

New terror laws spark different reactions

Transcript

This is a transcript from PM. The program is broadcast around Australia at 5:10pm on Radio National and 6:10pm on ABC Local Radio.

PM - Tuesday, 27 September , 2005 18:16:25

Reporter: David Mark

MARK COLVIN: The new counter-terrorism laws have drawn a wide range of reactions.

We'll hear shortly in the program from former foreign minister Gareth Evans, who's been telling me of his doubts about the quality of intelligence and the need for strong sunset clauses.

Representatives of Australia's Muslim community are concerned that they'll be targeted after the Australian Federal Police admitted that the laws would foster racial profiling.

The Islamic community and some lawyers question the Prime Minister's promise of safeguards through judicial review; while others ask whether Australia even needs tougher laws, given that there have been no terrorist attacks in this country.

But one commentator says the laws are needed, and they're what the public wants.

David Mark reports.

DAVID MARK: The President of the Australian Federation of Islamic Councils, Dr Ameer Ali, says he supports the counter-terrorism laws in principal but worries about a backlash against his community.

AMEER ALI: What we are worried is the way they are going to be implemented. The Federal Police is seeking indemnity from the Government against anti-discrimination laws, which means they are accepting that it is discriminatory.

DAVID MARK: The Australian Federal Police have indicated racial profiling could occur.

This is what the Chief Executive of the Police Federation of Australia, Mark Burgess, told *AM* this morning.

MARK BURGESS: The intelligence generally will identify the type of person who might be under suspicion for the terrorist attack. Unfortunately, more often than not,

the profile will be young men of Middle Eastern appearance.

AMEER ALI: So this is where the Muslim community's perception now is becoming true, that is that this community is going to be targeted. Now, the Government say that there are adequate safeguards against such discriminatory behaviour on the part of the law enforcement authority.

Laws are lost because... and the question is for the people who are going to implement are human beings, and they are subject to all sorts of pressure, the media pressure, the public pressure, public opinion. This is where we need the safeguards.

DAVID MARK: The Prime Minister will probably argue that the safeguards are the rights for detainees to have lawyers present and the fact that the orders will be subject to judicial review; do you believe that that's reasonable?

AMEER ALI: Yeah, there may be something reasonable in that, but then still until we see the whole thing in black and white we can't leave comment on that.

DAVID MARK: Simon Bronitt, a Professor at the Faculty of Law at the Australian National University, has written on Australia's counter-terrorism regime and questions the need for more stringent laws.

SIMON BRONITT: I don't have the evidence before me to show that our current processes of criminal law are inadequate. In fact, we've enacted more than 100 new provisions to deal with terrorism. I don't sense that any specific law will necessarily prevent a terrorist attack. That seems to be fairly obvious.

DAVID MARK: The Prime Minister argues that the preventative detention laws will be subject to a judicial review. Is that a reasonable form of a check and balance?

SIMON BRONITT: Well I think the embodiment of judicial officers in these kind of administrative decisions raise some complex issues of constitutional law, because in a sense this isn't a full trial where the judicial officer or the person who's exercising some form of administrative oversight will hear from all parties, and there won't necessarily be rigorous cross-examination of evidence that's brought forward. It is in the nature of an administrative process and not a judicial process.

DAVID MARK: The Executive Director of the Sydney Institute, social and political commentator Gerard Henderson, believes the public wants stronger counter-terrorism laws.

GERARD HENDERSON: What happens in democratic societies at a time of war or the threat of terror is there is certain constrictions within the democratic form of the civil liberties which would otherwise exist at a time of peace.

This is understood by the overwhelming majority of the electorate, who support these proposals that the Prime Minister has put forward with the support of the state and territory premiers and ministers.

DAVID MARK: What makes you believe there needs to be tougher anti-terrorism

laws, given that thus far the Australian Federal Police and other intelligence organisations seem to be doing the job?

GERARD HENDERSON: Intelligence organisations in Australia do appear to be doing the job, but they are saying that they want more powers, and I think we should accept their advice.

DAVID MARK: But terrorist analyst with the Australian Strategic Policy Institute, Aldo Borgu, questions whether Australia's intelligence gathering agencies are up to the job.

ALDO BORGU: I think part of the problem that what you've got with the London bombings of July 7 is that, you know, obviously the Brits were keeping a close eye on known extremists, but the problem is there were a number of people that weren't known, that weren't on their radar screen that they weren't keeping an eye on.

So I don't think any of this new legislation, particularly in the UK, but also in Australia, would've stopped the London bombers, because they didn't know they existed in the first place.

But it also does beg the question as far as what we are doing to stop the future generations of terrorists arising – the second and third generations – and that actually calls for a lot more political measures in waging what the Government does call as to be a war of ideas.

MARK COLVIN: The terrorism analyst with the Australian Strategic Policy Institute, Aldo Borgu, ending David Mark's report.