



# IDSS COMMENTARIES (30/2003)

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## **Australia's Approach to 'Homeland Security'**

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In the wake of the attacks in the US on 11 September 2001 and the Bali bombings on 12 October 2002, 'terrorism' has been elevated to the number one national security concern of the Australian Government. However, owing to coincidence in timing, terrorism has also become conflated with the problem of people-smuggling and asylum seekers. Taken together, these two issues have incited significant 'fear' within the Australian community towards the security of the 'backyard'; echoing the sentiments of previous generations whose concerns with invasion from North Asia or the spread of communism in South East Asia dominated Australian security thinking in the past. This underlying fear has both driven and defined the policy response of the Australian Federal Government, which has begun to take substantial, and even controversial steps, to secure Australian 'borders' from 'external threats'; including both preventive and responsive measures. The domestic policy agenda to strengthen Australia's internal security apparatus has made substantial ground over the last 12 months.

### **Controversial New Legislation**

A significant number of new laws have been enacted to recognise terrorism in Australia and to provide 'muscle' to other extant legislation. Under amendments to legislation governing the Australian Security Intelligence Organisation (ASIO), ASIO may now detain indefinitely citizens suspected of having information about terrorist offences, though subject to certain conditions. These include a requirement for successive warrants, a minimum age of 16 for any detainee, the right of a citizen to see a lawyer immediately after being detained by ASIO, and the introduction of a 'sunset clause' requiring the laws to be re-submitted to Parliament after three years.

However, there has been widespread criticism of these new laws, and for the ASIO Amendment Act in particular. Many lawyers and social commentators believe that the government is overstepping ethical and constitutional norms in seeking the secret detention of Australian citizens who are not suspected of any crime. In this sense, the Australian legislative response to terrorism goes further than the equivalent laws in the US, UK and Canada. The second major objection is that ASIO is not a suitable body to be given police powers, as ASIO is a covert intelligence-gathering agency, not a law enforcement body. Perhaps the harshest criticism is that the new laws might not even be particularly helpful in combating terrorism. Unlike legislation in the UK and the US – where actual terrorists are targeted – the Australian law is aimed at non-suspects who may (or may not) have useful information. Further, whilst the new laws increase significantly intelligence *collection* capabilities, they do not address the potentially more significant issue of intelligence *analysis*.

## **Enhancement of Defence and Law Enforcement**

The Australian Defence Force (ADF) and the Australian Federal Police (AFP) have both enhanced their anti-terrorist and domestic security capabilities over the last 12 months, particularly the AFP. Before the Bali bombings, not a single AFP officer was dedicated to counter-terrorism; today more than 100 are assigned full-time. In December 2002 two new law enforcement units were created within the AFP; the Transnational Crime Coordination Centre (TCCC) and the Joint Counter Terrorism Team (JCTT). Significantly, the AFP has also expanded its pool of international 'liaison officers' to include positions in regional countries; and has also moved to sign Memorandums of Understanding with law enforcement agencies in Malaysia, Thailand and Singapore. Another law enforcement development has been the recent expansion of 'air security' measures to include armed 'Air Security Officers' on selected domestic flights, as well as significant increases in security officers and explosive detection canine teams at major Australian airports.

Although the ADF is neither equipped nor trained to play any significant internal security role, in the past 12 months its capability has been significantly upgraded for domestic security operations. In late 2002 three new counter-terrorist units were formed: a new Special Operations Command; a second Tactical Response Group (TAG) to be based in Sydney (in addition to the existing TAG based in Perth); and an Incident Response Regiment (equipped for chemical, biological, radiological, nuclear or explosive incidents). In addition, the Australian Government will accelerate the purchase of additional troop lift helicopters to enable a squadron to be based in Sydney to support the new TAG. In May this year a new Reserve Reaction Force was also formed, consisting of eight 150-man units made up of part-time soldiers and designed to provide 'Critical Infrastructure Protection' on a regional basis. Whilst these developments are generally seen as a positive measure to enhance Australia's domestic security, they have been criticised by some defence analysts and serving officers who believe that high cost units such as the TAG reflect a 1980s 'siege mentality' approach to counter-terrorism.

More controversial have been measures taken to use the ADF directly for domestic security. First, defence intelligence assets are being increasingly tasked to collect and/or report on transnational criminal activity. This role has come under intense public scrutiny, especially in light of their role in the highly controversial 'Tampa affair'. Second, the ADF has been used extensively in tasks related to border and coastal security. This new task has also attracted significant criticism, particularly during the 'children overboard' refugee scandal. ADF successes in apprehending vessels laden with drugs and illegal weapons have received less press coverage in comparison. The final significant measure has been the use of air force assets in an air security and response role. The deployment of F/A-18 fighter jets to protect the 2002 Commonwealth Heads of Government Meeting (CHOGM) near Brisbane against airborne terrorist attack displayed some of this capability. This mission was unprecedented in Australia's domestic security environment. These activities have aroused concern, particularly amongst the Defence establishment, that military involvement in 'non-traditional' security tasks might deplete capability and divert resources away from their primary role.

## **Bureaucratic Restructure and Political Control**

Significant changes have also been made to the administrative management of terrorism and domestic security issues. Australia has had an inter-governmental approach to combating terrorism since 1978, following the bomb blast outside the Hilton Hotel in Sydney. A

permanent National Counter Terrorism Committee (NCTC) has been formed as a result of the Inter-Governmental Agreement between Federal, State and Territory Governments on 24 October 2002. It marked the beginning of a new era of cooperation between the levels of government and a shift towards the centralised administration and control of national security issues at the Federal level. Most significantly, the formation of the NCTC was accompanied by the transfer of policy coordination from the Commonwealth Attorney General's Department to the Department of the Prime Minister and Cabinet. In May this year a new 'National Security Division' was created within the Prime Minister's Department to ensure a high level of administrative control and to reinforce a whole-of-government approach to national security policy. The Attorney General still maintains responsibility for the practical coordination of national security arrangements through the activities of the Protective Security Coordination Centre (PSCC).

This solution differs fundamentally from the US approach to 'Homeland Security' - where an entire new bureaucratic structure was built - in that the Australian Public Service (APS) already has a range of high performing organisations working together. This model has been judged to unsuitable for Australia. First, the Prime Minister and his Cabinet now maintain central control. The small size of Australian government institutions, and the co-location of all senior officers and politicians in Canberra, facilitates direct communication within government. Even though there is a need for cooperation between the Federal and State levels of government in Australia, this is more easily achieved than in the US; Australia has only nine neatly organised police forces, compared to the 18,000 different law enforcement agencies in America.

### **An Australian Approach**

The Australian response to enhance domestic security and its attempt to address the very real threat posed by terrorism, has been far-reaching. The emphasis of the Australian Government approach has been on practical and achievable measures. Australia has made considerable changes to the legislative framework, defence and law enforcement infrastructure and capability, and to the system of government control and administration. Whilst not without public criticism, this approach has been markedly different from the American 'Homeland Security' concept and reflects an attempt to meet Australian needs with distinctly Australian solutions.

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