National Security and the ‘Disturbed State of Public Mind’

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On December 7, the Australian parliament passed the Anti-Terrorism Bill (No. 2) 2005. According to Attorney-General Philip Ruddock, the new legislation places ‘Australia in a strong position to prevent new and emerging threats and to stop terrorists carrying out their intended acts’. Most controversially, the law introduces new sedition offences. But it also grants additional powers to the security services, most notably the Australian Federal Police (AFP). Of interest to me here are the provisions allowing the police to restrict the liberty of people who have neither been charged with an offence nor detained for questioning. The AFP may now apply to a court for control orders which could require a person to wear a tracking device, place them under house arrest, bar them from working in certain professions, or prohibit their use of the telephone or the Internet. A control order could be issued for twelve months at a time and would be renewable. Anybody contravening such an order risks a five-year jail sentence. The new law also provides a preventative detention régime. In conjunction with complementary state and territory legislation, the law allows the authorities to detain suspects for up to two weeks at a time.

After a group of small ‘l’ liberals in government ranks were able to extract some amendments, the legislation had bipartisan support in the House of Representatives but was opposed by Democrats and Greens in the Senate. Outside parliament, retired politicians and judges, journalists, artists, numerous legal experts, law societies — including the lawyers’ peak body, the Law Council of Australia — and human rights organisations strongly criticised the bill. In parliament, the government used its numbers to curtail debate and limit scrutiny by a Senate committee. Public debate was comparatively brief, and petered out quickly once the bill had been passed.

The debate about control orders and preventative detention focused on matters of principle. Few commentators developed detailed scenarios featuring the potential use of the AFP’s new powers. Opponents of the proposed legislation argued that the new powers would be unnecessary and unconstitutional, and contravened Australia’s international legal obligations under the International Covenant on Civil and Political Rights, and, more generally, that preventative detention and control orders violate the human rights of those subjected to such measures. Many of the bill’s opponents also expressed the fear that the authorities would use it to target readily identifiable groups (such as Muslims or Arab Australians), but these concerns could not be easily supported by reference to statements made by government officials.

Admittedly, political commentators would have found it difficult to envisage precisely under which circumstances and in which manner the AFP would apply control orders and preventative detention. But they could have explored how similar powers were used in the past, for Australia had experience with preventative detention and control orders during World War I (under the War Precautions Act) and again during World War II (under the National Security Act). Yet neither the opponents nor the proponents of the anti-terrorism legislation made extensive references to historical precedent.

The absence of informed historical references in the debate about the anti-terrorism legislation was all the more remarkable since, in the US, many of those involved in debates about the Patriot Act and other anti-terrorism measures introduced by the Bush administration have referred extensively to the past. The historical example they have most often cited is that of Executive Order 9066. Signed by President Franklin D. Roosevelt on 19 February 1942, it allowed the authorities to exclude residents from prescribed ‘military areas’, paving the way for the removal of about 112,000 ethnic Japanese from California and parts of Oregon, Washington and Arizona. Most of them were confined to so-called relocation centres set up in remote and desolate parts of the country.

Michelle Malkin is one of America’s most prominent neo-conservative columnists. In 2004 she published In Defense of Internment: The Case for ‘Racial Profiling’ in World War II and the War on Terror. The book begins with the story of Yoshio and Irene Harada, who on 7 December 1941, the day of the Japanese attack on Pearl Harbor, collaborated with a downed Japanese fighter pilot. The Haradas were Nisei, that is, second-generation Japanese Americans. They had been born in Hawaii to Japanese parents and were thus American citizens. Malkin contends that the Haradas’ disloyalty could have been anticipated only on account of their ethnicity and not on account of their pre-war words and deeds. In her view, their example demonstrated that it made sense to evacuate all residents of Japanese ancestry from the West Coast to prevent them from aiding the enemy by carrying out acts of sabotage. Malkin then uses her reading of the US government’s relocation and internment policy to suggest that racial profiling, which had supposedly delivered the desired results in the 1940s, would be a useful weapon in the war against terrorism.

In the context of the historiography of internment, Malkin is a revisionist. The overwhelming majority of those who have written accounts of America’s internment policies during
World War II agree that these policies could not be justified by any real threat, and that the relocation and internment of Japanese Americans was informed by racism and war hysteria. They point to the collective bravery of the 442nd Regimental Combat Team, a US army unit comprised of Nisei volunteers, as evidence of the loyalty of Japanese Americans. Most would agree with Roger Daniels, one of the most influential and prolific historians of the Japanese relocation, that the ‘round-up, expulsion and incarceration of more than a hundred thousand Japanese-Americans … is a major blot on the record of American democracy’. This consensus among historians has informed school textbooks, museum displays and works of fiction such as David Guterson’s Snow Falling on Cedars (1994).

Malkin’s book is designed to challenge what she calls ‘[t]he politically correct myth of American “concentration camps”’, which, in her view, ‘has become enshrined as incontrovertible wisdom in the gullible press, postmodern academia, the cash-hungry grievance industry, and liberal Hollywood’. After the terrorist attacks on 9/11, Americans ‘can no longer afford the indulgent abuse of history as multicultural group therapy’, Malkin argues. They need to draw on the lessons of World War II, and in order to be able to do so, get the proverbial monkey off their back. She writes: ‘In their efforts to fight terrorism, the current wartime administration is hampered by politically correct sensitivity to, and unwarranted guilt over, a false account of its predecessors’ actions to protect the homeland six decades ago.’

Critics of the Bush administration’s anti-terrorism legislation have indeed drawn on the orthodox interpretation when arguing that the Patriot Act and related anti-terrorism measures follow the bad example set by Executive Order 9066. In Enemy Aliens (2003), an indictment of the anti-terrorism measures imposed on non-citizens by the Bush administration after 9/11, David Cole cites the case of another Japanese American, Masuo Yasui, who on 7 December 1941 cabled his son urging him to enlist in the US army and who was interned for three years. A map of the Panama Canal, drawn by one of his children in school, was among the incriminating evidence found at Yasui’s house.

I leave it to historians who know more about the relocation and internment of Japanese Americans to evaluate Malkin’s and Cole’s use of the historical material, and limit myself to commenting on Australia’s experience. Having studied the relevant Australian government files, I am confident about offering an opinion on whether or not, more than sixty years ago, preventative detention and control orders were necessary to prevent ‘new and emerging’ security threats.

In World War II, Australian authorities interned about 7000 residents, including more than 1500 naturalised British subjects. Restriction orders limiting a person’s movements and/or prescribing their place of residence were imposed on more than 3500 individuals. About 8000 people were detained overseas by Australia’s allies and sent to Australia for internment. Internments peaked in mid-1942, when more than 12,000 people were housed in Australian internment camps. Only a small proportion of all German- and Italian-born residents, but nearly all those of Japanese origin, were interned. Initially, internees were accommodated in prisons, army barracks and makeshift camps. From late 1940 most of them were housed in purpose-built camps in Tatura (Victoria), Hay and Cowra (NSW), Loveday (South Australia) and Harvey (Western Australia). Like the relocation centres established for Japanese Americans in the US, the internment camps were initially sometimes referred to as ‘concentration camps’, and were listed as such in the phone book.

Well before the outbreak of the war, the Australian authorities had an internment policy in place. According to the War Book prepared by the Department of Defence, it was ‘not intended to intern all civilian enemy aliens immediately on the outbreak of hostilities’ but to restrict internment ‘to the narrowest limits consistent with public safety and public sentiment’. A memorandum by the Secretary to the Military Board, written two weeks after the beginning of the war, further clarified ‘that enemy aliens of military age, or any other persons who are reasonably suspected as being likely to act in a manner prejudicial to the public safety or the defence of the Commonwealth, or as being likely to cause disaffection, are regarded as suitable subjects for internment on the outbreak of war’.

The security services had prepared lists of persons to be interned in the event of international hostilities, and acted...
on them as soon as Australia declared war on Germany. The National Security Act, which was introduced into parliament on 6 September 1939 and came into force three days later, gave far-reaching powers to the executive, enabling the government to issue a series of National Security Regulations. These empowered the authorities to intern people and to restrict their movements. Non-British residents were required to register with the police, and were potentially subject to various restrictions. With the declaration of war, all nationals of countries at war with Australia automatically became ‘enemy aliens’.

The security services had no hard and fast rules for identifying potential spies, saboteurs or enemy collaborators. Membership in a Nazi or fascist organisation was regarded as a strong indication of disloyalty. Refugees who had arrived in Australia from Nazi Germany in 1938 or 1939 were usually also considered suspects on account of the comparatively short length of their stay in Australia. But less obvious factors, such as somebody’s fluency in several languages, could also come into play. Residents of Japanese ancestry were interned regardless of their political views and loyalties, and irrespective of whether they were Japanese citizens or Australian-born.

None of Australia’s civilian internees had collaborated with the enemy in the sense in which the Haradas had on the Hawaiian island of Nihiu. There were many who, like Masuo Yasui, were loyal to the Allied cause and interned because a zealous intelligence officer had misinterpreted a harmless letter or conversation. But the cases of numerous others were more complicated. Some of them had noisily celebrated Axis victories in the early stages of the war. Others had distributed Nazi or fascist propaganda material. Yet even those who considered themselves German, Italian or Japanese patriots were not necessarily going to attack Australian army installations or provide intelligence to the enemy. In fact, there is no evidence in the historical record to suggest that any of those interned in Australia ever tried to commit an act of sabotage or acted in any other manner ‘prejudicial to the public safety’.

With regard to the relocation and internment of Japanese Americans, Malkin stresses the point that the national security measures taken by the Roosevelt administration ‘were justifiable, given what was known and not known at the time’. 6 Australia’s decision makers, too, often genuinely believed — on the basis of information provided to them at the time — that the threat posed by enemy aliens, communists, Jehovah’s Witnesses or members of the ultra-nationalist Australia First Movement was real. But they should have known better, on the basis of information they could have obtained but did not care to seek out.

I have read numerous intelligence dossiers prepared by the agencies involved in the surveillance of Australian residents during World War II. Three factors help to explain why the authorities considered individuals highly dangerous who later turned out to be harmless. First, the police, military intelligence, the Commonwealth Investigation Branch of the Attorney-General’s Department, and the Security Service relied heavily on denunciations. Often internees became suspects on account of false ‘information’ provided by business rivals or by neighbours with an axe to grind. Second, much of the intelligence gathered by the security services was worthless because those collecting it were insufficiently informed about Japanese, Italian and German politics and culture and frequently misinterpreted (or mistranslated) statements attributed to suspects. Finally, the security services tended to exaggerate threats in order to justify their own existence.

The argument that internment was unnecessary from a national security point of view does not need to rely on the assumption that the internees were generally innocent or that those who tried to join the Australian armed forces represented all enemy aliens. Many of the Germans interned in Australia during World War II (as well as some of those who were spared internment) were committed Nazis whose loyalty lay with Hitler’s Germany rather than with Australia. In the internment camps, they celebrated Hitler’s birthday and the anniversary of the 1923 Hitler putsch in Munich. They terrorised anti-Nazi and Jewish fellow internees. At the Loveday internment camp in South Australia, an Italo-Australian anarchist, Francesco Fantin, was bludgeoned to death by an Italo-Australian fascist. But if German Nazis and Italian fascists did not pose a threat to Australia’s national security, why then were they detained indefinitely without being charged with a crime and without the opportunity of an open trial?

There were other reasons why internment could have been considered counterproductive. It was costly to build and maintain internment camps, and to feed and guard thousands of internees. Internees hardly contributed to the war effort; in fact, since the camps were guarded by army units, the internment régime tied up Australian soldiers who were badly needed elsewhere. The internment experience hardened the attitudes of Italians and Germans whose loyalties lay with the Duce or the Führer, and helped to sow doubts in the minds of those who had wholeheartedly supported the Australian cause and could not understand why they were being put behind barbed wire.

Then as now, it could also be argued that the national interest does not automatically come before a person’s welfare and human rights. Internment had a lasting and debilitating impact on some individuals and their families. German and Italian nationalists who were among like-minded internees knew why they had been detained and were sometimes even proud of the fact that they had been singled out by the Australian authorities. Some of them considered the period of their internment a long holiday courtesy of the Australian government. But those who insisted on their innocence and who failed to understand why their loyalty was being questioned suffered during their internment and often well beyond.

Given that she is using a history of World War II internment to argue for tougher anti-terrorism measures in the
twenty-first century, Malkin has surprisingly little regard for the benefit of hindsight. After all, knowledge about when, where and why decision makers erred sixty-five years ago may allow us to avoid repeating (or applauding) similar mistakes now. With the benefit of hindsight, I suggest that, in Australia at least, the threat posed by internees and residents placed under restriction orders was grossly exaggerated, and that we should keep that in mind when evaluating the threat allegedly posed by Australians who cannot be charged with a crime but may be subject to a control order that effectively imposes a one-year home-detention sentence.

During World War II, the Australian authorities never claimed that national security concerns were the only reason for detention orders and restriction orders. In order to understand the history of wartime internment, it is essential also to look beyond the potential threat to Australia’s security. The War Book referred to ‘public safety’ — and to ‘public sentiment’. The majority of Australians supported the government’s internment policy. In fact, at times when the Allies’ position in the war seemed precarious — such as in June 1940, after the British retreat from the continent, and in 1942, when a Japanese invasion of Australia seemed a distinct possibility — state and local governments, organisations and individuals lobbied the federal government to intern a greater number of enemy aliens. ‘Following serious consideration of the question of enemy aliens of German nationality, my Government would strongly urge the necessity for immediate action to intern all such aliens’, the premier of New South Wales, Alexander Mair, cabled Prime Minister Robert Menzies on 12 June 1940. Mair, too, cited national security concerns and public sentiment to argue for a comprehensive internment régime: ‘Feel that the disturbed state of public mind by reason of annoyance of many such and aliens’ work of insidious propaganda and probable existence of plots to neutralise the war effort renders this action imperative.’ It was to the federal government’s credit that it did not entirely succumb to the anti-alienist hysteria that swept the country at the time, and resisted Mair’s call. At the same time, however, it closely monitored what the NSW premier had termed the ‘disturbed state of public mind’, mindful of the role the public mind played in shaping Australia’s internment policy.

In many cases, internees who were considered harmless from a security point of view were not released because the authorities believed that their presence in the community would be considered an affront. Internment was also seen as a concession towards Australians who made — indeed, were expected to make — sacrifices for the national war effort. The internment of small and easily identifiable minorities served a purpose, not least in that it helped to galvanise support for the war among the majority of Australians.

The historical precedent of wartime internment suggests that it is useful to ask two questions with regard to the introduction of control orders and preventative detention in late 2005. First, are the AFP’s new powers really necessary in order to protect Australians from terrorist threats? Second, could the detention of people not charged with an offence serve a purpose other than the protection of Australians from ‘new and emerging threats’?

In the debate over the proposed legislation in November and early December last year, many opponents of the bill raised the first question, and I will not rehash their arguments here. Suffice it to say that the experience of World War II internment suggests a threat may appear deceptively real if the security services encourage and rely on denunciations, if they have an insufficient understanding of cultures other than their own, and if they have a vested interest in talking up the threat level.

The second question received hardly any attention. How opportune could it be to target a group of people who have not committed a crime but whose loyalty to Australia is doubtful? The outcome of the 2001 federal election campaign, when Australianness was defined against the alleged behaviour of asylum seekers, draws attention to the political advantages of stigmatising and isolating people who are easily identifiable on account of their race or religion.

In his address to the National Press Club on the eve of Australia Day 2006, Prime Minister John Howard said that ‘within limits, all Australians have the right to express their culture and belief and to participate freely in our national life’. But he went on to warn that ‘our celebration of diversity must not be at the expense of the common values that bind us together as one people’.

Could the AFP’s new powers be used to quarantine those who are exceeding the limits imposed by the government on freedom of expression because they allegedly propagate foreign values? And could not such a use of the AFP’s powers be seen as a means of strengthening the ties that bind Australians together by creating a minority excluded from the ‘one people’?

Some of the most critical accounts of relocation and internment in the US were written by historians influenced by the Asian-American civil rights movement. These authors sought redress for what they conceived to have been a grave injustice. Some of their texts are highly emotive. It is thus not surprising that they attracted the attention of culture warriors like Michelle Malkin.

In Australia, the discussion about wartime internment has been comparatively sedate and low-key. The only comprehensive history of internment in World War II to date, Margaret Bevege’s *Behind Barbed Wire* (1993), is largely apologetic for the government’s policy. Historians such as Kay Saunders and Yuriko Nagata have paid more attention to the complexity of the issue and have been critical of the internment régime. But, like Bevege, they have written largely for an audience of fellow academics. The historiography of Australian wartime internment does not have its own Henry Reynolds and, perhaps for that reason, it does not have a Keith Windschuttle or Ron Brunton, either.

Only one aspect of the internment experience has caught the imagination of the public at large: the fate of the so-called
Dunera Boys, a group of mainly Jewish refugees who were interned in Britain, brought to Australia on the infamous HMT Dunera in 1940, and then interned in camps such as Hay and Tatura. Writers and film-makers depicting their plight have not shied away from the kind of language employed by the authors of popular books about the relocation of Japanese Americans. But the travesty of transporting the Dunera Boys to Australia was the responsibility of the British, rather than the Australian, government, and their treatment was arguably not a blight on Australia’s record.

In Australia, museum curators and the authors of secondary school textbooks have paid far less attention to the history of internment than their American counterparts. When they did, their treatment tended to be critical rather than apologetic. But the revisionist history warriors have usually let this pass.\(^9\)

The American discussion about wartime relocation and internment was louder and more emotive than the equivalent discussion in Australia. Critics of Roosevelt’s Executive Order 9066 did not so much aim their barbs at fellow historians, but wanted to contribute to a public campaign that called for restitution and an apology. As early as 1948 the Japanese-American Evacuation Act had allowed for the settling of some 23,000 claims for property lost as a result of the relocation. In 1976 President Gerald Ford revoked Executive Order 9066, and publicly acknowledged that the evacuation had been a mistake and that Japanese Americans had always been loyal Americans. In 1980 a Bill of Congress created the Commission on Wartime Relocation and Internment of Civilians (CWRIC). In 1983, after public hearings involving hundreds of witnesses, the commission released its report, *Personal Justice Denied*. The CWRIC called for a public apology and cash payments to survivors. In 1988 President Ronald Reagan acted on these recommendations and signed the Civil Liberties Act. The first US$20,000 cheques were issued two years later. Each was accompanied by an apology signed by Reagan’s successor, President George Bush.

Australia’s Japanese, German and Italian internees did not receive any restitution. Only some of those interned on account of their presumed association with the Australia First Movement (all of them Australian-born British subjects) received compensation for the time they spent behind barbed wire. Only the Australia First internments were scrutinised by a commission of inquiry, which found that eight of the sixteen Australia First internees had been wrongfully detained. They included the poet Harley Matthews; regarding his case, the commissioner, Justice Clyne, wrote that he was ‘a loyal subject of the King’ and that ‘intelligence officers committed a grave blunder in procuring his arrest’.\(^10\)

About fifteen years ago, the federal and two state parliaments issued apologies to former Italian internees. Welcomed by the recipients, these apologies did not receive much attention in the wider community and were not accompanied by a public debate about whether internment was justifiable — with or without the benefit of hindsight. Neither did many former internees use the opportunity to come forward and publicly share their memories; in fact, some have never talked about their experience, even to family and friends.

‘[The] issue of internment has proved a continuing embarrassment, not only for the individuals deprived of their liberty and incarcerated in concentration camps, but also a guilty secret avoided in the collective consciousness,’ Kay Saunders wrote in 1993.\(^11\) Her observation still holds. Irrespective of the debate over the anti-terrorism legislation, Australians may want to revisit one of the most neglected chapters of the histories of the two world wars (which otherwise feature so
prominently in narratives of the Australian nation). A public re-evaluation of wartime internment does not need to result in the production of ‘black armband’ accounts featuring Australians of Italian, German or Japanese heritage whose intentions were misunderstood by government agents who let racism guide their approach. The presumption of innocence is not a privilege only for those who deserve it.

In the National Press Club speech mentioned earlier, John Howard lamented the fact that ‘Australian history has fallen victim in an ever more crowded curriculum to subjects deemed more “relevant” today’ and is taught ‘without any sense of structured narrative’. I agree with the prime minister that it is troubling that many students — in high school and at university — have no sense of the sequence of historical events, and fail to see the broader picture when confronted with single issues. But prescribed narratives are often more noteworthy for what they omit than for what they cover. The fact that the Howard government has little time for informed historical perspectives on some of its more controversial policies — concerning asylum seekers, industrial relations and national security — does not bode well. I doubt that the overarching historical narrative the prime minister has in mind would include a reference to the history of internment in the two world wars.

If preventative detention and control orders imposed on Australian residents during World War II do not fit into a comprehensive narrative of Australia’s history, then at least they should be part of a narrative that links the late 1930s and early 1940s with the early twenty-first century, that demonstrates that the government’s new national security legislation is not unprecedented, and that suggests we should be concerned about governments who introduce policies with an eye on the ‘disturbed state of public mind’.

In the US, the recent discussion about wartime internment has focused on whether the government’s approach to national security after Pearl Harbor and 9/11 was justified or constituted an undue infringement of the civil liberties of certain (racially identifiable) individuals. But even shortly before 9/11, an American academic lawyer drew parallels between the internment of Japanese Americans and the targeting of Arab Americans as potential terrorists. As the daughter and granddaughter of internees, Natsu Taylor Saito not only highlighted the fact that the internment of Japanese Americans then and the deportation of Arab Americans more recently were only possible because these ethnic minorities had previously been stereotyped and discriminated against, and because the majority of Americans acquiesced in the targeting of people who were identified as essentially foreign.

It is this issue: how the loyal majority responds to the internment of members of a community identified as potentially disloyal, which is of particular relevance when considering parallels between Australian wartime internment and the Howard government’s anti-terrorism legislation. Could it be that now, too, the government wants to be able to reassure the majority by threatening to curtail the civil rights of a small minority? The Menzies and Curtin governments based their internment policies also on an accurate assessment of ‘public sentiment’.

The historical precedent notwithstanding, there is still hope that, if the new powers granted to the AFP in December 2005 were used against people who cannot be charged with an offence, public protests would prove that Australians are less receptive to the politics of fear now than they were in the early 1940s. In 1991, supporting a motion regretting that ‘grave injustices’ had been done ‘to Australians of Italian descent who were interned during World War II’, a member of the House of Representatives seemed to be similarly hopeful. ‘In the way we address these questions today,’ the member for Dundas, P.M. Ruddock, said, ‘I think we show a degree of maturity, and had that been evident in those earlier times it would have led to a different experience.’

Endnotes
4 War Book of the Commonwealth of Australia (May 1939), chapter XII, p.6, National Archives of Australia (hereafter: NAA): MP288/17, 1.
5 Memorandum to Secretary, Department of Defence, 14 September 1939, NAA: MP729/6, 65/401/7.
6 Malkin, In Defense of Internment, p.xiii.
9 In 2003, Rob Foot criticised the National Museum of Australia for its critical depiction of World War II internment in its Horizons exhibition (‘Bias at the National Museum’, Quadrant 47, 10, October 2003, pp.22–27), but unlike Windschuttle’s earlier attack on the Museum over its depiction of frontier violence, Foot’s criticism was of little consequence.