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**COMMUNITY POLICING AND COUNTER-TERRORISM:  
THE AUSTRALIAN EXPERIENCE**

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#### Introduction

For most of its 220-year history as a predominantly European continent, Australia has experienced no equivalent to the Irish Republican Army, November 17, Baader Meinhof or the Red Brigades. A small number of isolated incidents notwithstanding, the most significant act of terrorism in Australia between 1788 (the year in which white settlement commenced) and 2001 was a bomb attack outside Sydney's Hilton hotel in 1978 that killed two civilians and a police officer.<sup>i</sup>

For most of its history, white Australians considered terrorism to be a phenomenon that happened elsewhere - a result of anti-colonial or internecine struggles in either the developing world or 'old Europe'. The popular perception was that a combination of isolation from the world's trouble spots and an avuncular mass culture inured Australia from the types of extremism that fostered terrorism and immigrants from international conflict zones left their hostilities and anger at the border.

This is not to say that Australians had no fear of the outside world for one does not have to scratch far beneath the surface Australian society to discover long-standing feelings of strategic vulnerability. However, this sense of fear was fixed firmly at the macro-political level and manifests itself as a fear of invasion by larger (mainly Asian) states with little corresponding concern for the asymmetric warfare practiced by terrorists.<sup>ii</sup>

Against this background, one of the main consequences for Australia since 9/11 is the extent to which the events of that day, and subsequent attacks in Bali, Madrid and (among other places) London, forced Australia to examine risks to its national security emanating from the micro-social level. Concerned to avoid a replication of 9/11-style attacks in Australia, the attention of police and intelligence services shifted quickly to Australia's Muslim community, which at around 300,000 constitutes approximately 1.4 per cent of the total national population of 22 million. The initial response was to view the Muslim community with suspicion, and to this end police and intelligence agencies were invested with unprecedented new powers with which to monitor and interrogate all Australians, although in reality it was Australian Muslims that were the main target.<sup>iii</sup>

Over time this tendency to view Australia's Muslim communities as potential fifth columnists for al Qaeda has abated and has been replaced with a sense of optimism. In particular, these communities are now viewed as assets in the fight against global terrorism. Australian authorities understand that despite the country's distance from major political hotspots, its role in Afghanistan and former status as one of the few Western countries to support the US invasion of Iraq render the country a potential target for terrorist violence. Indeed, the recent prosecution of several immigrant and locally born Muslims on terrorism-related charges underscores the need for on-going vigilance.<sup>iv</sup> The authorities also understand that clues to any potential terrorist attack, such as loose words or unusual behaviour, are most likely to be first detected within the Muslim community itself. To capitalise upon this and turn it to the state's advantage police and intelligence services have invested heavily in building positive links with the Muslim community. Alienation from and anger with mainstream Australian society or the formation of ghettos are viewed as providing potential breeding grounds for terrorists and so police, intelligence and other government departments have developed a coordinated whole-of-government approach to avoiding such a scenario. But this has not been easy and requires on-going effort in the face of small but vocal opposition from some segments of the non-Muslim community and a handful of populist politicians.

However, understanding the political and social dynamics involved with this strategy requires an understanding of Australian society more generally, especially the traditions of strong centralised government at both the federal and state levels, the country's past history of xenophobia, and its recent embrace of a policy of multiculturalism.

### **Background: Statism, Xenophobia and Multiculturalism**

From a counter terrorism perspective, understanding the pattern of Australian settlement is important for several three reasons. Firstly, Australia's early status as a penal colony meant that at its birth as a European country it had a strong centralised government with significant

surveillance and punitive powers. These powers have been exercised at the national level by the federal government, but also by governments at the state level. As a federation of formerly autonomous colonies, Australia has a dichotomised approach to policing and security, with the federal police force assuming control for national issues such as drug smuggling, immigration fraud, and crimes committed on federal property and autonomous state police forces assuming responsibilities for other crimes, such as robbery and murder, committed within their respective borders. At the level of intelligence, the federal government has several main agencies that have not always cooperated well with the federal or state police forces, although this has recently begun to change. Of particular note is the Australian Security Intelligence Agency (ASIO), which deals with threats to security from within Australia and has the principle mandate for terrorism-based intelligence gathering. As well as these the Federal Police and the various state and territory police forces also maintain their own intelligence units. In short, there exists a wide range of police and intelligence services that interact smoothly in some areas but which on new issues, such as terrorism, have only recently begun to develop a streamlined set of cooperative protocols.

Secondly, geographic isolation from its European origins inculcated among white Australians a deeply rooted sense of vulnerability and suspicion of non-Christian and non-White outsiders. This is rooted in the pattern of early settlement when mainly Irish and English migrants had a strong sense of geographic isolation from their European roots. This embedded a strategic nervousness within Australian culture, particularly with regard to its northern neighbours, Indonesia, Japan but more lately China. With the establishment of the European common market and trade barriers that locked out Australian exports, the country was forced to look north for new markets, a development that has led to a greater understanding of Asian cultures and society. The end of the White Australia Policy (which from 1901 to 1972 all but excluded non-White immigration) and large scale Asian migration to Australia has assuaged many of these concerns and led to a society that has a much deeper understanding of Asian cultures and traditions, although one does not have to search very far to find residual pockets of cultural ignorance and a fear of the unknown.

Thirdly, the end in the late 1960s and early 1970s of what amounted to a prohibition of non-White immigration saw the arrival of increasing numbers of Asian immigrants which combined with large scale post-World War II immigration from countries such as Greece, Italy and the former Yugoslavia helped to assuage old fears and turn Australia into a multicultural society. In fact in the early 1970s Australia followed Canada by pronouncing multiculturalism as official government policy. Since then, successive federal and state governments have invested in promoting Australia as a nation united through cultural and religious diversity. There has been an implicit acknowledgement that Australian culture is

organic, a work in progress, and that the diverse array of cultures that exist in Australia today are making an important contribution to the evolution of a genuinely multicultural Australian identity.

Adding these three phenomena together, Australia today can be described as a nation with a tradition of strong government, with a xenophobic past but which in recent times has begun to overcome its fears of alien cultures and evolve into a society comfortable with its multicultural character. How does this relate to terrorism and Canberra's efforts to protect the country from the experiences of 9/11 in the US, the attacks in Madrid in March 2004 and the London bombings in July 2005? In brief, the post 9/11 milieu dealt a temporary blow to Australian multiculturalism. Fanned in part by a conservative federal government that was inclined to use terrorism to its electoral advantage the country experienced a revival of its xenophobic past, with fear now directed against Muslim Australians. It also witnessed the introduction of several waves of legislation that increased significantly the powers of police and intelligence services to monitor the activities of individual Australians and to arrest and interrogate them on the most tenuous of suspicions.

### **Post-9/11 Policing and Intelligence Reforms**

Although it was the events of 9/11 that elevated counter-terrorism from a peripheral issue to the top rung of Canberra's policy priorities, it was the subsequent attacks in October 2002 in Bali (in which 88 Australians died), Madrid and London that helped keep it at the apex of policy thinking. In the interregnum since 9/11 the Australian government has introduced more than 50 separate pieces of Commonwealth legislation dealing entirely or in part with terrorism. Meanwhile, Australia's five states and its two self-governing territories have introduced over 40 separate pieces of similar legislation.

The effect of 9/11 on the conservative government led by former Prime Minister John Howard was especially acute in part because he and his entourage were in Washington on the day the attacks occurred. The government's immediate response was to reaffirm its commitment to the Australia-US military partnership by invoking, for the first time in 50 years, the Australia, New Zealand, United States (ANZUS) defence alliance. This was followed in the weeks following 9/11 by the introduction of some hastily drafted amendments to existing legislation coupled with new initiatives that were designed to enhance Canberra's ability to avoid the attacks of 9/11 being replicated in Australia. These initiatives were encapsulated mainly in several pieces of key legislation; the *Security Legislation Amendment (Terrorism) Act 2002* and the *Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002*.

Importantly, both initiatives focused on Australia's intelligence and policing capabilities and as such provided an early indicator of how Australia would deal with the threat at home. It is, however, worth emphasising a point raised above, that 9/11 shocked Australia, a country that unlike most of its European peers had little direct experience of terrorist violence. Hence, 9/11 left Canberra with little option but to embark on a steep learning curve and it was therefore inevitable that implementing the effective counter-terrorism laws without compromising Australian democracy and respect for human rights would be a matter of trial and error.<sup>v</sup> To this end the *Security Legislation Amendment (Terrorism) Bill* and the *Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill*, attracted wide criticism for giving too much power to the federal police and intelligence services.

Under the *Security Legislation Amendment (Terrorism) Bill* ('Terrorism Bill') a range of new offences were created some of which held out the possibility of life imprisonment. Although there was little opposition to the penalties and crimes for which they could be imposed – such as planning or engaging in a terrorist act, being involved with a designated terrorist organization, receiving funds from or providing funds to, a designated terrorist organisation – criticism focused on the powers granted to the security services and the burden of proof needed to secure a conviction.

In its original format, the Terrorism Bill criminalised any activities performed 'with the intention of advancing a political, religious or ideological cause' and that in the process might have caused unspecified harm or damage. As pointed out by one of Australia's most noted constitutional scholars, 'this could have subjected Australians – including farmers, unionists, students, environmentalists and even Internet protestors who were engaged in minor unlawful civil protest – to life imprisonment.'<sup>vi</sup> As initially proposed the Bill would have also granted the federal Attorney General near absolute authority to proscribe an individual or organisation. After the opposition Labor Party combined with independent members of parliament to force changes to the legislation, it was eventually passed with a less ambiguous definition of terrorism that precluded the possibility that individuals who commit misdemeanours in the course of civil protest from being prosecuted under counter-terrorism legislation.

However, it was the *Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill* ('ASIO Bill'), which provided a legal basis for a substantial expansion in the powers of Australia's domestic intelligence agency (ASIO), that caused the loudest public outcry. As originally drafted the Bill granted federal authorities the right to detain, interrogate and even strip search adults and children suspected (but not proven) to have

knowingly or unknowingly associated with individuals suspected (but not proven) to be engaged in terrorism related activities. Similar powers were granted to the authorities in cases where an individual is suspected of being able to ‘substantially assist’ federal agents collect intelligence into a possible terrorist offence.

The Bill also removed the right to refuse to answer a question when in detention with those in breach facing the possibility of five years imprisonment. Yet more onerous provisions that allowed for the possibility of indefinite detention by ASIO without charge or trial. At the same time, the Bill sought to give ASIO the right to deny access to a lawyer or to even to advise a family member or employer that one had been detained. As noted by one observer, ‘the ASIO Bill would not have been out of place in former dictatorships such as General Pinochet’s Chile.’<sup>vii</sup>

In the face of sustained public criticism the government was forced to refer the proposed legislation to parliamentary committee, notably the *Parliamentary Joint Committee on ASIO, the Australian Secret Intelligence Service and Defence Signals Directorate*. According to the Chairman of the Committee, himself a member of the government, as drafted the ASIO Bill would ‘undermine key legal rights and erode the civil liberties that make Australia a leading democracy.’<sup>viii</sup> The Committee then referred the Bill to the Senate Legal and Constitutional Legislation Committee which although it refused to adjudicate the Joint Parliamentary Committee’s Report, did raise questions as to the constitutionality of core elements of the Bill’s provisions, particularly as they related to the proposed powers of detention of non-suspects, and the use of magistrates to issue warrants for questioning.

In the face of this criticism, and facing the prospect of the legislation failing to pass through the Senate, Australia’s upper house, the government agreed to amend key provisions of the Bill. The amended version of the ASIO Bill finally passed the Senate in heavily amended form almost 15 months after first being introduced into the parliament. In its final form the Bill created an amended Act of parliament that authorises ASIO to detain and question individuals suspected of knowingly or unknowingly involved in terrorism-related activity only if those people are sixteen years of age and over. Detention can only occur after a warrant issued by a judge. Any person detained under these provisions can be held for one week but questioned for a total of no more than 24 hours during this period. If no charges are brought against the person after this period they must be released from custody although the Act also holds out the possibility of further detention if new evidence against that person is found and a fresh warrant obtained. Individuals detained by ASIO under the amended version of the Act have the right to a lawyer, however if ASIO officers deem the lawyer concerned to be a security risk access can be denied and the detained forced to choose another. All

interviews conducted under the auspices of the ASIO Act must be videotaped and can be scrutinised by the Inspector General of Intelligence, an independent officer responsible for monitoring and assessing the behaviour of Australia's intelligence community. Perhaps most importantly, the Act also contained a sunset clause that provided for these new powers to be voided in three years unless renewed by a fresh Act of parliament.

The suicide bombings of two popular nightclubs in Bali on 12 October 2002, which as pointed out above killed over 200 people including 88 Australians, intensified the anxieties unleashed by 9/11 and led to yet another wave of legislation, which although not going as far as the first amendments first proposed to ASIO's powers, nevertheless further boosted the powers of Australia's domestic intelligence services and police. At the same time, a series of raids against Indonesian migrants suspected of attending lectures by the spiritual leader of the group responsible for the Bali attacks, Jemaah Islamiyah, turned up no evidence of any illegal activity but did lead many Muslim Australians to fear that the amendments were targeted specifically at them and by implication their loyalty to Australia was being called into question.

The dangers in this development were recognised promptly by several state governments, especially those of Victoria and Queensland, who moved quickly to try to quarantine inter-cultural and inter-religious harmony from the deleterious effects caused by the public panic unleashed by 9/11 and the Bali attacks. It was felt that if left unchecked inter-religious tensions could generate social schisms forcing Muslim Australians to retreat defensively from mainstream society and seek protection through the creation of micro-communities detached from mainstream Australia and create an environment that could be exploited by extremists.<sup>ix</sup>

Not surprisingly, following the attacks in Madrid and two years later in London the government introduced yet more changes with each tranche of new legislation further enhancing the powers of police and intelligence agencies to intrude into the lives of ordinary Australians in the name of counter-terrorism. Among the most contentious of these new initiatives was preventative detention and house arrest, both of which were contained in the *Anti-Terrorism Bill* passed by the parliament in December 2005. Not since the Second World War had the Australian state had such powers at its disposal. Under the terms of the Bill an individual can be held without charge for up to 48 hours if there is intelligence to suggest they might be involved in a terrorist act or if they possess any item (or 'thing') that might be connected with the preparation of a terrorist attack; in the latter sense this can include anything as innocuous as a train or bus timetable or a street directory.<sup>x</sup> The Act also empowered the government to apply for control orders to allow for an individual to be placed under house arrest, a status that can be renewed indefinitely through twelve monthly

applications for extended detention. The Bill also allows the state to apply for orders to force a suspect individual to wear tracking devices, prohibit them from using a telephone or using the Internet, and even to stop them from working.

Even so, out of this milieu emerged some positive reforms that better equipped Australian intelligence and security agencies to deal with the terrorist threat both domestically and overseas. Of particular significance was the Howard government's initiative in establishing a National Counter Terrorism Committee (NCTC), a federal body which brought together bureaucrats from those policy departments responsible for different components of national security at both the federal and state levels as well as senior officers from Australian intelligence agencies and Federal and state police forces. The NCTC is the first truly national steering committee, allowing members from different jurisdictions to come together to discuss a wide variety of counter-terrorism issues in ways that reduce the risk of different agencies acting at cross purposes. The NCTC plays a vital role in smoothing information flows between different levels of the national and state bureaucracies and by so doing help to foster a culture of policy coordination and consensus that has streamlined the nation's approach to counter-terrorism. Indeed, it is the new spirit of cooperation forged within the NCTC, which has contributed to the successful development of joint counter-terrorism task forces, comprised of federal and state police working along side officers from the Australian intelligence community in joint operations that have successfully detected and interrupted several potential terrorist strikes within major Australian cities. Similarly, under the auspices of the NCTC Australian police and emergency services have exercised with elements of the Australian armed forces in simulated terrorist strikes in Australia's urban centres.

However, the NCTC was quickly tested by a shift in the rhetoric of the government whereby it matched its legislative initiatives with increasingly strident attacks on multiculturalism and on Islam as a religion. For example, the Federal Treasurer Peter Costello condemned 'confused, mushy, misguided multiculturalism'<sup>xi</sup>, the Prime Minister John Howard referred to Islam as a 'jihad culture',<sup>xii</sup> while another members of the government, Bronwyn Bishop and Sophie Panopolous, derided claims by Muslim women that they found the wearing of a head scarf liberating by saying that such a notion would not have been out of place in Nazi Germany.<sup>xiii</sup> Coupled with sensationalist media reporting and goaded by populist radio talkback personalities tensions between young Muslims and non-Muslims erupted with a near riot on a Sydney beach in December 2005 when a crowd of around 5,000 non-Muslim Australians attacked and beat a small number of men of Middle Eastern appearance.<sup>xiv</sup>

## A Shift to Community-based Intelligence

Between 9/11 and the 7/7 attacks in London most of the Australian intelligence community had undergone a shift in attitude. Rather than viewing Australia's Muslim communities as a source of threat they were increasingly seen as an asset in countering the threat of terrorism. To be sure, this view had always been the position of some agencies, such as the Victorian state police, but by 2005 it had become axiomatic across the country. This shift in attitude among security practitioners, if not the government of the time, was based in large part upon a number of successful counter-terrorism operations in Australia's two most populous states, New South Wales and Victoria, which would not have been possible without information being volunteered from within the Muslim community.

Repositioning the Muslim community as an asset contradicted the prevailing view in Canberra, and as such many of the initiatives undertaken by federal and state police forces and by the intelligence community were introduced in subtle but highly effective ways. The initiatives rested on recognition of a link between the excessive use of hard power to counter-terrorism and the growth of post-9/11 extremism in both the Muslim world and among Muslim Diasporas in the West. As pointed out by Gerges, even senior al Qaeda operatives had acknowledged that part of the logic behind the attacks of 9/11 was to cause the West to lash out violently against the *ummah*, driving a wedge between Muslims and non-Muslims and creating a more fertile environment within which the ideology of al Qaedaism could take root.<sup>xv</sup>

To counter this possibility, through the NCTC federal and state bureaucrats as well as police and intelligence agencies initiated a series of coordinated policies designed to build relationships with the Muslim community. At the forefront was a team of community liaison officers, sworn members of the police force or intelligence agencies, whose job it is to maintain links with all levels of different ethnic and cultural groups – from community leaders down to youth groups. They attend religious festivals, visit schools, arrange sporting events, and above all, listen and respond to a wide range of community concerns from local crime to incidences of racism.

The objective has been to foster a sense that rather than counter-terrorism policing being targeted against a particular community it is instead an initiative undertaken on-behalf of and for the benefit of a community. In short, effective counter-terrorism is presented as a partnership involving police, intelligence agencies and the community.

## Conclusion

Terrorist target their violence at two distinct audiences. On the one hand it is designed to intimidate their enemies. More subtly, however, it is designed to appeal to those whom the terrorists regard as their 'in-group'. To service this latter objective terrorist violence is designed to create the kind of social conditions that will inspire others to embrace their ideology and join their struggle.

With this background in mind, Australian police and intelligence services have developed a range of community-based initiatives designed to foster social cohesion and inter-cultural dialogues that make it easier to isolate terrorists from their potential communities of support. Although legislative changes have equipped police and intelligence with a vast array of new powers, there has been reluctance, or little need, to utilise them. Acknowledging Stohl's<sup>xvi</sup> observation that fierce repression rarely daunts terrorists or their supporters but can in fact fill the very reservoirs of terrorist support that it is designed to empty Australia's security community has developed a nuanced mix of hard and soft power initiatives that encourage different cultural and religious communities to take the initiative in policing themselves and, by feeling that they are valued members of the wider Australian society, to feel comfortable in cooperating with the police and intelligence services on terrorism related issues.

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## Notes:

- i Although the perpetrators of the attack have never been found, speculation continues to centre on groups with grievances against the Indian government, who's Prime Minister Moraji Desai was at that time staying at the hotel along with other leaders of Asia-Pacific Commonwealth nations. See Russell Hogg, 'The Hilton Bombing Case' *Legal Service Bulletin* Vol.15 No.6 1990, pp.49-50.
- ii Anthony Burke *In Fear of Security: Australia's Invasion Anxiety*, Annandale: Pluto Press Australia, 2001.
- iii David Wright-Neville, *The Politics of Fear: Counter-Terrorism and Australian Democracy* Working Paper 27/2006 of the Royal Elcano Institute for Strategic and International Relations (Madrid: Real Instituto Elcano de Estudios Internacionales y Estratégicos).
- iv Kissane, Karen 'Tip-Off Led to Intense 16-Month Investigation' *The Age* 16 September 2008, p.6; Hammer, Chris and Zwartz, Barney 'Attorney-General Hails Success' *The Age* 16 September 2008, p.7; Hobday, Liz 'Benbrika Guilty on Terrorism Charges' *Australian Broadcasting Corporation* 15 September 2008. Available at: <http://www.abc.net.au/news/stories/2008/09/15/2364753.htm>
- v Along with Britain, Canada, New Zealand and the United States Australia is one of only a handful of countries that went through the twentieth century without any interruption to democratic processes.
- vi George Williams, 'Australian Values and the War against Terrorism' *University of New South Wales Law Journal* Vol.26 No.1 2003, pp.194-5.
- vii Williams, 'Australian Values and the War against Terrorism', p.196.

- viii Commonwealth of Australia, *House of Representatives Hansard*, 5 June 2002, p.2846 (Hon David Jull, Chair of Joint Parliamentary Committee on ASIO, ASIS and DSD).
- ix Sharon Pickering, Jude McCulloch and David Wright-Neville, *Counter-Terrorism Policing in Diverse Communities* New York: Springer 2008.
- x Darryl Melham, 'Anti-Terrorism Measures call for More Opposition' *Australian Financial Review* 31 October 2005, p.63
- xi Peter Costello, Federal Treasurer, 'Worth Promoting, Worth Defending: Australian Citizenship, What it Means and How to Nurture It' *Address to the Sydney Institute*, 23 February 2006. Available at: <http://www.treasurer.gov.au/DisplayDocs.aspx?pageID=&doc=speeches/2006/004.htm&min=phc>
- xii George Megalogenis, 'PM hits at "Jihad" Muslims', *The Australian*, 20 February 2006, pp.1-2.
- xiii Australian Broadcasting Corporation 'Bronwyn Bishop calls for Hijab Ban in Schools' *The World Today* 29 August 2005. Available at: <http://www.abc.net.au/worldtoday/content/2005/s1448343.htm>
- xiv Kabir, Nahid 'What Does it Mean to be un-Australian? Views of Australian-Muslim Students in 2006' *People and Place* 15(1) 2007, pp.62-79; Sebastian De Brennan 'Multicultural Australia: The Way Forward Post-Cronulla' *AQ- Journal of Contemporary Analysis* 78(4) 2006, pp.34-36.
- xv Gerges, Fawaz *The Far Enemy: Why Jihad Went Global* Cambridge: Cambridge University Press 2005, p270.
- xvi Stohl, M. S., (2006) 'Counterterrorism and Repression' in Richardson, Louise, *The Roots of Terrorism* London and New York: Routledge, p.65.

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