



Features

**Legislate for safety, not persecution**

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An anti-terror stocktake is needed, writes **Andrew Lynch**

Laws of dubious utility will not make us safer

ATTORNEY-General Phillip Ruddock is right when he says Australia still faces a significant terrorist threat.

The events in Glasgow and London are another reminder -- if one was needed -- that fear of terrorism remains the defining feature of our times.

These recent developments are sure to return national security to the forefront of public debate in the run-up to the federal election. It is, unquestionably, a vital issue and one on which the Howard Government has consistently polled strongly. But how good a job has the Government done on national security really?

The fact Australia has remained free from domestic terrorist attacks shows the Government has been highly effective in its overall handling of security. The plans of a number of persons allegedly engaged in preparing for terrorist activities have been successfully foiled, with a few so far brought to justice.

While the public may rightly take comfort from the way in which efficient investigation and policing have apparently prevented terrorism, the Government's record on national security must be assessed against slightly broader criteria.

The maintenance of good relations with other nations and the impact of our involvement in foreign conflicts are important elements in this. So also are legislative initiatives to combat terrorism. Consideration of the latter must necessarily include the extent to which their impact on civil liberties is justifiable. Our responses to the terrorist threat should be judged both for effectiveness and proportionality.

The Commonwealth has introduced more than 40 new anti-terrorism laws in the past six years. Much of this activity must be understood as a responsible reaction to the terrorist threat -- on which Australian law was largely silent prior to September 11.

Many of the new laws make sensible improvements to the security of important infrastructure, transport systems and dangerous substances -- particularly those passed after the Wheeler report identified serious deficiencies in aviation security a few years ago. Continued vigilance on these issues is crucial.

Unfortunately, the Government has occasionally allowed its legislative program to veer away from intensely practical safeguards in favour of those which are of more questionable value. These laws remain contentious as a means of safeguarding the community and are a liability on the Government's record. A good example is the revamped offence of sedition which Ruddock insisted on keeping despite objections from members of his own Government, a unanimous Senate Committee report, and a full review by the Australian Law Reform Commission conducted at the Attorney's own instigation.

Perhaps the most worrying component of Australia's new anti-terror laws remains the new "status" offences.

Under these laws, people face possible conviction merely for being members (including informal members), or associating with members, of an organisation the Attorney-General has banned.

Two major reviews of the laws last year -- one from the Parliamentary Joint Committee on Intelligence and Security and the other conducted within Ruddock's own department -- agreed that these offences "provoked widespread anxiety and concern" among Australian Muslims that their communities were

being targeted for criminality.

At the same time, the reviews found little in these offences which was of substantive value in foiling terrorist activity.

There is nothing inherently discriminatory in these laws, but it is worrying if they contribute to a sense of persecution and alienation in the very communities we need to work with to curb the appeal of political violence.

Overall, the Government can be pleased with its record on national security, but laws of dubious utility will not make us safer.

When they curtail important civil liberties or undermine practical counter-terrorism strategies, they should be repealed.

**Andrew Lynch** is the Terrorism and Law Project Director at the Gilbert + Tobin Centre of Public Law, UNSW which is holding a symposium on Law and Liberty in the War on Terror this week

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