings of truth. When people are encouraged to be alert to their surroundings, it is not difficult to imagine which acts or which people will appear most suspect. While we may laugh at Chas Licciardello being questioned by security, there are some for whom this is an everyday reality. Some Muslims feel that the post-September 11 environment places extra pressure on them to behave very well in public, and become unnaturally conscious of performing commonplace activities such as disposing of garbage or taking photographs.

What has contributed to this heightened state of alert that makes the general community suspicious of Muslims, causing some Australian Muslims to feel less welcome than a busload of tourists? Yes, there is that constant concern about the unrelenting negative media coverage of arrests, raids and searches related to terrorism and the often unsubstantiated link that is made to Islam and/or Muslims. There is also the distinctly unhelpful commentary as well as verbal stoushes between politicians and their desire to appear to have a tough stance on terrorism, sometimes at the expense of reason and logic. The most recent example is the Queensland Senate candidate James Baker calling for "all radical Muslims" to be incarcerated in the event of a terrorist attack in Australia.

However, the most significant contributing factor is the anti-terrorism laws that have been introduced since September 11. These laws have been described as being too broad, as the definitions in the laws are vague and all-encompassing. Certainly the nature of prevention requires that some activities leading up to a terrorist act should be examined and scrutinised. However, the laws that have been introduced appear to cover a broad range of activities and situations, some of which are far removed from any actual terrorist act.

For example, not only is it an offence to commit a terrorist act, it is also an offence to recklessly provide resources for a terrorist act; not only is it an offence to be a director of a terrorist organisation, it is also an offence to meet or communicate with that director of a terrorist organisation on two occasions intending to provide support. It is an offence to train, to finance, or even to possess anything connected to the preparation or planning of a terrorist act. To avoid committing a terrorism offence, the mere act of making a charitable donation requires a careful examination of who you are donating to, what that money will be used for, or where that money may end up. And as we have seen in the recent Haneef case, it appears that even giving away your phone card to a relative because you don't want to waste the credit on it could mean that you are detained for questioning for more than 12 days, charged with recklessly providing support to a terrorist organisation, and then having your visa revoked because the Minister deems that you are associated with alleged criminals.

While every murder, armed robbery and kidnapping is investigated with the noble aim of bringing every culprit to justice, it is impossible to check and monitor every charitable donation and every SIM card. Such broad offences necessitate some discretion as to how these laws are applied. Law-enforcement agencies have to be selective in who they target or monitor. Recent laws have given police the power to intercept certain communications without a warrant. Phone lines of non-suspects may be monitored. Video surveillance on everyday activities is permissible without warrant. Police now even have the power to enter your premises (trespassing through your neighbour's property if necessary), search it, photocopy documents and so forth without your knowledge.

In addition, because the definition of "terrorist act" requires an examination of the person's motives on political, religious or ideological grounds, it also requires law enforcement agencies to judge which ideologies are acceptable. This means certain groups will be of particular interest to intelligence gathering communities and law enforcement agencies. Accordingly, it is not surprising that the overwhelming majority of banned organisations are self-identified as Muslim organisations. Neither should it be surprising that the consequent use of police and ASIO powers would be concentrated on the section of the population that identifies as Muslims.

However, the problem is that a real terrorist is more likely to dress in plain clothes than in Arab garb. The misdirection of attention could lead to oversight that could potentially be



AMCRAN stall
Photo: Australian muslim Civil Rights Advocacy Network

devastating. At the same time, the perception in the Muslim community that they are being targeted, scrutinised and marginalised by the government's response to terrorism is counter-productive. This is all the more so at a time when Australia's Muslims already feel alienated, marginalised and targeted – there have been six years of relentless bad press, with or even without the attacks on September 11; they have had to respond to Muslim gang rapes, Muslim "queue-jumping" asylum seekers, the Cronulla riots, speaking English, integration, citizenship, Aussie values, and all the appropriate and inappropriate comments from their community leaders, representatives and non-representatives. They have had to defend, explain, excuse, distance, condemn, and at times, it seems, even to justify their existence.

Justified or not, many in the community have developed a siege mentality. Some adopt the mindset of victims, others show manifestations of fear, isolation, insecurity or even paranoia. Parents are careful to advise their children not to go to protests, certain classes or certain mosques. Worryingly, some members of the Muslim community feel as if they are being watched for their every move. Recent research from Edith Cowan University has found that since September 11, Australian Muslims are likely to be afraid of even "being in the city, in their neighbourhood, or in any public place". Almost half of the respondents to a small-scale survey conducted by the Australian Muslim Civil Rights Advocacy

Network in 2005 felt they were monitored in some way by authorities – they believed that their mail was being opened, or that their phones were bugged.

The Edith Cowan University research also found that the community experiences "a fear of government" and "distrust of media" which lead to a closure of the community. It revealed that some Muslims were suspicious of connections between government and the media, and the fear led to loss of trust in their own society.

Each of these perceptions causes ripples of disempowerment which serve to undermine the spirit of cooperation that must exist between Muslims, the wider community and the authorities if terrorism is to be fought and eliminated. More dangerously, if it seems that maps, snaps, taps and SIM cards can constitute accidental terrorist behaviour, then it is not just the Muslim community that should be concerned about the effects of this, but the wider community also. In fact it may already be the case, if the heavy-handed approach to APEC security is anything to go by.

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APEC protest, Sydney 2007
Photo: Damian Baker (www.jp3.com)

Collateral Damage: Freedom of Expression in the 'War on Terror'

Marika Dias

Australia's anti-terrorism measures have undoubtedly affected freedom of expression. An obvious example of this is the sedition laws. Despite significant public opposition, these laws were "updated" in late 2005. Broadly described, the sedition laws prohibit speech that urges the violent or forceful overthrow of the government, violent or forceful interference in elections and inter-communal violence, as well as speech urging others to assist an enemy of Australia. These laws clearly criminalise particular kinds of speech and dissent, namely the kinds most commonly associated with revolutionary politics and insurgency.

Another case demonstrating the impact on freedom of expression was the banning of two books because of their perceived links to terrorism. In July 2006 the Classification Review Board refused classification to the Islamic books *Join the Caravan* and *Defence of the Muslim Lands* on the basis that they promoted and incited terrorism. Prompted by these cases (in particular by the fact that the books were not initially banned but were only banned upon review), the government has recently passed laws changing the classification scheme to explicitly ban material that advocates terrorist acts. Relying on extremely broad definitions for "advocates" and "terrorist acts", these new

laws have the potential to significantly restrict political, religious and ideological expression.

But Australia's counter-terrorism laws and policing have also indirectly affected the freedom of expression of particular religious and ethnic groups. While this impact has not been as overt as the examples above, it has arguably been much more widespread.

Australia's national security hotline is an example of this. For years a pervasive advertising campaign has encouraged the public to report anything and everything suspicious. At the same time, Muslim communities have frequently been depicted in the media and by politicians as being inextricably linked to terrorism, thereby casting those communities as inherently suspicious. Exacerbated by a widespread community backlash against Muslim communities after 11 September 2001, anecdotal reports suggest that this has led to many cases of Muslim individuals being reported to the hotline simply for expressing certain political and religious views. Knowing that they are regarded with suspicion, people are forced to stifle their public speech to avoid being the subject of a report to the hotline. This has no doubt had a chilling effect on speech and political/religious communications in Muslim communities.

The types of evidence relied on by authorities in prosecuting terrorism cases has also sent the message that there are some things that certain communities cannot speak about. The case of Abdullah Merhi, who is currently facing terrorism charges, is an example of this. In a bail application hearing, the prosecution read transcripts of a conversation between Merhi and a co-defendant in which Merhi allegedly talked about retaliating against John Howard for taking the lives of other Muslims (in the Iraq war) and about sending a "message back" to avenge Muslim deaths. He also allegedly raised questions about whether such retaliation falls within the scope of the Islamic faith. These musings were relied upon by the prosecution as evidence that Merhi and his co-defendants were involved in a group and that the nature of that group was "jihadi". The message of this is clear: it is not acceptable to speculate, however vaguely, about revenge on the prime minister or about the scope of one's religion in relation to acts of violence, particularly if you are Islamic.

This evidence sends a particularly threatening message to communities that have already found themselves the subjects of official scrutiny in relation to national security. The listing of terrorist organisations, and the laws around terrorist organisations more broadly, have caused certain ethnic and religious groups to come under official scrutiny. Specifically, Islamic, Kurdish, Tamil and Somali communities have all found themselves under the watch of counter-terrorism authorities. Given the types of evidence that have been used in cases such as Merhi's, this scrutiny has a stifling and silencing effect. For fear of being prosecuted, community members are compelled to ensure that they do not possess certain kinds of political/religious material and to ensure that they do not engage in certain kinds of political/religious conversation or associations. In addition to the obvious injustice of this, when communities are compelled to stifle their expression insofar as it relates to liberation struggles or civil wars in their homelands, the effects will be deeply felt.

It is true that for many people, Australia's anti-terrorism legislation does not prevent them speaking their minds, accessing the books they want to read, pondering the scope of their religion's doctrines, or possessing a particular party or group's political materials. But for many others Australia's anti-terrorism measures have directly and indirectly attacked their freedom of expression. While the impact of the sedition laws is still in the realm of the hypothetical (there have been no prosecutions to date), the silencing of certain types of political speech along religious and ethnic lines is very much here and now. While it is perhaps not the most widely discussed consequence of our anti-terrorism laws, its effect on impacted communities is likely to be profound.

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Dr Mohamed Haneef: Observations

Stephen Keim

The circumstances faced by Dr Mohammed Haneef had a number of important characteristics. First, the mere mention of a terrorism offence raises a level of hysteria and prejudice that is absent from many criminal allegations. Haneef's lawyer, Peter Russo, perhaps without thinking too much about it, dealt with this prejudice in a very effective way. Assisted by working journalists who were already beginning to become sceptical about a system that arrested but refused to charge with an offence, Mr Russo, in a very calm and honest way, turned an anonymous terrorism suspect into a detainee with an identity; a family; with feelings; with ongoing day-to-day experiences; a personality and, eventually, a human face. Mr Russo did this by spending time with his client and by answering questions in a straightforward manner without the hint of spin.

Second, Dr Haneef had arrayed against him a new set of powers which had, apparently, not been previously used. These were being conducted neither in open court nor in a forum to which any rules of non-publication applied. There was enormous public interest in what was going on. It was also clear from my first conversation with the police officers bringing the application for further detention time, Mr Simms and Mr Rendina, that their view of the amount of detention that was appropriate and likely to be authorised by the legislation extended to multiples of weeks, perhaps months. Dr Haneef's reputation was also being attacked by continuing unsourced stories, apparently from law enforcement sources.

Third, in retrospect, the decision to continue to detain Dr Haneef after the conclusion of his first interview is neither explainable nor justifiable by law enforcement reasoning. The decision to charge after the second interview is even less justifiable since two weeks of investigation had failed, even more obviously, to yield a scintilla of a case against Dr Haneef capable of going before a jury. One does not have to take my word for these conclusions. The decision of the Director of Public Prosecutions, Damien Bugg, confirms them.

The question that has to be answered by future inquiries is how those decisions came to be so wrongly made. If the answer is that politics intruded into the law enforcement process, then the fundamental objectivity of law enforcement decision-making on which our society's rule of law is based has been corrupted and a new era of law enforcement based on political considerations has begun.

Fourth, it became much more explicit that Dr Haneef's freedom was being determined by decisions made away



Solidarity protest for detained US peace activist, Scott Parkin.

from the law enforcement system on Monday, 16 July 2007 when the decision of the bail magistrate was trumped by the decision of the Minister for Immigration to cancel Dr Haneef's visa. It became, expressly, the case that my client's freedom and well-being were now being decided by political decisions made by the Executive. The political dimension of this decision making process is not diminished by the current litigation. Mr Andrews predicts the current litigation is destined for the High Court. At the end of the day, however, the High Court will only decide whether a decision made by Mr Andrews in the past was lawful. The day after a High Court decision in Dr Haneef's favour, in fact, knowing Mr Andrews as I do, probably the same day, Mr Andrews would be free to seek another briefing from law enforcement agencies and would be free to make a fresh political decision to cancel Dr Haneef's visa. Whether or not that happens is in the realm of politics and not in the realm of the courts and the law.

My fifth observation is that the political decision to cancel Dr Haneef's visa has never been and is not able to be subject to any review on the merits in any independent Court or Tribunal. It is trite law that the limited judicial review available in respect of decisions of the Minister pursuant to s.501 of the Migration Act 1958 ("the Migration Act") does not involve any consideration of the factual merits.

The lawyers have and will continue to debate the correctness of the minister's decision by reference to facts that everyone would now acknowledge are wrong, such as the allegation that Dr Haneef lived with his cousin, Sabeel, at 13 Bentley

Road, Liverpool. Even after the hearing at first instance in the Federal Court, counsel for the Commonwealth made references to acknowledged incorrect facts to support his client's application for a stay of Justice Spender's decision to set aside the Minister's decision as unlawful.

Dr Haneef's case is not yet over. He can only be freed from his nightmare by an Australian Minister for Immigration restoring his immigration rights on a full and unconditional basis. That process may take years of lobbying and litigation.

The lessons from Dr Haneef's experiences will take years to emerge fully. I would expect that those lessons will include the need to review the Migration Act and reverse the years of legislative energy devoted to removing the rule of law from our migration law and replacing it with unaccountable and opaquely political exercises of Executive discretion.

As the prosecutorial decisions in Dr Haneef's case strongly suggest, the removal of the rule of law from one part of our society's operations provides a conduit for their removal from other aspects of our life.

Stephen Keim, Senior Council, has been a barrister for 22 years. This year, he gained some notoriety when he acted for Dr Mohamed Haneef.

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Waiting for a Trial

Gerard Morel

Two years. That's the length of time the Barwon 13 have spent in prison, waiting for a trial.

Since late 2005, these 13 men accused of terrorism have been held in the maximum security Acacia wing of Victoria's Barwon Prison. They are in solitary confinement for up to eighteen hours a day, with no physical contact allowed with any visitors – wives, children, parents – older than sixteen. Visits are conducted in boxes through thick glass and the men are strip-searched before and after each visit; their arms and legs are chained with manacles and leg-irons the whole time. They are in more severe conditions than the convicted murderers imprisoned alongside them – and yet they have not had a trial.

Their names are Hany Taha, Nacer Benbrika, Shane Kent, Aiman Joud, Fadal Sayadi, Amer Haddara, Izzydeen Atik, Abdullah Merhi, Shoue Hammoud, Bassem Raad, Ezzit Raad, Ahmed Raad and Majed Raad. Their lives have been ruined, their families deprived of income, their community has been divided and has learnt to live with fear. And yet they are accused of less – and are almost without doubt "guilty" of less – than any of the more well-known victims of the terror laws, such as David Hicks and Jack Thomas.

The UN Working Group on Arbitrary Detention considered the case in May 2007. They found that the "conditions of detention, as described by the source and not contested by the government, are particularly severe, especially taking into account that they have been imposed upon persons who have not yet been declared guilty and who must, accordingly, be presumed innocent".

The Australian Federal Police and the government have yet to demonstrate how the Barwon 13 men are a danger to anybody. It's hard to avoid the conclusion that their detention is political, part of the ongoing fraud of the "war on terror" as an election-winning cover for the erosion of civil liberties.

In November 2005, just as the Workplace Relations Bill was introduced into parliament, John Howard announced that Australia was facing a potential terrorist threat, and an amendment to anti-terrorism legislation was rushed through parliament. This amendment focused on a single word – references to "the terrorist act" were changed to "a terrorist act". It was a significant change, however, making it possible for people to be charged with preparing for an unspecified terrorist attack – one without a date, a target or any definite plans – as opposed to a specific, planned terrorist attack. It was the culmination of attempts to broaden definitions of terrorism, to make terrorism offences a matter of attitudes or even thoughts, rather than any specific acts.

One week later, 10 Muslim men were arrested in Melbourne, while another seven were arrested in Sydney (more men were arrested in Melbourne shortly afterwards). Politicians – federal and state, Liberal and Labor – immediately joined Howard in declaring that Australia had been saved from a terror attack. The then Victorian Premier Steve Bracks announced that police had disrupted "probably the most serious preparation for a terrorist attack that we've seen in Australia". Victoria's Police Commissioner Christine Nixon added that "We are certainly of the belief that there was the

Barwon picket
Photo: Civil Rights Defence

potential for great harm to be done to the community, we have thwarted that.”

The “most serious preparation for a terrorist attack”?

The Melbourne men, the Barwon 13, have never been charged with preparing for any specific terrorist act. In fact, the amendment to the terror laws was necessary precisely because there was no such act in preparation. The men were simply charged with being members of a terrorist organisation. This organisation is unnamed and unspecified – in fact, it simply consists of the accused men themselves. Moreover, when the men were brought before a committal hearing in August last year, there was little, if any, evidence to suggest that there was any relationship at all between the men in Sydney and those in Melbourne.

The prosecution presented 16,400 hours of taped conversations and 66,000 pages of documents as evidence, a result of their six month surveillance exercise. Yet despite this, even the prosecutor admitted the legal case against the 13 men was “largely circumstantial”. Much of the evidence consists simply of conversations between the men, leading to criticism that they are being accused of “thought crimes” – arrested for things that they thought or said, rather than anything that they did. There have been no allegations that the Melbourne men planned to damage property or injure people.

However, despite this, the men were committed for trial, refused bail and have now spent two years inside Barwon prison. Their trial is scheduled for early 2008, and we can expect more hysteria from the media at that time. There seems little likelihood of a fair trial, given that so many unsubstantiated allegations against the men have been made by politicians at such a high level. Perhaps because they were initially branded terrorists by the media, police and politicians (even though subsequent evidence does not support such a claim), there has been little community outrage about their lengthy incarceration in extreme conditions without conviction.

Unlike the campaigns in defence of David Hicks, Jack Thomas and Mohammad Haneef, Civil Rights Defence has struggled to get media publicity and public support for these men. Since the disastrous brawl at the first court appearance between Barwon 13 family members and media (which one lawyer involved with the case suggests was police instigated), there has been little media attention, let alone sympathetic articles or current affairs items on television as in the cases of Hicks or Thomas. Could the reason be that the Barwon 13, in addition to being Muslim, are mostly Lebanese? Or is the media simply complying with the government’s political, rather than legal priorities – keeping quiet about the case until a sensational “disclosure” enables the government to highlight the terrorist threat to boost flagging polls or endorse further attacks on civil liberties?

What can be done?

Civil Rights Defence has been trying to raise awareness about this case since the men were first arrested. Actions have included demonstrations outside the committal hearing, as well as two bus trips to Barwon Prison, 40km west of Melbourne, which aimed to highlight the fact that unconvicted prisoners were being held in harsher conditions than convicted “gangland” figures such as Carl Williams. At the time, state Labor ministers such as Rob Hulls were demanding the Howard government act to repatriate David Hicks from Guantanamo Bay while at the same time administering not dissimilar regimes just outside Geelong, complete with solitary confinement, shackles and orange jumpsuits.

Civil Rights Defence is a campaign group that has organised actions for some years to campaign for individual terror-law victims and for the repeal of the anti-terror laws generally. Our standpoint is that, regardless of the guilt or innocence of the people accused, there is nothing that they are accused of doing that couldn’t be dealt with under conventional laws. As it is, the anti-terror laws have opened a Pandora’s box of possible future abuses. If, as in the case of Jack Thomas, the Federal Police can simply put a control order on someone they don’t like, even after he has been acquitted of all terror offences in court, where does that leave the rest of us?

The next action organised by Civil Rights Defence is a protest on the second anniversary of the Barwon 13’s incarceration, in mid November. For details or to get involved, CRD’s contact details are provided elsewhere in this edition.

It’s important to remember that protest really does make a difference – even with the Howard government. When Civil Rights Defence organised a protest for David Hicks in 2005 we could barely attract twelve people. At end of 2006, about 5,000 braved 40 degree heat in Federation Square over the same issue. Nothing had changed, except that thousands of protest actions – from letter-writing to protests and speaking tours by Terry Hicks and David’s lawyers – had influenced enough people for it to become an electoral problem for the Howard government. Suddenly this supposedly appalling individual (“the worst of the worst”) had his imprisonment in Guantanamo cut short. A deal was struck and he was brought home.

We can do better in the case of the Barwon 13. But we need active support.

Gerard Morel is a long-time member of Civil Rights Defence.

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Five years in Guantanamo Bay protest.
Photo: Amnesty International Australia

Dangerous Words

Nina Philadelphoff-Puren

Since his release without charge from Guantánamo Bay in 2005, Mamdouh Habib has participated in the “Torture Victims Speak Out!” lecture series organised by the National Union of Students. He came to Monash University in Melbourne in September. The small lecture theatre was packed to capacity, but only those in the know were there – the posters advertising his appearance had been torn down within hours of their appearance on university noticeboards. He was dressed in a neat blue suit and was comfortable in front of the audience. His wide-ranging speech included commentary on the War on Terror and the practice of torture in US-run prisons around the world.

Habib had just received the news that he was to be sent home from Guantánamo Bay after more than three years of confinement. As he made his preparations for the journey, he was surprised to find the guards shackling him. He told them, “I’m not charged with anything, and I’ve been here for years, and now you are releasing me. What do you think I’m going to do to you now?” He reports that the guards replied, “If your hands are free, you could attack us.” Habib retorted, “If my hands were free, I would not attack you, because that would make you happy. Instead, I’m going to

use my tongue to tell people what you are”.

Habib clearly recognises that the most powerful thing that former Guantánamo Bay detainees can do is to speak publicly and critically about their experiences. The media is awash with words about them, but rarely hears words from them. And no wonder. Such stories directly contradict the moral premise of the War on Terror, which is precariously balanced on the idea that the United States and its allies are only ever the victims of aggressive or egregious conduct, and never themselves the perpetrators.

Few in Australia want Habib to tell his story. Former Opposition leader Kim Beazley opposed his request to address a Senate Committee about his experiences in Guantánamo Bay. The former education minister Brendan Nelson condemned a university for permitting him to speak to students about what had happened to him. Three men in Sydney stabbed him outside his home with the words, “You’d better keep quiet”. Not long after this attack, a man approached him in a local shopping centre and told him that if he should write a book about his experiences, he would be killed.



Guantanamo Bay activists in a cage.
Photo: Amnesty International Australia

This is clearly a man possessed of dangerous words. What is it precisely that people don't want him to talk about? The answer appears to be torture. Since his return to Australia in January 2005, Habib has repeatedly testified to multiple experiences of torture (including on 60 Minutes, Dateline, Insight and Four Corners). Arrested as a terrorist suspect in October 2001 and then interrogated in Pakistan, Egypt and finally Guantánamo Bay, Habib registered complaints of torture in each location from as early as December 2001 in letters to his family and reports to the Red Cross. He reports that while he was in Egypt, he was beaten, threatened with dogs and cattle-prods, suspended from hooks while balanced on an electrified metal drum, and confined to a room that was filled with water up to his chin. He was also shown photographs of his family with pictures of animals superimposed over their faces, and told that they had been killed.

The Australian government has refused to establish an independent inquiry into these claims. To date, they have relied on the results of investigations conducted by the US Department of Defence and the US Navy. Consider, for example, the foreign minister Alexander Downer's response to the question of whether he was concerned about Habib's claims that he had been stripped, beaten and humiliated while in US custody: "Well, the Americans tell us that none of these things have happened". (ABC Radio, May 12, 2004).

But where does this leave the words of an Australian citizen who says he was tortured? Habib's testimony is left here as a painful residue, deprived of both acknowledgement and independent investigation. But what he says is nonetheless so important that we must listen to him.

We need to get to the bottom of Habib's words because he has consistently claimed that an Australian official was present during at least one of his interrogation sessions, a claim which the government denies. Habib also insists that his Egyptian interrogators relied on information that ASIO officers had taken from his house in Sydney. As a recent investigation by ABC's Four Corners (June 11 2007) indicated, this all raises deeply disturbing questions. The Australian government repeatedly said that it could not confirm that Habib was in Egypt. Four Corners revealed documents that suggest otherwise. By 19 November 2001, it is clear that officers of the Australian Federal Police and the Department of Foreign Affairs and Trade knew exactly where he was. But what did they do with this knowledge? Egypt is notorious in the international community for its use of more than seventy forms of torture. If the government knew that an Australian citizen had been rendered to Egypt by the United States, then it should have rung alarm bells. It is terrifying to think that they did nothing.

Even more troubling than this inaction are the official attempts to discredit his words. Habib appeared on Channel Nine's 60 Minutes program on February 13, 2005, immediately after his return to Australia. He provided a detailed account of the various modes of torture that he suffered, particularly while held in Egypt. Despite the deeply shocking nature of his claims, they received almost no attention at all in the Australian media. Instead, the focus was on ostensible omissions in his interview, including, for example, his refusal to divulge his reasons for his visit to Afghanistan. This was characterised by various commentators as a "massive evasion".

However, some officials did address the issue of the torture claims. The response of the former ASIO Director General two days after Habib's interview is exemplary here. In the context of Habib's testimony on 60 Minutes, Mr Richardson made the following statement regarding the claims of torture that Habib had made to the Australian Federal Police in 2001: "His claims of torture lack credibility. We didn't consider that they needed to be considered and investigated – we believed they were humbug and we would consider them humbug if he were to raise them again today" (ABC News, February 15, 2005).

For Richardson, Habib is literally incapable of testifying to torture. Any words he utters on the subject will be "humbug" – a hoax, a fraud, a sham, a deception, a pretence. There is literally nothing he can say, no sign he can emit, which will be testable, credible, or truthful. Foreign minister Alexander Downer continued this effort to undermine Habib's testimony. The day after the 60 Minutes interview, Downer remarked on 2UE Radio that Habib had explained

that he had confessed to various crimes because he was being tortured "but then remember we have no evidence except his own claims, the claims of somebody who allegedly has been involved with Al Qaeda – that he was subjected to torture".

So all we have is Habib's words – words that are well on the way to being disqualified. Despite these attempts to discredit him, Habib continues to testify to what happened to him. In his current litigation before the Federal Court, Habib is accusing government officials of complicity in his kidnap, false imprisonment, rendition and torture. The government has tried to have his case struck out. The cruelty of these attempts to block judicial scrutiny of his case cannot be overstated. Torture itself attacks the voice, by breaking it into incoherent sounds of pain or forcing it into the artificial shapes of so-called "confession". A key aspect in any torture survivor's recovery is the ability to tell their story and have it acknowledged. Official efforts to stop this process attempt to deprive Habib of the chance to receive that recognition.

We will only get to the bottom of Mamdouh Habib's dangerous words with a public, independent inquiry into his claims, such as that conducted by the Canadian government in the case of Maher Arar. Arar was tortured for a year in Syria after being taken into US custody in New York on his way home from a family holiday in Tunisia. He was beaten, interrogated and made to sign false confessions, after a long confinement in a cell that he described as a "grave". Arar received compensation and an apology from the Canadian government, and public acknowledgement of the crimes committed against him. Habib deserves the benefit of a similarly transparent process. And so do we. Were Australian officials complicit in the torture of a fellow citizen? If our civil society is to have any integrity at all, we have to know the answer to this question.

For all of these reasons, we must not turn away when Mamdouh Habib talks about torture. His words must not fall on deaf ears.

Dr Nina Philadelphoff-Puren is a lecturer at Monash University.

Closing the Chasm: The Case for an Australian Human Rights Act

Spencer Zifcak

Executive detention has become Australia's great human rights fault-line. And it is casting a dark shadow over our international reputation as a nation which is at the forefront of international human rights protection.

The first emergence of this crack in our legal and constitutional fabric opened following a series of High Court decisions on people seeking asylum. The Court, in one case, found itself powerless to order the release of children in detention in the face of a clear enactment that made no exception for children. This was despite the fact that their human rights had plainly been abused.

Similarly, in the face of a seemingly intractable statutory provision, the Court could do nothing in the case of Al-Kateb but decide that a stateless person could be detained by the executive government indefinitely and, if necessary, for life. It was seemingly not to the point that incarceration for life without charge and without a fair trial traduced almost every one of that person's legal rights, recognised by both international and common law.

The introduction of Australia's new anti-terror laws now threatens to turn crack into chasm. Among other things, these provide that Australians suspected but not proven to have been involved in terrorism related activity, may be detained for weeks or placed on control orders for up to a year. No charge or trial is necessary. The laws have been broadly framed and the powers they confer on the government have been imprecisely defined, leaving them wide open to abuse.

So, for example, the recent questioning of Dr Mohamed Haneef, while limited by legislation to 24 hours, involved him in an extended period of detention because the Australian Federal Police applied on several occasions for "dead time" to allow them to gather additional evidence against him. In that dead time, Haneef languished in the lock-up. Before the charges against him were dropped for lack of evidence, he had faced executive detention for up to two years until his trial commenced. That result was produced by the simple expedient of denying him his visa on "character" grounds after bail had been granted.

It is said that there are adequate judicial safeguards. In reality, judges issue warrants for preventative detention not

in their capacity as judges but in their personal capacity. This gives investigative proceedings the veneer of judicial impartiality. In reality, as Justice McHugh of the High Court said in a similar context, it puts the “designated person in the uniform of the constable”.

The relevant judicial proceedings can be very one-sided. People who are detained may not be provided with the evidence on which the relevant suspicion is based but only with a summary of that evidence. Alternatively, under national security laws, the Attorney-General may issue a certificate forbidding a person under suspicion from hearing or seeing any evidence against them if he or she believes that the disclosure may constitute a threat to national security. A person's right to be heard and to challenge the case may therefore be profoundly compromised.

While the courts remain independent, their authority is being undermined. Mr Jack Thomas was acquitted in the Victorian Court of Appeal of all charges relating to terrorist activity. He was placed immediately on a control order. Dr Mohamed Haneef was released on bail by a magistrate. His visa was instantly withdrawn so that his detention could be continued. The Federal Court overturned the Minister's decision to cancel the visa. The Prime Minister said flatly that the Court had got it wrong and the appeal may go all the way to the High Court.

With the courts increasingly sidelined, it might be thought that parliamentary scrutiny and review should ensure that repressive measures will not become law. Regrettably, recent parliamentary sessions have put paid to that. With a majority in both houses of parliament, the government

makes a mockery of legislative deliberation. To take but one example, legislative consideration of the anti-terror laws, including the receipt of more than 500 submissions to a hastily convened Senate Committee, its deliberations and report, and the parliament's debate, was confined to less than a week. Both a Senate Committee and the Australian Law Reform Commission recommended that the government's sedition laws be dropped. The Attorney-General rejected that recommendation outright.

It is sometimes argued that we do not need a charter of human rights in Australia because the parliament is best placed to protect them. Recent events should have shattered that complacent illusion. The current misuse of judges and marginalisation of the courts adds even more weight to the case for the enactment of a Commonwealth Human Rights Act such as that now drafted for discussion by the online magazine New Matilda.

The need for such an Act to protect our fundamental rights and freedoms is without doubt more acute now than at any time since this country went through an eerily similar “war on communism” more than fifty years ago.

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Amnesty International Australia protest in Sydney
Photo: Amnesty International Australia

The Importance of Special Procedures of the UN Human Rights Council in the ‘War on Terror’

Philip Lynch

The so-called “War on Terror” has had many “collateral victims”; human dignity and fundamental freedoms are high among them. The toll has been particularly high in Australia, where, unlike in the United Kingdom with its Human Rights Act, Europe with its European Convention on Human Rights, or even the United States with its Bill of Rights, human rights enjoy very limited constitutional or legislative protection.

The lack of domestic protection makes the use of international human rights frameworks and mechanisms particularly important in Australia. The Special Procedures of the UN Human Rights Council are one such mechanism.

Special Procedures (sometimes referred to as “Special Rapporteurs”) are independent human rights experts appointed by resolution of the UN Human Rights Council to examine, monitor, research, report and advise on human rights issues within their mandate. Key responsibilities of the Special Procedures include “urgent actions” or “urgent appeals”, which involve the Special Procedure communicating with a country to take action to investigate and address a

human rights issue of concern, and “country visits”, which involve the Special Procedure visiting a country to examine, report on and make recommendations regarding the human rights situation on the ground.

There are a number of Special Procedures with mandates of significant relevance to the promotion and protection of human rights in the “War on Terror”. Foremost, perhaps, is the Special Rapporteur on Human Rights and Counter Terrorism, Professor Martin Scheinin of Finland, whose mandate specifically includes making “concrete recommendations on the promotion and protection of human rights and fundamental freedoms while countering terrorism”. In late 2006, Professor Scheinin published his report on the situation of human rights and counter-terrorism in Australia, following an official visit earlier in that year. The report urges the Australian government to urgently reconsider key aspects of its counter-terrorism laws to bring them into conformity with international human rights standards. Key concerns of the Rapporteur include:

- the overly broad definition of “terrorist act”, which carries

APEC protest, Sydney 2007
Photo: Damian Baker (www.jp3.com)



serious consequences for rights and freedom of individuals;

- the lack of safeguards in relation to enhanced powers of search and seizure of Australian Federal Police;

- ASIO powers of questioning and intelligence-gathering; and

- the regimes for preventive detention and control orders.

The Rapporteur considered that these laws have serious implications for individuals' right to a fair trial, due process, and liberty and security of the person, and was critical of the haste and lack of public consultation with which the legislation was passed in Australia. "Because of the potentially profound impact of counter-terrorism legislation on human rights and fundamental freedoms", wrote Prof. Scheinin, "it is particularly important that governments seek to secure the broadest possible political and popular support for such legislation". He goes on to warn that it is "essential" to establish means of dealing with any potential abuses of counter-terrorism laws, and urges Australia to enact federal legislation to protect fundamental human rights and freedoms.

The Working Group on Arbitrary Detention is another Special Procedure that has expressed significant concern with the situation of human rights and counter-terrorism in Australia. At the Working Group's 48th Session in May 2007, attention was focused on the detention of 13 Australian men accused of terrorist-related offences (the Barwon 13).

The matter came before the Working Group pursuant to an urgent communication transmitted by the Human Rights Law Resource Centre in August 2006. That communication raised concerns as to the type, length, conditions and effects of the detention. In the Centre's submission, aspects of the detention were inconsistent with provisions of the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the UN Standard Minimum Rules on the Treatment of Prisoners. The Working Group's mandate constrained its consideration to whether the conditions of detention were of such severity and duration as to impede the right to the preparation of an adequate defence and a fair trial. The Working Group concluded that "the material before it does not disclose such a lack of observance of international norms relating to a fair trial which would confer on the detention an arbitrary character". Notwithstanding this conclusion, the Working Group's legal "opinion" on the matter expressed four significant concerns about the case.

First, the Working Group considered that the "conditions of detention, as described by the source and not contested by the government, are particularly severe, especially taking into account that they have been imposed upon persons who have not yet been declared guilty and who must, accordingly, be presumed innocent".

Second, the Working Group expressed concern that correspondence between the defendants and their lawyers is

scanned by prison officers and that legal professional visits are videotaped.

Third, the Working Group stated that they "remain concerned that the law appears to make the detention under extraordinarily restrictive conditions the rule for any person charged with a terrorist offence, without sufficient room for consideration of the specific charges against the detainees and their individual circumstances or dangerousness".

Fourth, the Working Group went on to say that the submissions from both the Centre and the government "suggest that the judges deciding on bail applications might not have sufficient discretion to consider these matters either, at least in the absence of 'exceptional circumstances'".

The impact of the conditions of detention of the Barwon 13 on their ability to prepare an adequate defence was also considered by the Special Rapporteur on the Independence of Lawyers and Judges in a report tabled before the UN Human Rights Council on June 11, 2007.

Writing in the Human Rights Law Resource Centre Bulletin, Andrew Hudson of Human Rights First in New York said that the Special Procedures are valuable and important not only internationally but also domestically for six key reasons:

"First, unlike many international mechanisms, they are flexible and able to respond to urgent situations rapidly. Second, they have a global reach and can respond to violations occurring anywhere in the world. Third, they are independent, objective and impartial. Fourth, as experts in their field, they can provide practical advice to governments and can contribute to the development of human rights law. Fifth, they bring human rights violations, including emerging crises, to the attention of the international community thereby helping to prevent even more severe human rights crises. Sixth, they provide support and protection for local human rights defenders who often work at considerable risk."

Further information about the Special Procedures, including NGO engagement with the Special Procedures is available at <www.ohchr.org/english/bodies/chr/special/index.htm> or in chapter 6 of the Centre's Human Rights Law Resource Manual, available for free download at <www.hrlrc.org.au>.

Philip Lynch is Director of the Human Rights Law Resource Centre.

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Solidarity protest for Scott Parkin

Deported Activist's Case a Test for Natural Justice

Iain Murray

On a crisp Saturday morning two years ago, Scott Parkin stepped from a café in the inner-Melbourne suburb of Brunswick to find himself surrounded by six burly, casually-dressed men. Identifying themselves as federal police and immigration officials, they told the shocked US citizen that he was being taken into "questioning detention".

Parkin was taken to a high-security prison facility and placed in solitary confinement, where he remained for five days. At no stage was he charged with a crime, nor was he given any explanation for his detention, beyond the information that a "competent authority" considered his presence in Australia to be a "direct or indirect" risk to national security.

Until then, Parkin's Australian sojourn had shared much in common with the itineraries of the thousands of backpackers who swarm to Australia's east coast every year. He took surfing lessons, toured a crocodile farm, spent time volunteering on an organic farm and made new friends in Brisbane, Sydney and Melbourne.

As a committed peace activist and proud Texan, Parkin was also devoted to spreading the word about his Houston-based group's campaign to expose military contractor Halliburton and its subsidiary KBR as key "pillars of support" for the invasion and continuing occupation of Iraq. He found a willing audience for his views at anti-war meetings, on community radio and at the Brisbane and Sydney Social Forums.

Unbeknownst to Parkin, something he had said or done during his travels had sparked a flurry of official activity

apparently aimed at making sure his first visit to Australia would also be his last. Precisely which actions or what utterances led to Parkin's removal from Australia remains a secret of such great consequence that the Australian government has waged a Federal Court battle in defence of this secrecy for close to two years.

Two days prior to Parkin's detention, the Australian Security and Intelligence Organisation (ASIO) had advised the Minister for Immigration that his presence constituted a "direct or indirect risk" to Australian national security. This triggered the cancellation of his tourist visa, automatically rendering him an "unlawful non-citizen" under the Commonwealth Immigration Act and compelling his immediate detention pending deportation.

After five days in immigration detention, Parkin was escorted to Melbourne Airport and marched onto a plane bound for Los Angeles. Upon arrival, his Australian escorts presented him with a bill for \$AU11,700 – the total cost of his incarceration and removal, including flights and accommodation for his security escorts – courtesy of the Australian government.

Storm of Protest

Parkin's treatment sparked a storm of protest across Australia. Within hours of his detention, activists, civil liberties groups and non-government organisations sprang to his defence.

The public outrage at Parkin's detention could not have come at a worse time for Attorney-General Phillip Ruddock,

the Minister responsible for ASIO's actions. Just a few days before Parkin was detained, Prime Minister John Howard had announced the introduction of a sweeping package of counter-terrorism laws, which entailed a significant broadening of ASIO's powers.

But in a display of national security "me too-ism" that foreshadowed the federal Opposition's acquiescence on the startling case of Dr Mohamed Haneef, then Opposition leader Kim Beazley declared his support for the cancellation of Parkin's visa.

With the Opposition's support declared, the Attorney-General remained tight-lipped about exactly what Parkin was alleged to have said or done to receive one of the handful of adverse security assessments resulting from the many tens of thousands of security checks conducted by ASIO each year. Mr Ruddock would say only that the assessment was related to ASIO's responsibility to protect Australia from "politically motivated violence, including violent protest".

In late 2005, lawyers acting for Parkin began Federal Court proceedings to have the adverse security assessment quashed. As a first step, they sought a discovery order to determine precisely what Parkin is alleged to have said or done to warrant the adverse assessment. (Parkin's lawyers are also acting for Mohammad Faisal and Mohammed Sagar, Iraqi refugees who faced indefinite detention on Nauru after receiving similar adverse assessments. Faisal and Sagar have since been released).

Concealed and Protected

Over the past two years, ASIO has gone to extraordinary lengths to keep the reasons for Parkin, Sagar and Faisal's adverse security assessments secret, even to the extent of appealing a routine order to confer with Parkin's lawyers on the grounds that simply providing a list of documents relating to the case would irreparably damage national security.

While the initial public outrage has quelled by the glacial pace of the court proceedings, the puzzling case of Scott Parkin demonstrates how supposed mechanisms of accountability are serving to conceal and protect ASIO from scrutiny at a time when the domestic spy agency has more power and greater resources than ever before.

These mechanisms of accountability include ASIO's reporting relationship with the Attorney-General, the right of the Opposition leader to be briefed on national security matters, the oversight of the Inspector General of Intelligence and Security (IGIS) of the scrutiny of Senate Committees, including the Parliamentary Joint Committee on Intelligence and Security.

In December 2005, the unclassified version of a report by the current IGIS, Ian Carnell, dismissed claims published in The Australian newspaper that Parkin had planned to teach "tactics of violence", including throwing marbles under the hooves of police horses. The front page article, which appeared days after Parkin was removed from Australia, was

"not a reliable guide to the assessment", Carnell said.

But, while acknowledging that "the precepts of natural justice would point to providing Mr Parkin with the details of the security assessment and allowing him to respond and suggest ways in which the evidence and considerations might be tested", Carnell refused to provide even the broadest outline of the reasons for ASIO's actions. When weighed by Carnell against considerations of national security, these fundamental precepts – which include the right of the accused to know what is alleged against him or her – simply gave way.

In October 2005, ASIO's Director General of Security Paul O'Sullivan gave evidence before a Senate Estimates hearing that Parkin had not been involved in violent or dangerous protest in Australia. But the adverse security assessment, O'Sullivan said, was related to Parkin's "behaviour subsequent to his arrival in Australia", and not to his activities in the United States. O'Sullivan continued, "I can be quite clear in saying that there was no consideration of any particular matter coming from abroad in [Parkin's] case".

In May 2007, this story appeared to change when counsel for O'Sullivan told the Federal Court that ASIO did not rely solely on information related to Parkin's activities in Australia.

In a Senate Estimates hearing two days later, when Greens Senator Kerry Nettle asked O'Sullivan whether he stood by his previous evidence before Estimates, O'Sullivan refused to respond on the grounds that the matter was before the court. The Committee Chair then ordered Senator Nettle to discontinue her line of questioning.

But thanks to legislation passed by the Howard government – the National Security Information (Criminal and Civil Proceedings) Act 2004 – the Attorney-General has the power to intervene in cases like Parkin's to prevent particular evidence from being heard in an open court. He can do this simply by conclusively certifying that the appearance of certain witnesses or evidence would prejudice Australia's national security.

With a change in government likely to occur before the case is resolved, the Parkin case could be a critical test not only of the courts' ability to hold ASIO accountable for its actions, but of a new Attorney-General's willingness to inconvenience Australia's ever-expanding domestic security apparatus by upholding the fundamental precepts of natural justice which underpin our legal system.

Iain Murray is the author of "Where the Bloody Hell Are You? A report on the Australian Government's detention and forced removal of US citizen Scott Parkin", available at <www.scottparkin.org>.

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Solidarity protest for Scott Parkin

Turning Back the Terrorism Tag: Organising Against APEC

Holly Greenaune



APEC protest, Sydney 2007
Photo: Damian Baker (www.jpai.fip3.com)



APEC protest, Sydney 2007
Photo: Damian Baker (www.jpai.fip3.com)

The day George Bush arrived for the Sydney meeting of the Asia Pacific Economic Cooperation (APEC) was the thirtieth anniversary of the Joh Bjelke-Petersen ban on street marches in Queensland. The coincidence was not lost: a five kilometre long, 2.8 metre high fence was being erected in Sydney, police were applying to ban protest routes in the NSW Supreme Court, and activists were notified of their inclusion on the notorious “black list” and exclusion from the city.

In organising to challenge the outlaw of protest and the meeting of APEC, we remembered how social movements defeated the Bjelke-Petersen ban thirty years ago. Rather than seeing a disappearance of street marches in Queensland, thousands of people took to the streets in defiance of the ban for two years. By the end of 1978, over 2,000 people had been arrested and the ban was dissolved.

It was difficult to build demonstrations against APEC. It was not easy to counter the huge fear campaign rolled out against the people of Sydney. We experienced intense repression throughout 2007, including police attacks on February rallies when Dick Cheney came to Sydney, dawn raids in March by riot police on homes in relation to G20 protests, concentrated surveillance, and daily media stories exposing leaked documents revealing intended violent protests from fictitious sources. In a \$300 million security operation, Premier Iemma and Prime Minister Howard mobilised 3,500 police officers, 1,500 military personnel, thousands of security personnel, a \$600,000 water cannon, navy ships in the harbour, jet fighters and helicopters circling the skies, teams of snipers, capsicum spray, tear gas

launchers, tasers, 500 prison beds, and thirty buses converted into mobile prison cells.

Days before the demonstration, John Howard appeared on YouTube asking protestors to “stop for a moment and consider that if they really are worried about issues such as poverty, security and climate change, [to] then support APEC, not attack it”, blaming the security lockdown on “people who threaten violence as part of their protest”. Labor leader Kevin Rudd called for “any violent protests [to] be met with the full force of the law”.

Activists attempted to reclaim media and public discourse in APEC week with successful blockades of the Loy Yang coal-fired power station in the LaTrobe Valley and of Newcastle Coal Port, demanding real action on climate change and exposing the non-binding, “aspirational” and business-as-usual policies proposed by APEC. Friends of the Earth Sydney held a multi-venue exhibition “Trajectories of Dissent”, documenting the history of protests against APEC in Kuala Lumpur, Santiago, Jakarta, Vancouver, Osaka, Hanoi and more, inviting artists, researchers and activists from across the Asia-Pacific to contribute art and dialogue.

Many of us were initially ambivalent toward organising against APEC. For anarchist collective Mutiny, “police preparation seem[ed] to strengthen the arguments against summit protest, especially doubts about the value of challenging the state on their terrain and when they are most prepared. On the other hand, they also strengthen feelings that it is important to defy police attempts to frighten us.”

Some NGOs explicitly distanced themselves from protest organising, with Greenpeace, Make Poverty History and



APEC protest, Sydney 2007 Photo: Damian Baker (www.jpa.ifp3.com)

Climate Action Network Australia forming an NGO media centre, holding daily media briefings and offering commentary on APEC decisions.

Under police, state and media attacks, the Stop Bush Coalition responded with public statements and posters persistently reiterating they were planning a “peaceful protest”, believing it would be easier to build the demonstration and keep trade unions involved. Activists challenged the discourse, asking: if we intend to assert our right to dissent and we know the police are preparing to attack us, how can we advertise “peaceful” protests? Some argued declaring the protest “peaceful” was a capitulation to media hysteria about violent protests – regarding Stop Bush Coalition pledging “obedience” to police, distancing themselves from G20 protests, excluding diversity of tactics, and positing the “responsibility to ensure a peaceful protest in a police state” on activists. Anarchist collective Mutiny wrote that insisting on peaceful protest “amplifies the wedge politics of the police and media: and it doesn’t stop police violence. It seems downright irresponsible to promise – or demand – peace.”

When police leaked to media photos of the “excluded persons list”, the political response was more coherent.

Blacklisted people immediately vowed to defy the restrictions, which meant they could be excluded or removed from any “declared area”, and liable to immediate arrest and detention. Supported by the Maritime Union of Australia and Fire Brigades Employees Union, excluded persons were marched to the demonstration en bloc. But before leaving Trades Hall, a union official warned excluded persons and protestors “not to cause trouble” if they were marching with them.

This self-policing continued from the platform with rally MC Alex Bainbridge cautioning demonstrators several times between speeches to be peaceful. The decision of Friday’s 500-strong convergence meeting was unambiguous: voting to publicly reject the exclusion zones, refusing to accept the route dictated by police, and marching to the police lines for a sit down and speakers at the barricades. However, “Peace Monitors” (rally marshals) and MCs chose not to tell the rally, instead defying the decision of the meeting, and confining the march to a three block police-assigned route. This breakdown in communication and anti-democratic action by some protest organisers raises real challenges if we are to have any confidence in collective decisions we make in the future.

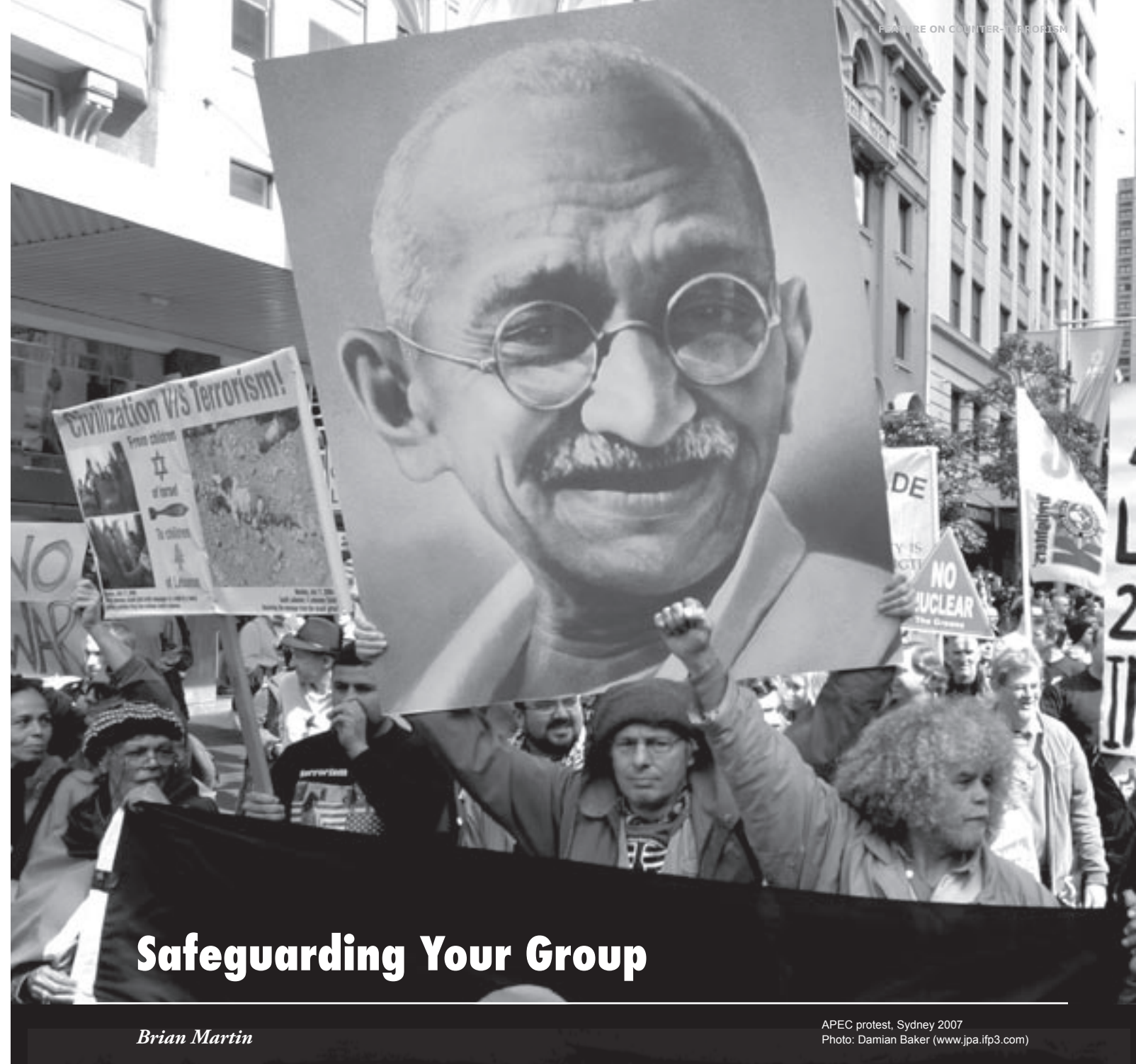
The 10,000 people at the Saturday demonstration against APEC demanded workers rights, justice for Indigenous peoples, a nuclear-free future, real action on climate change and an end to the war on Iraq. People came out onto the streets with a real sense of urgency, demonstrating their opposition to over-policing and fear mongering.

Policing at APEC illustrated a leap in the strategy of repression. For Prime Minister Howard, “a decision was clearly taken – the right decision – that pre-emptive and forward action was better than retaliation and it worked brilliantly, it really did”. Assembling \$300 million of resources and using a sustained pre-emptive police and media attack on “peaceful protests”, it is reasonable to assume the state will continue to pursue the same strategy.

In our own strategies, there is a real risk of self-policing, of limiting our tactics and keeping a lid on dissent. There is a real risk – as the Howard government and media attempt to further marginalise social movements, aligning them with violence and terrorism – our protests will simply be for the front page of the Daily Telegraph, not to build movements capable of stopping wars and dangerous climate change.

Holly Creenaune organised for APEC protests with Sydney Nuclear Free Coalition and Friends of the Earth Sydney, and spoke at Town Hall at the Saturday demonstration.
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Safeguarding Your Group

Brian Martin

APEC protest, Sydney 2007
Photo: Damian Baker (www.jpa.ifp3.com)

You want to exercise free speech — but now it seems much riskier. This article gives ideas for preparing for and resisting various forms of political repression. It is intended for activists, protesters, whistleblowers, civil libertarians, artists and others who are engaging in conduct that should be protected by rights of free speech, assembly and association. It is built on principles of non-violent action as pioneered by Gandhi and developed by many others. As such, it is oriented to defending against repression and helping to build a more humane and tolerant world.

The key messages here are:

- prepare for attack
- build strong networks

Most of the suggestions here are worthwhile even if you never come under attack. Many of the ideas here are fairly general, and you and your group will need to work out your own detailed plans.

Make plans

Your group should have specific plans to deal with the most likely threats, and general plans to deal with unlikely ones.

You should assess the most likely threats, for example theft of materials, arrest of members, destruction of files, circulation of damaging stories and subversion by a hostile member. Do you have plans to address these threats? If not, develop plans and practise executing them.

If you are threatened, arrested or incapacitated, you may

want to make sure certain information is communicated to others. For example, you might want documents released to family, personal networks or the general public. If so, make plans. You could arrange with a friend to send emails or post material on the web in specified circumstances.

Be known

If your group has strong links with other groups and individuals, you are in a much stronger position to resist and survive attacks. Strong networks may help deter attacks in the first place.

The most useful networks depend a lot on the nature of your group and what threats you're considering. The basic principle for assessing networks is to imagine an ideal network and compare it to your actual network.

List categories of groups or individuals that would help your group resist and survive attacks, for example, lawyers, journalists, politicians and other environmental groups. They can be local, national, international and virtual. Develop a plan to strengthen your networks by creating new contacts and strengthening links with existing contacts. Also, you can aim to develop the skills and experience of people in your group who are part of other networks.

You are safer the more you are known through diverse networks, including family, friends, co-workers and groups such as churches and clubs.

Support networks

Make arrangements in advance for legal support, in case you need it. You can contact lawyers yourself or make sure you know someone who can do it for you when necessary.

Make arrangements for others to protest if you are arrested, assaulted or attacked in other ways. Supporters might organise rallies, produce and distribute leaflets, circulate petitions, send emails and contact the media, both mainstream and alternative. Action could be taken within Australia as well as internationally if appropriate.

If protesting on your behalf puts people at risk themselves, it might be better for action to be taken by someone with public standing, such as a priest or minister, a member of parliament or local government official. Reprisals against such people are less likely because of their formal positions and visibility.

Dealing with surveillance

If agents want to find out what you're saying, writing or doing, they have extensive technology. They can track you electronically through phone conversations, financial transactions, use of tollways and closed-circuit television cameras. They can tap your phone and even detect what you are saying through vibrations on a windowpane. They can remotely detect every keystroke on your computer. They can install bugs through your phone. They can break into your

house and car and install bugs. They can assign agents to follow you. They can infiltrate your group.

Although this sounds serious it's very unlikely. Despite large budgets, intelligence agencies simply do not have the resources to carry out high-intensity surveillance of numerous people. Unless you have a very high profile or considered a serious threat, it's unlikely you're under surveillance..

Surveillance can be damaging but being apprehensive is worse. If you censor yourself out of fear, you save the authorities the trouble of doing so! Often a better approach is to be as open as you can in all your communicating and organising. Forget about surveillance and get on with life.

Nevertheless, it can be worthwhile taking some commonsense steps.

A basic rule is to only write things that would not be damaging if publicised or read out in court. For sensitive comments, use the phone or a personal conversation. These are far less likely to be recorded.

Secrecy breeds distrust. Therefore, whenever possible, it's better to do things openly, as it builds trust with both supporters and opponents.

Skills

The greater your members' skills, the better able your group will be to resist and survive attacks. Furthermore, it is important to remember that a group possesses collective wisdom and skill, greater than the sum of individual wisdom and skill.

You can do an inventory of the key areas of skill for your group, such as information technology, management, writing, public speaking, networking, organising, problem analysis, strategic planning, and emergency response, and include whether or not you can depend on a key individual. Then set priorities for helping current members acquire skills, recruiting new members with relevant skills and practising using skills.

Organisational dynamics

A well-functioning group is better able to withstand attacks. Are your members committed to each other and to the group's purpose? Can they make decisions efficiently?

Key areas of organisational dynamics include trust, decision-making, equality, resilience and emotions. In relation to trust, for example, can members rely on each other to get things done? When does distrust undermine the group's effectiveness?

Improving your dynamics is seldom easy – a rethinking of processes and assumptions may be required. Having an outside facilitator may help.

Know what to expect

If you come under unfair attack, the government is likely to use these techniques to minimise outrage:

- hide its actions;
- damage your reputation;
- give misleading explanations for the action;
- say it is acting according to the law;
- threaten or otherwise intimidate you and anyone who wants to help you.

To counter these techniques, and maximise outrage, you can:

- expose the actions;
- behave honestly and sensibly, and have others vouch for you;
- explain exactly what is unfair about what happened;
- mobilise support (rather than using the law or other formal procedures);
- resist and expose intimidation.

Suppose you're arrested even though you've done nothing wrong. The government will probably try to keep this secret. If so, exposing the arrest is a powerful challenge.

You are likely to be labelled a criminal, subversive or terrorist. You need to have your good record and behaviour publicised. If you are opposed to violence, put that on the record. If you have a good record at work, make sure others have copies of relevant documents.

Make your beliefs known, for example, a commitment to free speech and non-violence. Write down your ideas and give copies to others. If your core beliefs are well-known and documented, it's harder to discredit you. The more dignified you behave and appear, the more the government's attack on you will backfire.

Keep the focus on the key injustice. It's tempting to tell the full history of your treatment, with every complication. That's understandable, but you will communicate more effectively by keeping your story short and to the point.

It's also tempting to pursue justice through official channels such as grievance procedures or courts. This almost always reduces outrage, because people assume that official channels provide justice, even though a single person opposing the government has little hope of success. Using grievance procedures, courts and other official mechanisms takes the matter out of the public eye, puts it in the hands of legal and other experts, and chews up enormous amounts of time and money — even when you are lucky enough to win down the track. It's far more effective to mobilise support.

Prof. Brian Martin is an academic at Wollongong University, well-known to civil liberties groups for his work on whistle-blowing and resisting repression. This text is adapted from a checklist developed by Schweik Action Wollongong <www.uow.edu.au/arts/sts/bmartin/others/SAW.html> and an article by Brian. <bmartin@uow.edu.au>.

Building Resilience to Repression

• **ASIO, the Police and You is an online handbook of special relevance to the Muslim community published by The Australian Muslim Civil Rights Advocacy Network.** <www.amcran.org>

• **Be Informed: ASIO and Anti-Terrorism Laws. The University of Technology Sydney Community Law Centre has produced this detailed information kit.** <www.law.uts.edu.au/clc/publications/index.html>

• **Protection Manual for Human Rights Defenders, published by Front Line – The International Foundation for the Protection of Human Rights Defenders, with detailed security advice and information.** <www.protectionline.org/article.php?id_article=186>

• **Public Eye covers the history and theory of political repression.** <www.publiceye.org/liberty>

• **Organising in the face of increased repression by US activist Starhawk.** <www.starhawk.org/activism/activism-writings/organizing.html>

• **Activist Rights a comprehensive guide to organising activist legal support around Australia published by Fitzroy Legal Service.** <www.activistrights.org.au>

• **Resisting repression: resources for defending Australian freedoms, compiled by Brian Martin.** <www.uow.edu.au/arts/sts/bmartin/dissent/documents/rr>

• **NGO in a Box – Security Edition Project – an excellent collection of software tools and manuals for better privacy and security on your computers and on the Internet.** <<http://security.ngoinabox.org>>

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Defending Our Rights: Resources and Organisations in Australia



PUBLIC INTEREST ADVOCACY CENTRE

PIAC is an independent, non-profit law and policy centre based in Sydney, but working on issues at all levels of government. PIAC makes strategic interventions in public interest matters to foster a fair, just and democratic society and to empower citizens, consumers and communities. PIAC is involved in a range of human rights related activities, including acting as the secretariat for the NSW Charter Group. It provides public and tailored training on effective advocacy strategies to encourage more community engagement in public interest issues.

Focus: Impact on human rights and increased levels of discrimination and community disharmony in respect of Muslim communities.

Primary activities: Campaigning, research, and advocacy.

Getting involved: Updates on PIAC's work and how people can get involved – such as events and letter-writing – are available in its e-bulletin (subscribe through the PIAC website) and its six-monthly Bulletin. Contact PIAC to request a free subscription.

Web <www.piac.asn.au>
Email <piac@piac.asn.au>



HUMAN RIGHTS LAW RESOURCE CENTRE

In relation to Australia's counter-terrorism laws, policy and practice, the HRLRC has been involved in:

- a request for urgent action from the United Nations in relation to the conditions of detention of the unconvicted remand prisoners known as the Barwon 13.
- an application for leave to appear in the Victorian Supreme Court of Appeal in the case of Joseph Thomas (a.k.a. 'Jihad Jack') v The Queen; and
- submitting a 'Shadow Report' to the UN Committee Against Torture, which includes concerns in relation to Australia's counter-terrorism laws.

Web <www.hrlrc.org.au>
Email <hrlrc@vicbar.com.au>



CIVIL RIGHTS DEFENCE

Focus: Civil Rights Defence is a group concerned about the Australian government's efforts to destroy some of our most basic civil and human rights under the pretext of the "war on terror". CRD campaigns to challenge and repeal the extreme anti-terrorism laws, and to raise awareness of the threat they pose.

Primary activities: Regular protests, public forums, speakers, legal briefings.

Getting involved: Fortnightly organising meetings on Tuesdays at 6:30 at the New International Bookshop, Trades Hall, Melbourne.

Web: <www.civilrightsdefence.org>
Phone: Gerard 0407 856 628.



UNITING JUSTICE AUSTRALIA

Uniting Justice resources the National Assembly of the Uniting Church in Australia in its mission of social and ecological justice and peace. Some of the current areas of work at are human rights (asylum seekers, anti-terrorism laws), climate change, and engagement with democratic processes.

Primary activities: Resourcing Uniting Church National Assembly responses to issues of social and ecological justice and peace, through policy formulation, public advocacy, education and awareness raising.

Getting involved: Join the justice news email list for updates, including the resources produced – go to <<http://assembly.uca.org.au/unitingjustice/subscribe.htm>>

Web <<http://nat.uca.org.au/unitingjustice>>
Email <unitingjustice@nat.uca.org.au>
Phone (02) 8267 4236

AUSTRALIAN TAMIL RIGHTS ADVOCACY COUNCIL

ATRAC was formed to address the specific concerns of Australian-Tamils about the civil rights implications of the anti-terror legislation. There is a legitimate fear that the laws erode political freedoms and expose Australian-Tamils to racial profiling and other forms of discrimination. ATRAC is an expression of the community's desire to take proactive measures to engage the legal and policy processes at both state and federal levels to address the uncertainty surrounding these laws. ATRAC is galvanising support from like-minded organisations, parliamentarians and individuals to form an alliance to engage relevant Australian bodies to oppose the ongoing criminalisation of the Tamil community's aspirations.

Email: <enquiries@a-trac.org>
Web: <www.a-trac.org>



AUSTRALIAN-TAMIL
RIGHTS ADVOCACY
COUNCIL



NEW MATILDA HUMAN RIGHTS ACT FOR AUSTRALIA CAMPAIGN

This is a non-partisan campaign to develop a broad coalition of community organisations including state-based human rights campaigns, legal/civil rights organisations and groups representing interests of those segments likely to gain from added legislative human rights protection.

Focus: The primary objective is to have a Human Rights Act enacted in Australian law.

Primary activities: Developing community support for planned systematic lobbying of federal parties/parliamentarians after the election.

Getting involved: This is largely an internet-based campaign, supplemented by phone and email contact. Presently engaged in recruiting supporters and ultimately in the direct lobbying of federal parliamentarians with the intermediate aim of securing a Senate inquiry into the need for human rights legislation in Australia. Of particular interest are volunteers with communication skills, who are able to assist in lobbying, but also to provide research assistance and development of web-site content.

Peter Frank – National Coordinator
Web <www.humanrightsact.com.au>
Email <humanrightsact@newmatilda.com>



AMNESTY INTERNATIONAL AUSTRALIA

Focus: Human rights

Primary activities: Awareness raising, research, campaigning, mobilising people.

Getting involved: Group meetings, letter-writing, public lectures, community forums, rallies.

Web: <www.amnesty.org.au>

Email: <qldaia@amnesty.org.au>;

(Qld/Northern NSW);

<wahrsecurity@amnesty.org.au> (WA);

<nswhrsteam@amnesty.org.au> (NSW);

<ai.viccampaigns@gmail.com> (Vic);

<guantanamoabteam@amnesty.org.au>

(ACT/Southern NSW).



LIBERTY VICTORIA

Primary concerns: Liberty Victoria (the Victorian Council for Civil Liberties) is one of Australia's leading human rights and civil liberties organisations.

Activities: A recent successful campaign was for a Human Rights Charter, litigated on behalf of asylum seekers of the Tampa in relation to international law obligations. Opposed the unnecessary infringement of civil liberties through the anti-terrorist legislation, the new ID Card, and sedition laws. Primary activities involve making submissions to government, campaigning, engaging in public debates, and supporting court cases defending civil liberties.

How to get involved: The best way to get involved with Liberty's campaigns is to join them. Liberty is a membership organisation, and relies on the support of thousands of individuals.

Web: <www.libertyvictoria.org.au>

Email: <info@libertyvictoria.org.au>

Phone: (03) 9670 6422

Post: GPO Box 3161, Melbourne, Victoria, 3001.



FEDERATION OF COMMUNITY LEGAL CENTRES (VIC) INC.

Focus: Discriminatory impacts of counter-terrorism legislation and policing upon particular ethnic and religious communities. The curtailment of civil liberties and democratic rights by anti-terrorism legislation.

Primary activities: Community legal education, advocacy, policy development and positive law reform, research and info distribution.

Getting involved: Anti Terrorism Laws Working Group, public seminars, community events, sector resourcing and support, public campaigns, online e-news.

Web: <http://communitylaw.org.au>

Email: <administration@fclc.org.au>



AUSTRALIAN MUSLIM CIVIL RIGHTS ADVOCACY NETWORK

Focus: Civil liberties, anti-terror laws, discrimination, and the impact on Muslim communities.

Primary activities: Community education, lobbying, advocacy, submissions to parliamentary committees, raising awareness in the community, some research.

Getting involved: Seminars, community events, campaigns. There is a mailing list and people are encouraged to join to keep updated about activities.

Web: <http://amcran.org>

Email: <amcran@amcran.org>

regular articles

GREENING OF THE WORLD'S PORTS AND SHIPPING FLEET

Teri Shore

With global shipping trade expected to double by 2030 or earlier and mega-cruise ships transiting protected waters such as the Great Barrier Reef and Antarctica, ocean pollution and global warming emissions from ships and ports are growing at an alarming rate in Australia and around the world.

Globally, ships now produce as much as double the climate change gases of commercial aviation and about three percent of global carbon dioxide emissions.

While ships are energy efficient compared to trucks and rail, regulation of marine fuels and engines lag decades behind. Just one ship pulling into port can pollute as much as 350,000 cars in one hour.

About 3,500 international vessels made more than 10,000 calls on Australian ports in 2005-06 -- and many more are headed this way due to port expansions.

Every major Australian port is expanding, including Newcastle, Sydney, Botany Bay, Brisbane, Melbourne, and Fremantle, to accommodate more and larger cargo and cruise ships. Most of these are occurring without requiring ships to use cleaner fuels or engines or banning dumping of sewage, graywater, garbage from crews and passengers into harbors and coastal waters.

Cruise ships carrying 3,000 or more people generate more on-board waste than any other type of vessel. On a one-week voyage, a typical cruise ship produces 50 tons of garbage, one million gallons of graywater, 210,000 gallons of sewage, and 35,000 gallons oily bilge water. Almost everything goes overboard -- sometimes treated, sometimes not.

Photos: (above) Smoking cruise ship; (centre) Teri Shore at Port of Oakland, California; (below) Just one ship pulling into port can pollute as much as 350,000 cars in one hour.

All photos courtesy of Teri Shore





Friends of the Earth invites you to join the ACTIVE FRIENDS PROGRAM

What is the Active Friends Program?
The Active Friends Program is one of the best means to support the current and future work of Friends of the Earth. It involves a regular monthly donation a self-nominated amount.

Where will Active Friends donations go?
Friends of the Earth is renowned for making a little money go a long way. Because our administration costs are always kept to a bare minimum, practically all Active Friends contributions directly support campaign work, publications and community engagement. Active Friends donations will help maintain projects such as the Nuclear Freezones Project, protecting Red Gum forests and ensuring climate refugees are recognised and given aid to, to name just a few.

Why is the Active Friends Program vital to FoE?
Friends of the Earth never endorses people, parties or products and does not receive government or corporate sponsorship. To remain a radical and credible voice for social and environmental justice, we need a stable financial base. The Active Friends Program means that Friends of the Earth can engage in long-term campaign planning, and quickly and effectively respond to local issues.

How can you join the Active Friends Program?
To join the Active Friends Program, please fill in the 'Active Friends' section on the reverse side of this page and post to: Friends of the Earth, PO Box 222, Fitzroy, 3065. You can cancel this pledge at any time by contacting the FoE office. All Active Friends donations are fully tax deductible.

www.foe.org.au

Friends of the Earth Australia

The cruise industry is dominated by two corporations, Carnival and Royal Caribbean, which own all of the big-name cruise lines. Together they have been fined more than US\$50 million for illegal dumping of oily water, sewage, and garbage in US jurisdictions alone.

Last season in Antarctica, expedition leaders documented garbage dumping from a so-called eco-tour vessel. The incident was first denied, then forgotten without any penalty from the international bodies authorised to protect the region.

Port officials in Fremantle, Sydney and Brisbane told me that they ban cruise ship discharges in their port, but it is not clear how this is enforced or monitored. Port-specific policies send a strong message to the cruise lines that they can't dump, but it doesn't stop the discharge of contaminated sewage or raw graywater just outside the breakwater. What's needed is national legislation banning all cruise ship dumping in Australian waters.

Ships and ports can be made much greener with use of cleaner fuels, engines, ship designs, technologies and operations. With pressure from environmental and community activists (and lawsuits), governments in California, Sweden and Europe are jump-starting the greening of the world's ports and merchant fleets through regulations requiring cleaner ships.

To protect Australia's air and water from shipping and cruise pollution, ships must use cleaner marine distillate fuels in port and coastal waters and plug into shoreside power at the dock. All ship dumping of wastewater and garbage should be banned within the territorial sea out to 12 miles and shoreside disposal should be required.

Friends of the Earth is advocating for greener ships and ports at the international level, but it will take port-by-port and state-by-state action to achieve a global change. To stay informed and help watchdog the world's ports, keep an eye on my blog, <www.portwatch.net> or contact me directly at <tshore@foe.org>.

Teri Shore is Campaign Director for Clean Vessels at Friends of the Earth in the US. Teri is involved in the UN's International Maritime Organization (IMO) negotiations on new air pollution standards for oceangoing ships. Check out her blog: <www.portwatch.net> <www.bluewaternetwork.org>

Like to comment on this article? Write a letter to Chain Reaction
<chainreaction@foe.org.au>

NUCLEAR WASTE AND PRACTICAL RECONCILIATION

Jim Green

The Coalition government's handling of nuclear waste management issues provided a window into relations between the government and Indigenous people and a test of the government's policy of 'practical reconciliation'.

In 1998, the Coalition government announced its intention to build a national nuclear waste repository near Woomera in South Australia. Leading the battle against the repository were the Kupa Piti Kungka Tjuta, a council of senior Aboriginal women. Many of the Kungka Tjuta witnessed first-hand the impacts of the British nuclear bomb tests at Maralinga in the 1950s. They were sceptical about the Coalition government's claim that nuclear waste destined for the Woomera repository was 'safe'. After all, the waste would be kept at the Lucas Heights reactor site in Sydney if it was perfectly safe, or simply dumped in landfill.

The Maralinga legacy continued to resonate in another way. A clean-up of Maralinga in the late 1990s generated controversy when nuclear engineer and whistleblower Alan Parkinson revealed that it had been compromised by cost-cutting. This was disconcerting for South Australians since the same government department responsible for the Maralinga clean-up was also responsible for the Woomera repository. Mr. Parkinson summarised his concerns about the clean-up by stating that: "What was done at Maralinga was a cheap and nasty solution that wouldn't be adopted on white-fellas land."

The proposed repository generated such controversy in South Australia that the Coalition government secured the services of a public relations company. Correspondence between the company and the government was released under Freedom of Information laws. In one exchange, a government official asks the PR company to remove sand dunes from a photo selected to adorn a brochure. The explanation provided by the government official was that: "Dunes are a sensitive area with respect to Aboriginal Heritage." The sand dunes were removed from the photo, only for the government official to ask if the horizon could be straightened up as well.

The Coalition government used compulsory land acquisition powers to take control of land for a repository in SA, extinguishing all Native Title rights and interests. The Kupa Piti Kungka Tjuta continued to implore the federal government to 'get their ears out of the pockets', and after six long years the government did just that. In the lead-up to the 2004 federal election, with the repository issue biting

politically, the government decided to cut its losses and abandon its plans for a repository in SA.

The ears went straight back into the pockets, however. Unequivocal promises not to impose a repository in the Northern Territory were broken after the 2004 election. Traditional Owners were not consulted before three sites in the Territory were short-listed for a repository.

Government ministers asserted that the three sites are "some distance from any form of civilisation" or, more bluntly, that they are "in the middle of nowhere". This is offensive to Aboriginal and non-Aboriginal people living and running successful pastoral and tourist enterprises three, five and 18 kilometres from the sites.

In 2005, the Coalition government rail-roaded the Commonwealth Radioactive Waste Management Act through parliament. This legislation provides wide-ranging exemptions from Aboriginal heritage protection laws. The one-day Senate 'inquiry' was high farce. Then in 2006, the government rail-roaded amendments to the Waste Management Act through parliament. The amendments explicitly state that a nuclear repository site nomination is legally valid even without consultation with, or consent from, Traditional Owners.

A fourth site - called Muckaty, near Tennant Creek - was nominated as a potential repository site. However, Traditional Owners were divided about the nomination and the consultation process was dubious. The amount of compensation being offered to Traditional Owners is \$12 million over the entirety of a 200-year period, or \$150 per person per year.

If the Coalition government's handling of the nuclear waste issue is any guide, practical reconciliation is nothing more than rhetoric. Nor can the government's handling of the repository issue be squared with the humanitarian objectives which are said to be driving the intervention into remote Aboriginal communities in the Northern Territory.

Jim Green is the national nuclear campaigner with Friends of the Earth.

Like to comment on this article? Write a letter to Chain Reaction
<chainreaction@foe.org.au>

BURKE'S BACKYARD: THE NEW FACE OF GREENWASHING IN AUSTRALIA

Lauren Caulfield



“The greatest threat to the world’s environment is the conservation movement.”

– Don Burke

After 17 years proffering tips to gardening enthusiasts on Burke’s Backyard, Don Burke is spearheading the new face of anti-environmentalism in Australia as chairman of the Australian Environment Foundation (AEF).

Far from the conservation-based ideals the name is intended to conjure up, the AEF is a conglomeration of pro-logging, pro-nuclear, pro-GM and other resource industry interests, with links to well-funded conservative think tanks.

Purporting to provide the voice of “practical environmentalism”, the AEF marks a change from the single-issue front groups epitomised by the work of logging

industry lobby group Timber Communities Australia (TCA, formerly known as the Forest Protection Society). Instead, the AEF represents a new level of collaboration between industries and across issues, seeking to claim back the ground gained by the environment movement.

The formation of the AEF was first mooted at the ‘Eureka Forum’ organised in December 2004 by the conservative think tank the Institute of Public Affairs (IPA). The AEF was formally launched on June 5, 2005 - World Environment Day! The key policy positions of the IPA include advocacy for privatisation, deregulation, reduction of the power of unions and denial of most significant environmental problems, including climate change.

The IPA is also known for its attacks on the charity status of several high-profile environment groups on the basis of their ‘political’ work. This stance is ironic given the AEF’s own charity status and the acknowledgement of the AEF executive director Max Rheese that: “The AEF is not involved in any on ground work for the environment ... we’re advocating for change in policy on environmental

issues.”

The AEF website address and phone number were initially those of the Victorian TCA. Australian Securities and Investments Commission documents list Mike Nahan, the former executive director of the IPA, as one of the AEF directors. The documents also list AEF’s registered place of business as the IPA office.

AEF conferences are sponsored by industry bodies, including the Forest Industries Association of Tasmania – the body overseeing controversial industrial logging and woodchipping in Tasmania, multinational agricultural biotechnology corporation Monsanto, and Murray Irrigation Limited.

However, these links are not always acknowledged by the AEF. Speaking out against accusations of being a front group for industry on the basis of the shared business details with TCA, Max Rheese told Triple J radio: “At one point in time that would have been the case ... neither of those are the case now [sic], because we don’t need that to be so.”

In his role as AEF chairman, Don Burke has been vocal in a range of areas, including his support for the logging and nuclear industries, and in opposition to ‘draconian’ native vegetation legislation to curtail broadscale land clearing.

The organisation draws other core staff from the ranks of some of Australia’s most controversial extractive industries and conservative research groups. Dr Jennifer Marohasy is a founding director of the AEF, as well as the director of the ‘Environment Unit’ at the IPA. Marohasy, a vocal climate change sceptic, is also the listed registrant of the AEF’s website.

AEF director and corporate lawyer Tom Bostock is also a director of the Lavoisier Group, the conspiratorial industry front group dedicated to denying the reality of anthropogenic climate change.

The AEF Board has also included former ALP environment minister Barry Cohen, and a Timber Communities Australia manager.

Max Rheese writes: “AEF has been upfront and on the public record from day one regarding its links ... Every commentator connected with AEF has been meticulous in declaring their affiliations.” Whilst there is some acknowledgement of these industry ties by the organisation, these are downplayed publicly as the personal side projects of individual members.

For example, Rheese writes that “director(s) of the AEF [are] involved in other groups. AEF membership is only open to individuals.” Similarly, in covering the group’s launch, The Age reported that while Jennifer Marohasy is the group’s chairwoman, “Dr Marohasy said she acted as the group’s leader as an individual and not part of the IPA.”

Other interest groups represented on the AEF Board by ‘individual members’ include the Landholders Institute, Timber Communities Australia and the Bush Users Group, groups which represent the logging industry, four-wheel drive users, recreational hunters and shooters.

AEF activities

The AEF has hosted a national tour of a pro-mining documentary Mine Your Own Business, which in the words of the film-makers “exposes the dark side of environmentalism”. The film tour was also an opportunity to distribute the fact-free Lavoisier Group publication, Nine facts about climate change.

The AEF conference in September this year resulted in a series of press releases promoting nuclear power, launching an AEF ‘taskforce’ to investigate Victorian Environmental Assessment Council recommendations for increased environmental flows to the Murray River, and promoting the recently-approved Gunns pulp mill in Tasmania. Don Burke said of the pulp mill: “This is best-practice pulp production. We believe it is essential to support the best-practice industries.”

At a time when environment groups across the nation are united in the effort to protect Tasmania’s forests from logging and export woodchipping, the AEF has been publicly supportive of notorious Tasmanian woodchipping giant Gunns Ltd. Indeed, the AEF presented the company with the AEF ‘Award for Environmental Excellence’ in 2006. The award was given for the company’s management of grasslands near Burnie.

The AEF represents an important development in anti-environmentalism in Australia, in line with international trends. It denotes increasing levels of sophistication by industry, the public relations industry and the political Right in seeking to combat the impact of environmentalism.

As the AEF indicates, the pro-industry agenda no longer constitutes mere public debate with environmentalists, but rather a developing network of strategies and messaging, scientific support and coalition building, together with ‘grassroots organising’, incorporating some of the traditionally successful strategies of the political Left.

More information:

* Sourcewatch: <www.sourcewatch.org/index.php?title=Australian_Environment_Foundation>
* AEF <www.aefweb.info>

Lauren Caulfield is a forest campaigner and Masters student at Melbourne University, undertaking research into current trends in greenwashing and industry front groups in Australia.

Like to comment on this article? Write a letter to Chain Reaction
<chainreaction@foe.org.au>

ABORIGINAL-OWNED NATIONAL PARKS AROUND THE CORNER

Jonathan La Nauze



Two long-serving Victorian Labor governments (Cain-Kirner, and now Bracks-Brumby) have promised Aboriginal people much in the way of land rights, and great things for the environment. Yet Victoria is the most cleared state in the country and has the lowest proportion of Aboriginal-owned land on the mainland.

But now Premier John Brumby has a significant opportunity to progress both causes in the north of Victoria – the most cleared region of the most cleared state in Australia, and home to many large Aboriginal communities still fighting for their land.

Generations of hard work and leadership by Aboriginal people have created a sizable coalition of Land Rights supporters. In northern Victoria, the Yorta Yorta people and Friends of the Earth have for ten years been at the forefront of a movement to reform the National Parks Act to allow

for the return of the public conservation estate to Aboriginal ownership.

This reform would only be one contribution to Land Rights, but it is one of the few ways Aboriginal people could gain permanent rights to the most intact areas of their Traditional Country. And it is a real opportunity that Premier Brumby could easily seize in the next year – the careful and cautious work of the Bracks government over the past six years has placed him in a position of extraordinary opportunity.

In the 2002 Victorian election, the Labor Party committed to investigate the protection of Murray River Red Rums if re-elected. The investigation was to be conducted by the independent Victorian Environmental Assessment Council (VEAC). When the three-year investigation finally began in 2005, its Terms of Reference included consideration

of ‘possible opportunities for indigenous management involvement.’

Halfway through this investigation, Labor went to a state election promising that if re-elected, it would “create new Red Gum National and Forest Parks if recommended by VEAC ... and explore indigenous joint management arrangements.” A cautious commitment, clearly, but one that can be built upon.

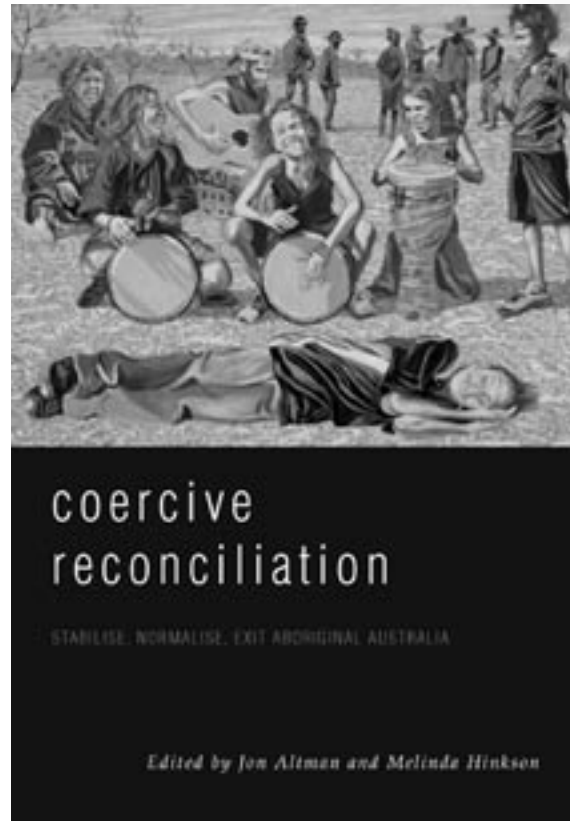
VEAC published its draft recommendations in July, and not only do they include the protection of large areas of Redgum Wetland, but an amendment to the National Parks Act to allow for handback of national parks to Traditional Owners. Thousands of people made submissions in the ensuing consultation period, many of which support the joint management provisions despite an aggressive and misleading campaign lead by the logging industry.

In May next year, Premier Brumby will be presented with VEAC’s final recommendations. This will be an opportunity for him to make an historic act of environmental justice and meet a substantial election commitment early in his term. Friends of the Earth will be doing our utmost to encourage him to do so.

Jonathan La Nauze is the FoE Melbourne Red Gum Campaign Coordinator.

Like to comment on this article? Write a letter to Chain Reaction
<chainreaction@foe.org.au>

book reviews



In response, Arena Publications has published a book called *Coercive Reconciliation: Stabilise, Normalise, Exit Aboriginal Australia*. The book is edited by Jon Altman and Melinda Hinkson from the Australian National University, and comprises essays by prominent Aboriginal leaders, experienced academics and social commentators.

The contributors contextualise the crisis facing remote Aboriginal communities and the government's most recent response in light of the history of and wider policy towards Aboriginal Australia. They provide a critique of the government's policies from the perspectives of human rights, alcohol and health policy, welfare and land rights reforms, Indigenous representation and reconciliation, and the recognition of cultural diversity.

The book considers how the rhetoric of emergency excludes such questions as whether the government itself is complicit in the state of remote Aboriginal communities; how the approach to tackling child sexual abuse dovetails with the government's broader goals in Indigenous affairs; the long-term effects of the government's actions; and alternative responses to the Little Children Are Sacred report.

HOW MANY LIGHTBULBS DOES IT TAKE TO CHANGE A PLANET?

How many lightbulbs does it take to change a planet?
Tony Juniper
 2007
 Quercus
 Available from <www.foe.co.uk/shop>.

Review by Ralph Cobcroft

Tony Juniper is well known to many in Friends of the Earth as the current Executive Director of FoE in England, Wales and Northern Ireland as well as being Vice Chair of FoE International.

He has been able to actively discuss the issues of the environment and climate change with many in the highest levels of government in the UK, with notables such as Tony

Blair, Gordon Brown and Ken Livingston, giving first hand insight into Realpolitik.

He shares the triumphs of successful hard fought campaigns as well as the deep disappointment felt from political double dealing. On a more personal level, there are many fascinating anecdotes recalling his exploits to promote conservation in remote areas of the world, particularly relating to endangered birds such as Gurney's pitta of Thailand. Here he clearly shows the distressing unequal battle between unrelenting development and our fragile natural world.

Most interesting of all are his descriptions of campaigns run by FoE, from local activism all the way to having a significant presence at major international events such as WTO negotiations. Many campaigners might almost feel a touch of envy at the level of influence he appears to command.

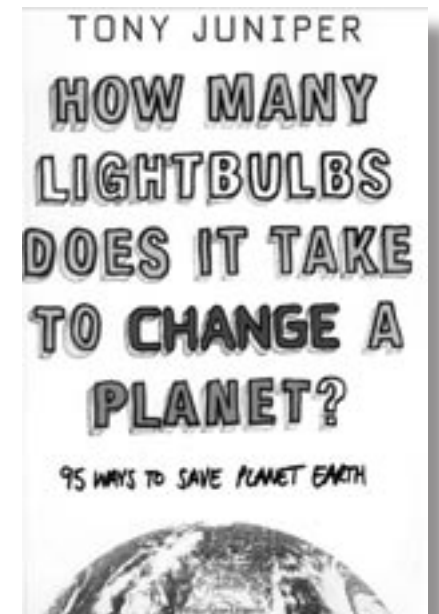
The book lists 95 solutions. While these include individual action, it emphasises the need for action by society and the governments that represent them.

These solutions are grouped into ten sections, ranging from an initial description of the looming dangers of climate change, through greenhouse gas emissions, habitat protection, food production and the like. The later sections refer to the big issues: economics, globalisation, competition.

The more distressing of these realities are to be found in the section on globalisation. The greedy exploitation of the majority world by huge international businesses – aided and abetted by the WTO, the World Bank, the IMF and most of the governments of the bigger western nations – is powerfully detailed. You will be moved and angered by these acts of plunder in the name of free trade. The associated level of environmental damage is nothing short of egregious. For this alone the book is essential reading and will open the eyes of those who feel comfortably relaxed in our first world fool's paradise. A significant part of our wealth comes from resources virtually looted from these developing nations.

His final section, Making a Difference, is a call to arms to all those who feel great concern. It is a manual of how to run effective campaigns, how to become involved. An intriguing insight is given into FoE operations in the UK where FoE has two divisions, one which has no charity status and thus not subject to the recurring problem of political activity affecting charity status.

Overall the book is an excellent read, easy to understand and compelling in its call to action. It is not, however, a critical scientific analysis. It is pitched at the level of everyday people who hopefully will be moved to do something about this outrageous state of affairs. It is a "must read" if you believe in a fair and equitable world. More than anything else, it demonstrates that speaking out can and does work. If encouragement is needed, this is it.



PATHWAYS TO FUTURE

Alternative Pathways in Science and Industry: Activism, Innovation, and the Environment in an Era of Globalization
David Hess
 2006
 MIT Press

Review by Brian Martin

Environmental campaigning — where does it lead? It's possible to see small impacts, such as a government restriction on logging or more people riding bicycles. But what about the long term and the large scale? How do our efforts fit into a bigger picture?

There are visions and debates about this, for example about the role of grassroots action versus influencing governments or about international coordination of campaigns. But, perhaps surprisingly, there is little research that sheds light on these issues.

David Hess is a professor of Science and Technology Studies at Rensselaer Polytechnic Institute, in New York state, in a department with a long tradition of activist-oriented scholarship. His new book has a long title: *Alternative Pathways in Science and Industry: Activism, Innovation, and the Environment in an Era of Globalization*. It is not light reading either, with a large, complex argument and a wealth of case material. But it has some valuable insights.

At the core of Hess's argument is his concept of "undone science". Research is carried out in a range of areas. Some, like

nuclear power or automobile design, receive heavy funding. Others, like energy efficiency, are neglected by comparison. There is a lot of research that could be done in neglected areas, but is not: it is “undone.” Groups with money and power have the greatest influence on what science is done — and undone.

The lop-sided development of science and technology disadvantages environmentalists. They can't offer the same level of authoritative backing for the alternatives they advocate. But not all is lost. Hess points to community-oriented research, some sponsored by social movement groups, some by socially-concerned scientists inside the system.

Given that powerful interests shape the “pathways” for science and technology, social movements can respond in several ways. One is to oppose damaging developments, in what Hess calls “industrial opposition movements”. The anti-nuclear-power movement is a prominent example. Another response is to promote development of alternatives, filling in the gaps of undone science. Hess calls these “technology- and product-oriented movements”. The promotion of renewable energy is one of these.

Hess also describes two other pathway alternatives. One is localism, which promotes local provision of goods and services, such as energy and food. The other is access, which promotes fair distribution.

Having laid out these four alternative pathways, Hess then examines developments in five broad areas: food and agriculture, energy, waste and manufacturing, infrastructure, and finance. This is an enormous enterprise. Hess draws on a huge range of sources plus his own investigations. To make the task manageable, he restricts his attention to the US.

The broad sweep of this analysis allows some general patterns to emerge. One of Hess's key findings is that movements seldom achieve a clear-cut victory. Instead, they bring about limited change, in a process that involves dominant groups making some changes but not nearly to the extent desired by radical campaigners.

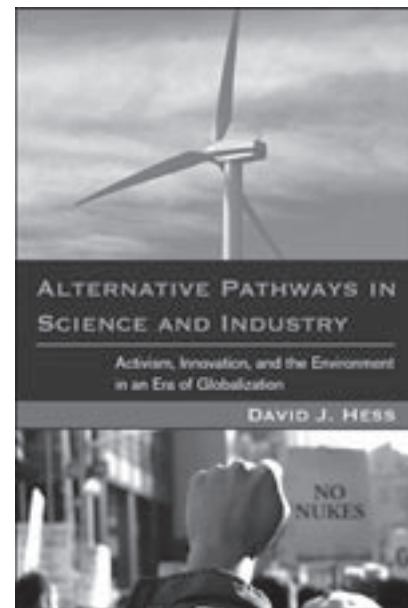
The anti-nuclear-power movement, for example, was able to dramatically slow the introduction of new plants but not to terminate the nuclear industry altogether. The movement for renewable energy has led to the uptake of some sources, such as wind power, but mostly within the mould of existing energy systems.

Alternative energy activists who hoped to see the emergence of self-reliant communities running their own affairs with their own energy systems have been disappointed; instead, most renewable systems are run by governments and companies. Hess finds this pattern of accommodation over and over.

This conclusion could be source of despair for idealistic activists. What's the point if every initiative is taken over by government and big business and used to maintain the status quo? But this is altogether too pessimistic. Hess questions the idea that social movements and dominant interests

have entirely separate agendas. Movements do influence the trajectory of science and industry, just not in exactly the way they'd like. By influencing technological pathways, movements make the world a better place and lay the basis for future movements.

Brian Martin is a Professor in the School of Social Sciences, Media and Communication, Wollongong University.



MARALINGA 'CLEAN UP' EXPOSED

Maralinga: Australia's Nuclear Waste Cover-up
Alan Parkinson
 ABC Books
 RRP \$32.95
 ISBN 978 0 7333 2108 5
 Available from ABC book sellers and via
 <<http://shop.abc.net.au>>

Review by Jim Green

This is a fascinating insider's account of the botched 'clean up' of the Maralinga nuclear test site in the 1990s under the direction of the federal government.

Alan Parkinson, a nuclear engineer, was the government's senior representative on the project and had wide-ranging responsibilities. He was sacked after repeatedly voicing concerns over decisions made by the Department of Education, Science and Training (DEST) and its contractors.

Before the Maralinga 'clean up', tonnes of plutonium-contaminated debris were buried in shallow, unlined pits

in totally unsuitable geology. After the 'clean up', tonnes of plutonium-contaminated debris remain buried in shallow, unlined pits in totally unsuitable geology. There have been four 'clean ups' at Maralinga and a fifth is needed.

The Tjarutja Traditional Owners were freely consulted – then studiously ignored when there was the merest suggestion that they might not approve of the government's decision to abandon vitrification of contaminated debris in favour of shallow burial. As Parkinson said on ABC radio: “What was done at Maralinga was a cheap and nasty solution that wouldn't be adopted on white-fellas land.”

An officer of the puppet regulator, the Australian Radiation Protection and Nuclear Safety Agency, privately complained about “a host of indiscretions, short-cuts and cover-ups” while his boss publicly described the 'clean up' as “world's best practice”. Former science minister Peter McGauran went one better and said the 'clean up' was better than world's best practice! Countless claims made by the government and its various stooges are exposed by Parkinson as being deceitful or disingenuous.

Parkinson adopted the role of public whistle-blower in 2000, not long after the government announced its intention to impose a national radioactive waste dump in South Australia. Many of the same people and organisations responsible for the botched job at Maralinga were responsible for imposing an unwanted dump in SA.

The Maralinga scandals added to the widespread opposition to a dump in SA – opposition that ultimately prevailed. McGauran was demoted for mishandling the controversies over Maralinga and the proposed dump. All was well in the world ... except that at Maralinga, tonnes of plutonium-contaminated debris remain buried in shallow, unlined pits in totally unsuitable geology.

A NUCLEAR SOLUTION TO CLIMATE CHANGE?

Reaction Time:
Climate Change And The Nuclear Option
Ian Lowe
 September 2007
 Quarterly Essay #27
 RRP \$14.95
 Black Inc.
 <www.quarterlyessay.com>
 ISBN 9781863954129

“Promoting nuclear power as the solution to climate change is like advocating smoking as a cure for obesity. That is, taking up the nuclear option will make it much more difficult to move to the sort of sustainable, ecologically healthy future

that should be our goal” --- Ian Lowe

This Quarterly Essay is an exploration of the nuclear option by well-known academic, scientist and environmentalist Ian Lowe. Lowe argues that nuclear power's economics don't stack up; it is too slow a response for the urgent climate change crisis; it is too risky; it is not carbon free; and, as with oil, high grade uranium ores are inevitably limited.

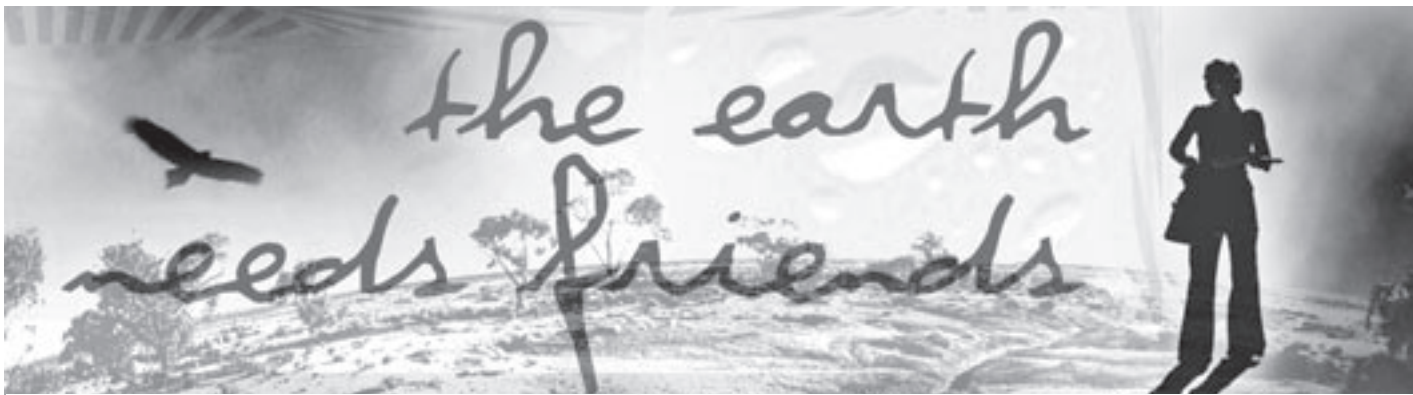
Lowe also addresses nuclear politics in Australia, arguing that the federal Coalition government has a hidden uranium enrichment agenda and there is the real possibility that Australia is “being lined up to receive the waste that nobody wants in the US.”

GREEN VOLUNTEERS

Green Volunteers
Fabio Ausenda
 March 2007
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This is the sixth edition of a book that gives all the relevant details of almost two hundred projects and organisations concerned with nature conservation around the world. Green Volunteers shows how you can volunteer to work with marine mammals, sea turtles, primates, wolves and birds in national parks, rainforests and a wide variety of unusual locations. The book contains details of opportunities all year round ranging in duration from a week to a year or more.





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