

seeking to do so should not be considered without an exhaustive parliamentary committee inquiry.

The Australian Democrats' Bill is loosely based on a recent British Green Paper, *The Governance of Britain*, which discussed the option of similar legislation limiting the power of British governments to deploy the armed forces. This was in turn based on parliamentary committee inquiries by the House of Commons and the House of Lords in 2003-04 and 2005-06 respectively. The UK situation is somewhat different, of course, because of the absence of a written constitution and the upper house of parliament not being elected.

The British Government has subsequently rejected the option of legislation (although not ruling it out entirely in the future). They have opted instead for a parliamentary resolution to, in effect, establish a constitutional convention. This change of mind was largely due to comprehensive debates in the House of Lords where, by tradition, many of the Life Peers are former armed forces commanders. These distinguished military experts argued forcefully that the national interest meant maximum flexibility on the issue needed to be preserved, especially as overseas military deployments in this day and age may change swiftly from humanitarian assistance to peacekeeping to warlike actions and back again. They also noted that many military deployments often occur in emergencies where consulting parliament beforehand is impractical, would involve an undue risk of communicating information or other comfort to the enemy, might imperil sensitive negotiations with allies, or invoke a combination of all these complications.

In consultations by proponents of the Australian bill, several former senior ADF officers of varying political inclinations have expressed similar professional concerns about its desirability or practicality. Further broad objections have been raised about the bill's narrow focus on 'the territorial limits of Australia' as the criterion for determining deployments that would need parliamentary approval.

- Many overseas deployments do not involve warfare, such as international exercises, ship visits, aircraft transits, disaster relief, peacekeeping or evacuations of Australian citizens from threatening situations.
- The ADF has always been used more often to defend or further our national interests than to defend our territory *per se*, including Australia's responsibilities under the UN Charter for collective security action and under various treaties for collective defence action.
- In Australia's enduring strategic circumstances of small forces, continental responsibilities and limited resources, the deterrent value of elements such as strike aircraft, submarines and Special Forces would be weakened or lost altogether if a potential enemy knew that they could not be used without the public fanfare of parliamentary debate.
- The requirement for both houses of parliament to approve action is likely to be problematic in practice. The Senate balance of power can be held by minor parties or independents. These tend to be motivated by ideologies towards an extreme of the political spectrum, and/or are

unduly subject to the vagaries and pull of the simplistic populism that tempts those who know they will never need to implement such policies in actual government.

Whether any Australian government of either political complexion would support such a blanket limitation on its freedom of action in situations of *extremis* is doubtful. There are also doubts about the constitutionality of the method involved. The Bill seeks to limit a government's ability to deploy the ADF overseas without authorisation from the parliament by amending the *Defence Act 1903*. Whether the entrenched and exclusive Crown prerogative in such an important matter could be restrained so totally in this manner is open to question. The issue would inevitably end up in the High Court the next time we have to fight a war that is not overwhelmingly supported politically.

Finally, there is also no small irony that the ideas represented in the bill might enjoy broader support, including in defence circles, but for the indifferent quality of contributions by minor party senators to debate about defence matters in general, and during initial and subsequent debates about ADF deployments to Iraq and Afghanistan in particular. ♦

Globalisation of subversion

The Internet and the degree of globalisation it has helped spawn has generally been a blessing to mankind. The consequent phenomenon of the 'blog' has also brought many benefits, not least a degree of terror to authoritarian and totalitarian regimes dependent on the strict control of information and public debate for their survival.

But the world-wide-web in general, and blogging in particular, also have a downside in that the extremist, the ignorant and the downright mad or bad can now easily contact each other to spread and reinforce their respective messages. All wars are ultimately contests of will and end when one side gives up. The heightened ability of extremists, conspiracy theorists, the crazy and the plain nasty to spread their beliefs, and advocate commensurate action, make it much harder for liberal democracies to fight wars effectively.

In Australia, the exercise of legitimate dissent in public debates on such wars is not subversion *per se*. It becomes so only with active support by the foreign enemy concerned and if this is known or recklessly ignored by the 'dissenter'.

The danger of modern subversion via the web is simply through the increased ease it provides our external enemies, or deliberate enemy sympathisers and conscious or unknowing defeatists within our own society, to spread subversion and propaganda in order to undermine our national will to prosecute a war. The web also simplifies enemy targeting, recruitment and manipulation of those Australians unusually susceptible to subversive approaches through polemical belief, gullibility, marked contrarian tendencies or a combination.

The reverse side of this coin is equally dangerous although not subversive directly. Comments on the web by a minority of Australians, whatever their motivation, can also provide comfort to our enemies by exaggerating the

degree, or confusing the nature, of domestic opposition to national policy.

Within mainstream Australia, blogs and the comment pages of the established media provide some insight into the problem. When Sergeant Mathew Locke of the SASR was killed in action in Afghanistan, for example, media reporting and commentary was generally of a high standard — as would be expected in the circumstances. But the comments lodged by a small minority were more than disappointing in their callousness, ignorance, malevolence or warped senses of humour or perspective. In one of many examples, a short AAP story run on *news.com.au* at 10:44AM on 26 October 2007 generated 194 on-line comments by 5:00PM. Now most of the 194 comments would widely be regarded as acceptable contributions to public debate even where too many appeared not that well informed on the issues.

Seven comments (three per cent), however, were highly offensive or provocative. Some stated or inferred that ADF personnel were ‘murderers’, ‘deserved what they got for being the aggressor’ or that because ‘no-one is forced to join the ADF’ the death of a soldier is somehow the soldier’s fault. All seemed to miss the point that in fighting wars the ADF does so on behalf of us all and only at the lawful direction of the elected government.

A further 53 comments (27 per cent) criticised Australia’s participation in the Iraq or Afghanistan wars but generally acknowledged the tragic loss of a digger. The remaining 134 comments (70 per cent) paid courteous tribute to Sergeant Locke with many also taking issue with the offensive comments or opposition to the wars. It was noteworthy that the bulk of these latter comments were generally made in a calm and reasoned manner — in stark contrast to the offensive three per cent.

The example described is hardly definitive in terms of determining the numbers of Australians who might be unusually vulnerable to enemy subversion or exploitation. Nor the larger numbers who might be otherwise useful to the enemy, to some extent, because they oppose our participation in the wars concerned to varying degrees. The sample involved only those who have Internet access, read *news.com.au*, do so during the day and were motivated to comment. It was also one of those thankfully rare occasions when we have had a digger killed in action and the incentive to comment, on both sides, might be assumed to be greater than normal.

But it does highlight two important facts that are ultimately fundamental to the way liberal democracies such as Australia wage war successfully. It also reminds us of dangerous trends that if not checked, could develop into a serious problem. First, there are definitely some Australians who, knowingly or unknowingly, may be bolstering the will of the enemies we are fighting. Second, the world-wide-web now gives them a much greater opportunity to do so. They are no longer isolated from each other or from a ready means of contact with those our country is fighting, and they now have much greater access to a means of spreading their message domestically and internationally. ♦

Modern counter subversion – relearning old lessons

Countering subversive behaviour must be done carefully. Any counter-measures must distinguish between allowing legitimate dissent and countering ill-informed, extremist or potentially seditious or treasonable actions. Public refutation of the latter by responsible Ministers, including warning of the dangers involved, is an obvious first step.

At the very least, where extremists or polemicists deliberately describe ADF personnel as ‘murderers’, ‘mercenaries’, as ‘deserving death’ or worse, they should be publicly condemned by the government and responsible commentators in the media, academia and general community. Throughout the early 1990s the then Minister for Defence, Senator Robert Ray, was very forceful in this regard. His strong condemnation of a Victorian high school textbook for misdescribing ADF personnel as ‘harmworkers’ (in supposed contrast to health workers) set a good example of what is needed

Few Australians now have much contact with the ADF on a day-to-day basis. Even fewer have personal or family experience of war and what is required to win one. Understandings that were previously instinctive or widely spread in the Australian community are generally no longer as common. Some principles and facts to do with national defence therefore need public re-emphasis by the Government, public commentators and the media. Key points include:

- The ADF is our defence force and is comprised of fellow Australians not strangers or, according to some, supposedly depraved militarist automatons bent on killing for its own sake.
- Our defence force defends all Australians equally and has long protected our right to free speech and belief, including to legitimate dissent from government decisions to send the ADF to war.
- The ADF prosecutes its operations in accordance with international law and only at the lawful direction of the elected government.
- Our defence force is duly and rightly apolitical institutionally in the public controversies of the day, and this neutrality of culture and action is a fundamental tenet of liberal democratic societies.
- Critics of Australian foreign or strategic policy should direct their criticism at the government of the day, not at the ADF collectively or the individuals serving in the defence force and their families.

Finally, while ignorance alone should not be a crime, the offence of criminal libel (a defamation likely to cause a breach of the peace) remains on the statute books. It is prosecuted rarely and only applies to the libel of individuals. Some thought now needs to be given to extending this to cover the collective libel of members of our defence force for doing their duty at the lawful direction of the elected government. While such prosecutions might give some the purported martyrdom they seek, it would send a strong message that untrue, unfair, malicious and often cowardly comments about our defence force are not tolerated by Australians as a whole. ♦