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Terrorism is a scourge. The murder of innocent people for political ends - whether in New York or in the Middle East or in the Indian subcontinent - is an unspeakable horror.

But our horror is no excuse for suspending clear thinking - least of all in a country like Australia where "there remains no known specific threat of terrorism" (Attorney-General's press release 18/12).

Since September 11, Governments across the Western world have rushed through "tough new anti-terrorist laws". The establishment by President Bush of secret military tribunals to try suspected terrorists is only the most grotesque example.

But these measures are founded on a fallacy, a verbal trick. Governments pretend that "terrorism" is some new species of human malefaction, having its own legal and moral qualities. Thus Attorney-General Williams speaks of the need for:

"measures to enhance our ability to meet the challenge of the new terrorist environment".

In fact, "terrorism" is only another name for serious criminal activity. All that distinguishes a "terrorist" act from any other criminal act is its scale and its political motivation.

There is no need for a new offence of terrorism: our criminal law already provides heavy penalties for the crimes in question.

The response to a terrorist act - or, in Australia's case, to the entirely theoretical possibility that someone may be planning one - must be to bring to bear the full armoury of police and ASIO powers as they presently exist. And to resist calls for new laws unless and until a compelling case is made that existing powers are inadequate.

Of course detection and prevention are the first priority. That is why ASIO already has power to intercept telecommunications where it suspects "activities prejudicial to security". The same Commonwealth legislation (the *Telecommunications (Interception) Act 1979*) enables law enforcement authorities to tap phones when investigating murder, kidnapping (or involvement in planning either) or conduct likely to involve serious risk of loss of life or personal injury.

These powers - for which, properly, a warrant must first be obtained - are tailor-made for tackling terrorist activity, and in particular for finding out about it before it happens.

The Howard Government's "raft" of new measures can now be seen for what it is: at once intellectually dishonest and profoundly worrying. Here is a Government which has already exploited, cynically and disingenuously, people's fears about asylum seekers. Now it seeks to exploit their anxiety about terrorism by introducing laws for which no justification has been or could be made.

Let us look more closely at the proposed 48-hr interrogation power. It is without precedent in Australia's (peacetime) legal history. It is proposed that ASIO be able to detain a person:

- incommunicado
- in the absence of any suspicion of involvement in criminal activity
- without legal advice or assistance
- purely to seek "information"

And if the person declines to answer (a right which Australian law has always guaranteed), ASIO will have "power to coerce [him/her] to answer questions" (D.Williams, ABC Lateline, 27/11/01).

"necessary to prevent a terrorist attack. A terrorist sympathiser who knows of a planned bombing on an embassy could be held incommunicado for questioning so authorities could close in on the would-be perpetrators of this serious crime" (press release 18/12/01).

This would be laughable if the implications for our society weren't so serious.

First, this is preventive detention, not investigative detention.

Secondly, there is nothing new about such a circumstance. The need to avoid alerting conspirators to the fact of surveillance is a commonplace of criminal investigation.

Thirdly, the example does not justify introducing a new power to detain. Arrest of the sympathiser on suspicion of being "knowingly involved" would be seem to amply justified.

Fourthly, word would soon spread of the sudden disappearance of the "sympathiser". This would presumably send the loudest possible warning, to those planning the attack, that the authorities were onto it.

So much the better, if the conspirators were forced to abandon their plan. But the foiling of the plot would have been the result not of the sympathizer being detained incommunicado but of the timely swoop on the sympathizer.

If enacted, this would be very bad law. It is redolent of Stalinist Russia and has no place in the free and open society which the Howard Government claims to be protecting.

We, the community, must speak out loudly in opposition, lest we be complicit in this travesty.

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