

Iraq and a hard place

There are a number of disquieting aspects to renewed political and public debate about the viability of continuing Australia's commitment to the UN-endorsed, US-led multinational coalition in Iraq. In particular, too often the motivation for much of the debate, on both sides, appears to be partisan political advantage rather than objective and longer-term assessment of Australia's strategic policy needs.

As even the most cursory examination of previous issues of *Defender* and *Defence Brief* show, the ADA has for some time been calling on the Government to better explain its rationale for extending our military commitment. The Association has warned on numerous occasions over the last year or so that public support for the commitment would inevitably decline if this did not happen. The Association has also long cautioned that calls to withdraw our troops must be carefully couched so the insurgents they are fighting do not come to wrongly believe that increasing their attacks on Australian troops might hasten their withdrawal.

As the Winter 2003 *Defender* warned:

While the force-on-force phase of the US-led campaign to topple Saddam Hussein succeeded beyond nearly all expectations, the continuing chaos of the subsequent occupation risks undoing much of the good. US Defence Secretary Rumsfeld's direction to cut the forces needed may have appeared to work for the fight but any campaign also includes the consolidation and the orderly withdrawal phases. Occupations, even relatively benevolent ones, soak up forces until a semblance of street-level law and order is reimposed and public confidence is restored enough for some semblance of normality to return. The corrupting nature and longevity of Saddam Hussein's regime, and the Sunni-Shia schism in Iraq, has contributed to the problem as there is little enduring civil society to fall back on for rebuilding.

Unless this situation is fixed quickly, the US risks replicating the British quitting of Aden in 1968 on a large scale, rather than midwifing the first of a new order of democracies throughout the Middle East. Growing Iraqi impatience and even antipathy to their liberators may be in no small part due to many Iraqis just wanting enough order re-imposed, however temporarily, so they can eat, drink and work before moving forward to rebuild and democratise Iraq. If it all turns to disaster it may be morally and politically difficult for Australia to avoid shouldering a greater burden in the consolidation phase of the campaign.

The war has not gone well but few do. All wars are contests of will and end when one side gives up. The key questions now concern whether the original strategic objectives of the US-led coalition are still achievable with more effort or whether they need modifying or re-prioritising. The key supporting judgement is whether a coalition withdrawal

would risk greater strategic dangers in the long-term from Islamist extremism. Such a judgement must take into account whether the continued coalition presence in Iraq is assisting Islamist recruitment, whether this is temporary or permanent, and whether a dysfunctional Iraq following a coalition withdrawal might actually become a territorial sanctuary for such terrorism as Afghanistan was under the Taliban. This said, some of the sillier or simplistic ideas being floated as alternative policies do not pass either the laugh or commonsense tests. Calls, for example, to get the UN to take over the rebuilding of Iraqi civil society simply ignore that attacks by Sunni-Arab extremists long ago bombed the UN out of Iraq.

Whether Australia's military commitment to Iraq should be continued or wound down is a very complex and nuanced subject – and one intimately related to our participation and responsibilities in the wider struggle with Islamist terrorism. Unfortunately acknowledgement of this complexity continues to be absent from much of the public debate. ♦

The many dilemmas about North Korea

North Korea's testing of low-yield nuclear weapons poses serious strategic problems. The Nuclear Non-Proliferation Treaty (NPT) continues to unravel and the longer-term pressure on Japan to formally field its own nuclear deterrent can only increase. Such an action would not be well accepted in China, South Korea and the US. Japan's current position that it is forswearing such an option appears noble, but whether this can be sustained indefinitely in the face of a growing North Korean threat, and the failure of China to rein in North Korea, is highly questionable. The six-party talks process is either stalled or splutters on in fits and starts without much effect on North Korea's nuclear ambitions or strategic brinkmanship.

Military action to try and negate North Korea's nuclear capabilities would be difficult in practical terms, even assuming that such action had the approval of all the principal powers and was endorsed by the UN Security Council. Problems include the mountainous nature of the country, the extensive deep tunnels dug by decades of slave labourers, the extensive defences of a militarist state, the large offensive capabilities aimed at South Korea and the secretive nature of the North Korean regime. There is continuing uncertainty that the necessary target lists are complete, cover all eventualities, and that such targets can be successfully attacked and destroyed before North Korea could initiate or sustain retaliatory action.

The strategic dilemma is that the longer diplomatic initiatives take, or the longer the option of military attack is postponed, the greater the risk that North Korea will be able to miniaturize a nuclear warhead enough to fit in on a ballistic missile. Not to mention improve its medium and

long-range ballistic missile capabilities in terms of range, payload, numbers and accuracy.

The common problem with diplomatic pressure, other international coercive measures such as strong sanctions on trade, or military action, is that all three options cannot succeed without Chinese and South Korean co-operation. A sea blockade, for example, would need significant bases in South Korea at least, in order to sustain the effort required over the distances, timescales and climatic conditions involved. Furthermore, a maritime blockade would be largely ineffective anyway unless China and Russia were willing to seal their land borders with North Korea. It would also be unworkable unless South Korea could be guaranteed sufficient protection against retaliatory land and air attack from North Korea.

Both China and South Korea are reluctant to forcibly coerce North Korea in case this prompts a collapse of the Kim family regime and/or a final military lashing out by the regime in its death throes. Both countries also seem to fear a precipitate or even eventual collapse of North Korea more than they fear military attack by the North Koreans.

Two stark lessons drive this approach. The first one is the continuing refugee flows from North Korea into China following continual famines in the former. This has ebbed and flowed over the last decade and is on the rise again. The second lesson is German reunification. The South Koreans have extensively studied the difficulty that West Germany, the third-largest economy in the world, had in absorbing East Germany, the most successful of the communist economies. The economy of the unified Germany was in the doldrums for over a decade and has still not really recovered. South Korea is only the world's tenth largest economy and North Korea is by far the worst communist economy and one of the least successful in the world by any measure.

Moreover, East Germans before reunification at least understood the West and how a market economy and democracy worked. They also had a functioning civil society independent of the communist regime (and often in reaction to it). South Korea naturally fears having to rehabilitate a North Korean population with no functioning civil society outside the ultra-Stalinist, militarist regime of the Kim family cult. Just treating the mass psychological damage to 23 million people indoctrinated for three generations, not to mention eventually curing them, is enough to make any South Korean lie awake at night. ♦

1970s-style rhetoric from crooked South Pacific leaders

To paraphrase Oscar Wilde, allegations of neo-colonialism are the last refuge of a scoundrel. Recent events in Solomon Islands, and even in New Guinea, amply bear this out. Australia's extensive and expensive assistance to our south Pacific neighbours cannot be successful in the long run while crooks keep getting elected – in politics where cultural factors so strongly militate against altruistic imperatives and a sense of nationhood and civil society that is strong enough to cross family, clan and tribal lines.

There are, however, few alternatives to persistence and patience. In Solomon Islands, for example, short of the

extremely unlikely event of that country surrendering its sovereignty to the UN Trusteeship Council, and the UN then appointing Australia as the trustee, we are stuck with the current constitutional system that can result in coalition governments held together in part by their fear of criminal indictment if they lose office. ♦

An unappealing narrow judgement

The Victorian Court of Appeal's recent decision in the case of the self-described 'Jihad Jack' Thomas is a cause for concern. It appears to be based on the belief that the provisions of Australian domestic law are so sacrosanct that they can somehow over-ride the inevitable chaos of overseas war zones. What the ruling effectively says is that no evidence gathered by Australian police from interviews overseas can be truly voluntary if the subject is, or has been previously, held and/or interrogated by a foreign power under wartime security or similar emergency powers rather than normal criminal law. The argument is that the nature and conditions of such foreign interrogation or detention automatically mean that any interview by Australian authorities, no matter what care is taken to observe the subject's rights during the interview, is exploiting background conditions, pressures and expectations that are considered as illegally coercive under Australian law.

Unless clarified, this ruling could easily mutate into a 'get out of jail free' card for any Australian suspected of terrorist activities who is apprehended overseas by foreign security forces before he can be interviewed by Australian authorities. It is inevitable that some suspects will be detained in war zones as captured combatants under the provisions of the Laws of Armed Conflict, and not the domestic law of the country concerned or indeed the domestic law of the capturing or detaining power (under the Geneva Conventions). The application of the Court of Appeal's ruling in such circumstances means no lawful interrogation of the suspect will be possible until they have been returned to Australian custody and possibly Australian territory. This is unworkable and will be a major obstacle to prosecuting suspected terrorists under Australian law.

In the campaign against trans-national Islamist terrorism, information from interrogations is gathered for two broad purposes: evidence to be used later in court, and intelligence to prevent further terrorist attacks and destroy terrorist capabilities. The latter may involve admissible evidence but frequently will not, as it will include hearsay for example. What is more, to save lives, such intelligence will necessarily be acted upon using balance-of-probability judgements rather than beyond-all-reasonable-doubt ones.

The other area of difficulty with the court of Appeal's narrow interpretation is what happens when an Australian is detained overseas as a suspected terrorist and the country concerned is unwilling to release him to Australia at that time or at all. In such a case, interviews might be urgently required for purposes such as forestalling imminent terrorist attacks. If such interviews were undertaken by Australian intelligence agencies, or where these agencies assisted the detaining power to conduct them, the act of interrogation

might taint subsequent questioning by Australian police seeking to gather admissible evidence for use in court. Given the international scale of the campaign against Islamist terrorism, and the intelligence-led nature of it, the Court of Appeal interpretation is likely to render unworkable in practice many Australian police interviews of suspected terrorists conducted overseas. ♦

Loss of control

Similarly, the chorus of condemnation unleashed by the control order placed on Jack Thomas largely misunderstood that this had nothing to do with his successful appeal against his terrorism conviction. The control order is an administrative measure to assist with public safety during a time of increased terrorist threat, as laid down in legislation firmly based in the defence and national security heads of power in the Commonwealth Constitution.

As the editorial in this issue of *Defender* discusses, confusion in this regard basically stems from the perception that we are in a normal peacetime situation rather than some form of a wartime one. Every Australian needs to think deeply about the essentially wartime rather than conventional peacetime context of such measures as control orders and sedition laws. Ignoring these questions or scoffing at them based on wishful thinking or personal preconceptions does not make our struggle with Islamist terrorists go away and does not diminish the common threats we all face. More importantly, refusing to acknowledge the wartime context of contemporary security debates foolishly endangers the rest of us because we do have real, determined and ruthless enemies. ♦

Yet another defence management review

In mid August the Minister for Defence announced a Defence Management Review (DMR) chaired by Ms Elizabeth Proust, assisted by Vice Admiral Chris Ritchie (Retd), Mr John Azarias and Dr Alan Kallir. Their terms of reference are to examine and assess organisational efficiency and effectiveness in the Department of Defence (excluding business processes in the DMO and the ADF operational chain of command). Ms Proust has considerable experience in both business and the reform of bureaucracies at the state and major city level. Dr Kallir and Mr Azarias are both very senior executives from the commercial world. Admiral Ritchie is the former Chief of Navy. The review is to report to the Minister by the second quarter of 2007 and is attacking its task with the gusto that fresh minds can bring to old and entrenched problems.

A separate Defence Business Improvement Board (DPIB), reporting to the Secretary and CDF, has also been instituted as a permanent advisory mechanism to 'foster continuous productivity improvement within Defence'. The intention is that the DPIB will not advise on day-to-day management issues or the management of individual issues or projects, but will concentrate on reviewing processes to improve corporate business practices and productivity, and overseeing the implementation of reforms in these regards. The DPIB

comprises four senior executives from commerce, the department's Chief Finance Officer and Deputy Secretary – Support, the ADF's Commander Joint Logistics, and the department's Chief Information Officer (currently an air vice marshal).

Aficionados of the history of the Department of Defence will no doubt make two observations: we have seen many such reviews before and most of them have not been successes – with many not being successful at all. The main reason for this is that they have largely sought to cure the symptoms of the disease rather than its inherent recurring causes. Virtually none of the many reviews of the Department of Defence conducted since 1981 (at a rate of every 2-4 years or so) have gone back to first principles, and seriously examined the basic structure and underlying philosophy of how Australia manages its defence efforts at the corporate and national strategic levels.

There is, however, one difference with the DMR that is worth noting. The review team includes no senior public service officials so it is more likely than most of its predecessors to be independent of the bureaucratic biases, for example, that so riddled the 1957 Morshead Review, the Tange Review of 1974, the Dibb Review of 1986 and the so-called Defence Efficiency Review in 1997.

The DMR secretariat is, however, being provided by the Department of Defence. The public servants involved will have to be kept on a tight leash by the review team so their influence is limited solely to appropriate administrative support. Such secretariats in the past have been inappropriately used by vested bureaucratic interests to subjectively steer deliberations, hamper objective research, improperly influence policy advice to the review team and even, at times, unduly and improperly influence the recommendations made.

While the terms of reference of the DMR are too narrow the review is expected to interpret them as broadly as possible. They will have to in order to achieve anything useful.

The ADA has been invited to contribute to the review and has done so. The Association has advised that fixing Defence cannot be achieved without fixing the flaws in its structure and its supporting core philosophies. The five major structural flaws are a long history of insufficient ministerial supervision (instead of three full-time Ministers); constitutionally and professionally improper arrangements for managing civil control of the military by Ministers; no statutory governance mechanisms (such as management boards) incorporating clear lines of responsibility and accountability (and appropriate mechanisms to identify and sack the incompetent); no clear separation between the administrative and policy organs of the department on the one side and the strategic-level military headquarters on the other; and institutionalised, pervasive and grossly improper civilian bureaucratic interference in military professional matters – with some degree of the equally improper vice versa situation.

We will all have to wait and see what the DMR brings. While the review beavers away we can but hope that this review will be the one to slash the Gordian knot and bring true reform to the Department of Defence – rather than just more tinkering with its hopelessly flawed structure. ♦

Perspective and sense

Recently there was a flurry of comment concerning some inappropriate video clips being posted on the Internet by diggers who had served in Iraq, and on the slightly differing reactions of the Service Chiefs and the Government to these clips. There is no doubt that some of the clips were in bad taste and some showed very lax and unprofessional weapon handling.

But to put this matter in proper perspective, whatever the diggers did it pales into insignificance compared to the video clips of the Islamist extremists we are fighting. Our enemies behead captives on the Internet and cut their throats on Satellite TV. Moreover, surely the most disturbing Australian image to come out Iraq so far was that of the very well-paid, former AWB Chairman, Trevor Flugge, naked to the waist and lolling back on his bed brandishing a revolver. ♦

Kovco inquiry rockets

As expected, Shelley Kovco gave her final evidence to the inquiry into her husband's death with all the dignity and commonsense she has shown through her long ordeal. The report of the inquiry is expected later this year. It is to be hoped that the report will lay this sad saga to rest once the appropriate findings and recommendations are meted out.

The report will hopefully also include appropriate conclusions and recommendations about the disgraceful standard of media reporting that has unnecessarily increased the anguish of the Kovco and Small families, and even worse, greatly insulted them at times. Some of this has even been caused by supposed 'defence correspondents' and those concerned seem oblivious to all shame on this matter so far. Perhaps being named as professionally deficient and grossly insensitive by the Board of Inquiry might finally give them sufficient cause to stop and think.

It is also hoped that the report will make strong recommendations concerning the apparently poor weapon handling culture in the rifle company concerned, and the apparent lapses in command, supervision and discipline involved. The evidence to the inquiry in this regard has been met with outright astonishment among generations of professional infantrymen. ♦

Resuscitating the Armed Forces Federation

The ADF's representative body, the Armed Forces Federation of Australia (ArFFA), is facing imminent collapse due to declining membership and frail but well-intended leadership. ArFFA was founded in 1984, largely as a result of the ADF being the only part of Australian society to endure a four-year wage freeze during the last years of the Fraser Government and the first years of the Hawke one. Since then, under governments of both political persuasions, ArFFA has quietly worked away and achieved much, invariably in the background, by its detailed and independent submissions to the Defence Force Remuneration Tribunal (DFRT) – a body, incidentally, that ArFFA helped create by its insistence on a more independent and objective means for determining what ADF personnel deserved to be paid.

The constitution and methods of ArFFA were modelled on those of the old State police associations and not those of a trade union. ArFFA has always only made representations directly at the national level and never at unit or local area levels (no matter how indirectly). There is deliberately no provision for strikes or similar industrial action under the ArFFA constitution. Claims over the years by some ADF personnel that they have not joined because they 'thought ArFFA was a union', simply portray the gross ignorance of the members concerned – or is an excuse to cover complacency, apathy or ingratitude about the salary levels and conditions of service that ArFFA helps secure and protect.

The membership of ArFFA has always been disproportionately concentrated at the corporal-equivalent to major-equivalent level but even the membership at these ranks has declined. The overall problem is that ArFFA has become a victim of its early successes, the short-term individual and collective memories of ADF personnel and their growing complacency. There are few now serving who remember the prolonged neglect of ADF salaries and conditions throughout the late 1970s and 1980s that spurred the need to form ArFFA as a pressure group to secure reform. ADF members of all ranks have grown complacent, and wrongly believe that the salaries and conditions of service they now have were achieved without great effort by, among others, ArFFA, and that these benefits can be preserved without commensurate effort.

If ArFFA collapses the men and women of the ADF will long rue the day. In a situation where the 'system' is uniquely both the employer and also the representative of the employees, there must always be an independent body representing ADF personnel to monitor and contribute to the deliberations of the DFRT and other bodies. Either that or most members of the ADF must think they are paid too much.

This is ultimately a simple leadership issue. Those officers, senior NCO and senior sailors who have never joined ArFFA, nor encouraged their junior ranks to do so, have failed to adequately consider what being a leader in the modern ADF entails. ArFFA's first president was a brigadier. Its current president is a warrant officer. Maybe senior officers were braver or angrier in the mid 1980s. While nationwide changes in employment law have played their part in the federation's decline, the failure of any ADF officer to currently lead ArFFA is a shocking indictment on the ADF officer corps as a body and its members individually.

The hierarchy of the ADF will also rue the day if ArFFA folds because of its undoubted value in independently highlighting issues to Ministers, and to the Defence bureaucracy, that the hierarchy cannot or often fear to air themselves (for whatever reasons). In November 2001 the then Head DPE (now Chief of Navy) rightly awarded ArFFA a certificate of appreciation 'in recognition of the organisation's past and continuing contribution in support of members of the Australian Defence Force.' Yet this support from ArFFA is not really reciprocated. As but one example, ArFFA is not even allowed to address the course at the new joint Command and Staff College each year to dispel myths and explain what it is, how it helps and why mid-level officers in the ADF need to consider assisting by joining and where necessary leading. ♦