

COUNTER TERRORISM POLICING – INVESTING IN THE RACIAL STATE

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Abstract

This article explores a framework for how racial state power is regenerated in Australia through contemporary counter terrorism policing. Counter terrorism is scripted as a struggle over history, the future and the space of nation to protect against multiple threatening 'enemies'. In particular the function of security policing and the institution of the police in constructing racial subjects are considered.

The counter terrorism policing framework is suggestive of how the social relations of race are practices of state terror which remake white nation. The particular significance of police discretion as always producing social dislocation, stigmatisation and criminalisation is considered. The historical role of the police to racialise Indigenous and multi-ethnic communities is presented as a continuous, albeit heterogenous production of state power through a logic of erasure and denial. In this sense, counter terrorism is conceptualised as a key investment in both white ontological security and a *teleos* of terror.

The dynamics of the containment of perceived threats to white interest has explanatory potential for how neoliberal 'democratic' futures are regenerated. Rather than figuring law and police decision making as a moment of exceptionality, the violence of these relations represent what is fundamental to democracy.

Introduction

That counter terrorism policing is directed against Muslim and migrant communities is clear enough. However there is more at play in this common observation. Britain, the United States, Canada and Australia for example, have intensified the policing of racialised bodies. The technologies of this state repression are expanded with preemptive criminal laws and immigration regulations (for example, Cole 2003; Hagopian 2004; Fekete 2002). Community and non-government organisations (NGO's) document communities under siege, targeted by state agencies and made fearful (Ansari 2005; Nguyen 2005; AMCRAN 2005a, 2005b; HREOC 2004). Security capabilities emblematic and constitutive of colonial forms of rule are reprised by liberal democracies with the fervour of war.

In thinking through the significance of this apparent reprisal of the state's repressive capacities, law and policing appear central to understanding the reproductive capabilities of white hegemony and racial power. Counter terrorism both constructs and enacts upon racial subjects. However, at a time when the state looms large, the 'racial state' is absent conceptually. What is the relation of the Australian colonial state to contemporary forms of racial rule? What is counter terrorisms' significance for the nature of racialisation?

Scholarship which examines Australian counter terrorism law and policing in detail predominantly figures the concep-

tual terrain within the erosion of civil and human rights. In particular the deleterious impact of the erosion of the rule of law and liberal democracy features as a key concern (Emerton 2004; Williams 2003; Head 2002; O'Neil et al 2004; Carne 2003; Hocking 2004; Tham 2004; Michaelson 2003). Important accounts examine the impacts of Australian counter terrorism laws and technologies on Muslim and ethnic communities. These include the suppression of the financing of terrorism and pre-emptive criminal justice frameworks (McCulloch et al 2004; McCulloch & Carlton 2006), the relation of human rights to racial profiling (Golder & Williams 2005) and biometric technologies and every day life (Pugliese 2005). Furthermore, analysis of the multiple discursive and constitutive processes of racialisation and the war on terror in Australia provides context for law (for example, Pugliese 2005; Poynting et al 2004; Osuri and Banerjee 2004; Perera 2002; Nasser-Eddine 2002). The specific relation between counter terrorism, the institution of the police and the central role of the state in racial and social formation however, remains under theorised. It is with the conceptual concern of how the racial violence of white supremacy is integral to liberal democracy, that this article begins.

This article explores a framework for how racial power is regenerated in Australia through counter terrorism policing. Drawing on David Goldbergs' theorisation of the 'racial state', counter terrorism is presented as a state investment in the future of white supremacy. Firstly, I argue counter terrorism reconfigures the colonial project to control national space against heterogeneous collectivities. Counter terrorism operates specifically as a 'white' state terror. Following Suvendrini Pereras' concept of 'teleology of nation', counter terrorism policing as state practice organises space and time along racialised lines (Perera 2000:

also see, Osuri & Banerjee 2004). Policing privileges whiteness through practices of terror and the foreclosure of non-white futures. Erased histories of state terror point to the origins of counter terrorism policing in the foundational violence of colonisation.

Secondly, racial power can be understood as a historical process dependent on a series of economic, cultural and political investments. The circulation of terror, through the institutions of 'security policing', is a constitutive practice of the state. That is, state terror consolidates the racial states' re-formation. I demonstrate how counter terrorism policing produces continuous terror, central to both the historical and contemporary racialisation of social control.

Thirdly, drawing on the ideas of Walter Benjamin and Giorgio Agamben, the practice of counter terrorism explains how the violence of white supremacy is integral to liberal democracy. An examination of liberal democracy as founded on the violence of law compels a focus on how this violence is integral to the institution of the police. The final section of this article then outlines how the contemporary legal framework is productive of police discretion to produce sovereign terror. State terror, rather than exceptional, is essential to the function of racial rule and democracy itself. This article concludes that practices of policing as state terror in Australia are dialectically linked to the processes of white nation building.

An Investment in Whiteness – The Racial Security State

'White', 'white supremacy' and 'whiteness' are contested terms with contingent meanings, and their use requires specification. The explanatory potential of 'whiteness' arises in locating the multiple, intersecting processes regenerative

of cultural political and economic hegemony. The varied ways in which whiteness dehistoricises how it is produced, maintains the illusion of a universal and natural collective identity, and operates as a strategy of power (Perera 2000). I am concerned here with the strategies of power which include and exclude non-white others through formations of nation-state, rather than 'white' identities. Hage's analysis of the 'fantasy of white supremacy' as the governing impulse for a mastery over nation, describes how practices of exclusion are predicated on the control or removal of undesirable Aboriginal or non-white others, as transgressions or intrusions into national space (1998: 47). Racial power in the context of national management of categories of undesirability, is itself conceived within the territorial space of nation in which such categories make commonsense. For Hage, white is a 'dominant mode of self perception' expressed as 'national will', an anxiety targeted at migration as undermining the centrality of white people's decision making (19, 38, 65). White supremacy then, is understood as a triumph over the organisation of space and non-white identities. Specifically, white supremacy is located as a hegemonic strategy of state power.

Situating whiteness in the spatial processes which remake nation, must necessarily identify the historic, geopolitical specificity of the production of racial subjects and domination (Perera 2005; Osuri & Banjeree 2004; Pugliese 2002). Stuart Hall's challenge to situate practices of racism as they arise out of the existing organisation of society, is to look 'to the present unfolding of its economic, political and cultural processes, not simply to its repressed past' (quoted in Gilroy 1990: 265). Yet this 'present unfolding' signals precisely what is at stake in identifying the nature of white power as erased and historically buried.

Whiteness is simultaneously the organisation of territory and time, whereby visions of history and future mobilise the present space of the nation. Perera situates whiteness as both spatial and temporal forms of organisation, 'mapping national space both for past and future' (2000: 10). White power is naturalised, Perera argues, through successive processes and narratives of erasure - the denial of Indigenous genocide and the violence of colonial domination, the continuing denial of Indigenous sovereignty and neoliberal practices which variously value and construct migrants as either within or outside the space of nation (2000: 7).

The functioning of state power in securing itself against racial others is itself obscured through the spatial and temporal organisation of the nation. The way state power is experienced and responded to casts light on the nature of rule. Osuri and Banjeree's incisive analysis of national discourses of security deploys Perera's concept of teleology of nation to argue whiteness is both discursive and embodied in 'lived realities and visualities' (Osuri & Banjeree: 152, 161). Theorists such as bell hooks highlight the terrorising psyche of whiteness in the black imagination, where in the United States whiteness is associated 'with the terrible, the terrifying and the terrorist', as a direct result of experiences of domination. hooks writes that:

To name the whiteness in the black imagination is often a representation of terror. One must face written histories that erase and deny, that reinvent the past to make the present vision of racial harmony and pluralism more plausible. To beat the burden of memory, one must willingly journey to places long uninhabited, searching the debris of history for traces of the unforgettable, all knowledge of which has been suppressed.' (hooks 1992: 172)

Counter terrorism policing both sustains and erases the terror of material 'lived realities' while racialising diverse peoples as terrorising and a threat to nation. A focus on the dynamics of state power and its terrorising impact provides a referent against the erasure of history and the foreclosure of contingent futures in a *teleos* of terror.

David Goldbergs' theorisation of the 'racial state' illuminates the enduring foundations on which Europeans established white supremacy. The changing ways in which racialised power is maintained, economically, politically, culturally, legally animates state form. The concept of the racial state does not only refer to the management and regeneration of 'racist exclusion', but also 'how the modern state has always conceived of itself as racially configured' (2002: 2). Hence modern state formation is characterised by its' authorisation and regeneration of processes of exclusion which both 'outlive its colonial expression' and elaborate the colonial project anew (107-109). Whiteness then, is fabricated and naturalised primarily through the political force of state form. While this paper does not explore contested theories of the state and social, economic and racial formation, I preface reliance on the concept of state with three qualifications. Firstly, that the Australian state is neither monolithic nor a coherent entity. Hence state making, and the reproduction of social conditions for racial and racist exclusion and inclusion, is a continuous and contradictory process. Secondly, that social and racial formation demand the interplay of modalities of race, class and gender. The intersection of varied social actors, economic and cultural processes reproduce hegemony. The illusory distinction between state and civil society obscures how institutional racism is naturalised as commonsense. In other words, racial state power is generated through civil

society. State authority then is not fixed, but relational and is informed by social relations which do not exist outside of capital (for example see, Gramsci 1971; Negri 1994; James 1996; Goldberg 2002). Thirdly, a key continuity between the colonial state and the modern racial state is characterised by the relation between coercion, enclosure and capital accumulation in penetrating social life and in shaping subject formation (see Goldberg 2002: 75, 115). While this article doesn't seek to conceptualise the relation of capital to the formation racial subjects, an analysis of the social construction of race without this engagement has limitations.

The racial formation of the state is calibrated by multiple structures, technologies and relationships which might usefully be thought of as a series of 'investments'. George Lipsitz characterised 'possessive investment' as time spent on a given end, to animate power and unacknowledged white privilege:

I use the adjective "possessive" to stress the relationship between whiteness and asset accumulation in our society, to connect attitudes to interests, to demonstrate that white supremacy is usually less a matter of direct referential snarling contempt than a system for protecting the privileges of whites by denying communities of colour opportunities for asset accumulation and upward mobility. (1998: viii)

The racial state's investment in the project of counter terrorism is significant and multifaceted. At its core, this investment relies on a reconfiguration of law enforcement, security and immigration apparatus, to function as 'security policing' in the war on terror. Security policing articulates the enmeshing of security and law enforcement capabilities, and the gradual hybridisation of formerly distinct intelligence gathering and coercive, interrogative functions (Hocking 2004: 235-6). This hybridisation in turn

contributes to the normalisation of exceptional, militarised, pre-emptive powers (Hocking: 236). Security policing in this article, describes an intersecting matrix of agencies and their powers, comprising the Australian Security and Intelligence Organisation (ASIO), the Australian Federal Police (AFP), state police, the Department of Immigration Multicultural Affairs (DIMA), Centrelink operations and financial institutions (for example, the regulatory role of banks in 'terrorist financing'). Practices of security policing are central in operationalising broadly defined counter terrorism law, in actively racialising Muslims and those 'of middle eastern appearance' as suspect and to criminalise cultural and religious practices and identity. The designation of these agencies within the function of security policing does not seek to homogenise critical operational differences. It does however, point to growing jurisdictional indistinctions and Commonwealth consolidation of law enforcement priorities enhanced in the war on terror. Since 2001 the promulgation of over 29 state and federal laws, together with massive spending on security policing capabilities has expanded security policing powers, jurisdiction and personnel.¹ Moreover, the ideological investment in counter terrorism traverses public fear campaigns such as the *Lets Look out for Australia* campaign and the National Security Hotline, investments which have resulted in many instances of arbitrary state harassment (HREOC 2004; Pugliese 2005).

Perera's theorisation of whiteness as a 'teleology of nation' provides a framework for interrogating counter terrorism as part of a historically contingent and future oriented racial power. The investment, the time spent on a given end, is a *teleos* of terror which obscures the workings of racial state power. What then, is the investment of *whiteness* in counter terrorism policing? Beginning

with Weber's often cited insight that the state holds a monopoly on violence, which it renders legitimate, state terror is masked as counter terrorism. Rather, terror tactics are deployed as 'self-defence' in the national security. Counter terrorism in Australia has been recognised as historically providing the 'major single rhetorical basis' for the expansion and reorganisation of domestic state security operations (Hocking 1993: 16). Counter terrorism is scripted as a struggle over space to protect democratic futures against multiple threatening internal and external 'enemies'. In this sense, counter terrorism as a key investment in the nations' ontological security, is highly successful in Lipsitz's terms, 'in connecting attitudes to interests' (1998: viii).

Secondly, as will be elaborated below, counter terrorism is an investment in whiteness partly as its' discourse and official history erases the foundational violence of the Australian nation. The multiple, diverse technologies of state terror instrumental in accomplishing colonisation are obscured. The enduring poverty, psycho-social stress and devastation perpetrated onto Indigenous communities today is deflected away from State responsibility. Furthermore, Australian whiteness and state formation explicitly originated and continues to be regenerated against 'multiple ethnic others' (Perera 2005: 31). Colonial relations are continuous with the terror of contemporary security policing in Australia in varied, intersecting ways.

Thirdly counter terrorism fabricates the protection of a 'democratic' national future as explicitly incompatible with non-white futures. Counter terrorism law privileges whiteness through excising Arab-ness or Muslim-ness from national space. By constructing Arabs and Muslims outside of nation, as suspect communities, criminalisation ensures white

identity and strategies of white state power continue to be naturalised. The threat that Arab-ness or Muslim-ness poses to white privilege is perhaps the representation of a future which isn't monopolised by a homogenous white identity. Pugliese argues that the 'lived effects' of racial profiling in the recently introduced *Anti-Terrorism Act 2005*, are that 'Arab and/or Muslim Australians are legislatively precluded from inhabiting the civic spaces of the nation' (2005; 19-20). In the latter half of this article I demonstrate how the particular relation of counter terrorism law to policing privileges whiteness. Law operationalised by police discretion has always produced social dislocation, stigmatisation and criminalisation. The productive power of state terror relies on communities made fearful, surveilled and terrorised. The *future* oriented discretion of security policing however, as elaborated below, intensifies how racial subjects are identified and excised.

Criminalisation and the Law of the Police

The violence of the legal system and attendant processes of criminalisation are one critical historical trajectory of racial and social formation. Crime has long operated as a proxy for race (Hall et al 1978; Davis 1998), while contemporary law is deployed as race neutral and democratic (Haney Lopez 1996). Security policing is central to processes of criminalisation of Indigenous and migrant communities, at the front end of the criminal justice system. Constructions of criminality have been extended in the war on terror to target ethnic and religious practice, culminating in what has been described as the folk devil figure of the 'Arab or Muslim other' (Poynting et al 2004). As the authors acknowledge, in many ways this is not new but a continuation of Australia's previous wars and racialised punishments – the war on

'ethnic gangs', drugs, asylum seekers, and the most enduring legacy of policing, the continuing war on Indigenous people waged since colonisation.

Counter terrorism has its origins in the colonial military doctrine of counter insurgency, or the misnomer of 'low intensity conflict' deployed to ensure western imperial expansion and consequent processes of domination (Hocking 1993). Counter terrorism has been described as 'a domestic peace time adaptation of strategies to deal with the essentially wartime exigencies of a colonial power' (Hocking 1993; 19). Counter insurgency has directly influenced modern day counter terrorism through the following strategies: exceptional legislation which departs from legal norms; mass surveillance and the collection of large amounts of intelligence; the preemptive application of legislation and surveillance; and militarisation of the police and police and military cooperation and close police media cooperation (Hocking 1993; 20-29). Counter insurgency 'experts' such as Kitson and Thompson developed their security strategies in response to the struggles against the colonial power of the British and the French in the 1960's and 1970's in Cyprus, Malaya and Algeria (Hocking 18). Critical analysis of the origins of Australian counter terrorism are grounded in critique of the 'continuum philosophy' of counter-insurgency. This philosophy advocates that violent insurgency is just a short step from political 'subversion' where 'previolent' periods, such as peaceful protest or dissent must be surveilled as potentially terroristic (Hocking 19). As such, critical accounts of the origins of security policing map jurisdictional and operational shifts in domestic policing and intelligence strategies targeting a range of civil society activity such as labour movements and various leftist 'threats' throughout the 20th cen-

tury (McCulloch 2001; Hocking 1993; Cain 1983).

It is well established that the institution of the Australian police originated in the genocide of Indigenous people and continuing practices of dispossession and criminalisation (for example, Cunneen 2001; Finnane 1994). Further, the genealogy of contemporary police militarisation is also located in the colonial policing of dispossession (McCulloch 2001; Cunneen 2001). The deployment of police in a state of war was key to the acquisition and consolidation of land and national authority. Furthermore, systematic paramilitary police terror, such as mass murder and torture, were fundamentally bound up in annihilating resistance and the active disruption of Indigenous family social and cultural life (Cunneen 2001). Cunneen outlines that while indiscriminate police murders had largely ended by the 1930's, the use of police terror remained a key tactic throughout the 20th century to maintain control against individuals and entire communities seen as troublesome (106-127). Hence, while the later role of police as administrators witnessed the intensification of surveillance, regulation and mass incarceration, terror remained constitutive of the 'legitimacy' of racial state violence.

However, the genocidal war against Indigenous people since colonisation has not been explicitly considered as the historical origins of contemporary Australian counter insurgency and counter terrorism. A critique of the cold war periodisation of the genealogy of counter terrorism and its relation to frontier conflict is beyond the scope of this article and is being developed in my broader research. Conceptually rethinking counter terrorism policing as an investment in white terror, compels a relation between criminalisation and erasure of culture, space and belonging, history and future.

The systemic destruction by police of Indigenous culture and connection to land since colonisation is central to racial state formation and the teleology of nation. Indigenous political claims upon the nation state are replaced with a devastating criminalisation, and an enduring experience of terror represented as legitimate and legal state action (Cunneen 250-251; Bird 9-10)

It is clear, however that the violent police suppression of Indigenous people has operated in effect as the training ground for paramilitary state police units, whose successors are deployed in contemporary counter terrorism. Cunneen's research demonstrates that soon after their formation, elite paramilitary police unit, the Tactical Response Group (TRG) in New South Wales and Western Australia were deployed specifically to terrorize both rural and urban Indigenous communities in the 1980's and 90's. These operations facilitated the massive growth in these paramilitary units (Cunneen: 98). The use of a large scale pre-dawn raid with 153 TRG officers in Redfern in 1990 on the pretext of 'drug raids' resulted in profound and debilitating psychological trauma for many of the Indigenous households raided (122). The fact that the raids were found on the whole to be based on illegal warrants is indicative of how 'exceptional' state violence in Australia is characterised by techniques of terror and normalised by institutional racism.

The continuous role of police in criminalising Indigenous people and successive migrant populations has a long, differential and often buried history, also characterised by the lived realities of police terror. Investments in police terror are part of a larger whole of racialised punishment, experienced as a terrifying future for poor people of colour and migrants globally who are incarcerated as 'surplus' populations. Angela Davis' im-

portant genealogy of racialised punishment connects 'the links between confinement, punishment and race' to locate the way state power is formed along the axis of economic and racial domination (Davis 1998: 97). Davis' theorisation connects the history of incarceration of peoples of Native American, African, Mexican and Asian descent with the structure and racist logic of the reservations, slavery, the mission and internment camps. Perera's invocation of the 'camp' in Australia articulates how the different forms of continuous incarceration of Indigenous peoples, extends denationalization and removal from nation to non Indigenous populations in the form of immigration internment, detention centres and the prison (Perera 2002). This Australian genealogy of racialised punishment gives an analytic coherency to the end point of the investment of security policing.

**Biopolitical Police Power:
Delivering the Privilege of Whiteness**

The constitutive relation of policing to the racial state, renders an account of policing as merely a discriminatory *technique* of repression analytically insufficient. Rather, security policing through its discretionary power, and social reproductive function, comes to *define* the racial state and as such operates as a key state investment. Policing animates a particularly sovereign function, to be both subject to the law and to be outside it. Theories of biopolitical power help to locate the internal, immanent relation of policing and terror to the racial state. Broadly, Foucault theorised shifts of rule to modernity from sovereignty to governance as characterised by disciplinary power, rather than external domination (Foucault 1995). In the transformation to government, Foucault also located biopolitical power, as distinct from disciplinary power, a power

'whose task is to take charge of life' (Foucault 1978: 144).

Hardt and Negri explain Foucault's identification of biopower as:

...[a] form of power that regulates social life from its interior, following it, absorbing it and recirculating it.Biopower thus refers to a situation in which what is directly at stake in power is the production and reproduction of life itself. (Hardt & Negri 2000: 23-24)

Significant limitations to Foucault's treatment of coercive domination and the nature of state power are evident in his erasure of the punishment of the racial body (for example see, James 1996, Davis 1998, Perera 2000). A reading of the biopolitical which reinstates constructions of race together with the sovereignty of capital in social formation, holds explanatory power for locating policing's role in reproducing the racial state. Agamben's thesis on biopolitics and legal exception and Walter Benjamin's critique of law and violence, locate police practices as expressions of sovereignty. Benjamin's essay *Critique of Violence* written in 1921, describes the unique character of the police in their relation to law and state violence. Benjamin argued that state violence find its legitimacy in either 'law making' or 'law preserving' violence. Law making violence is violence which conflicts with or overthrows existing laws, with the effect of creating new laws, such as colonial conquest which implements the invaders laws. Law preserving violence, on the other hand, enforces existing laws, within the authority of the legal system itself. Benjamin characterises the police as not only engaged in the law preserving violence we commonly associate with law enforcement, but also law making violence, in that the police also function outside of the law. That is, not in the sense of illegal activity, or bad apples acting *ultravires* but rather for legal pur-

poses, 'with the simultaneous authority to decide these ends itself within wide limits (it includes the right of decree)' (Benjamin 1996: 242). The nature of the institution of the police as law making violence is thus extra-legal in practice and ultimately socially reproductive.

Benjamin outlines two critical aspects to the 'law' of the police. Firstly police decision is embodied in situations when the state can't guarantee its desired end through the legal system itself, 'against thinkers, from whom the state is not protected by law' (243). Is this not the exemplified in the war on terror, where liberal democracy does not tolerate explicit racial discrimination in law yet relies on the police to decide to criminalise and racialise multiple non-white others? Secondly, that unlike the determinacy of a 'decision' of a law proper, police power is described by Benjamin as spectral, 'formless' and an 'all pervasive, ghostly presence' (243). This points to the indeterminacy of police discretion and the sovereign power of police decision in action.

Carl Schmitt in 1922 argued that in political crisis the State is characterised by the Sovereigns' declaration of a 'state of exception'. Schmitt characterised this suspension of law as temporary exception as distinguished from the norm. Against Schmitt, Benjamin in his *Eighth Thesis on the Philosophy of History* characterised this state of emergency not as the exception but as the rule – as fundamental to the normal rule of law. (Agamben 2005) Law for Benjamin generates constant violence and crisis as its' normal everyday function. Giorgio Agamben, extending Benjamins' thesis, distinguished between a 'fictitious state of exception' which masks the permanent and effective state of violence fundamental to the rule of law (Agamben 2005).

Hardt and Negri also argue that the state of exception is normalised particularly through police decision. They say 'every civil war is a police action' and that this comes to *define* sovereignty (Hardt & Negri: 39). The exceptionality and violence of law, something that liberal democracy is at pains to deny and conceal, is characteristic of biopolitical rule and underlies the violence of democracy itself. In this sense the 'new' manifestations of counter terrorism policing constitutes the rule and what is key to the policing of race. In other words, how police power historically both enforces and reproduces law and order through its violence, arbitrariness and discretion.

Police action in Australia is characterised by unpredictable, differential discretions that are read against the bodies of multiple racial others. From summary executions to supervising the stealing of Indigenous children, to stop and search powers against youth of 'middle eastern appearance', police decision making to either brutalise or supervise are different forms of biopolitical power (Agamben 1998). Police discretion and terror is central to criminalisation and the reproduction of whiteness as both a future vision of nation and erasure of historical violence. The institutional racism which informs the police discretion to ultimately 'decide' is an exercise of sovereign power, and is consistent with the multiple discretions of the state to exclude or include non-white others from the territory of nation. Paramilitary policing is part of the everyday 'unexceptional' violence experienced by racialised communities, a policing which silently and mundanely delivers the privileges of whiteness to a citizenry defined by what it is not.

As Goldberg points out, the institutional racism and violence of the racial state is always normalised, and doesn't figure as

exceptional (Goldberg 114-115). The police function as decision maker against those it enacts upon, reflects the permanent state of crisis characteristic of the racial state. For example, the effective suspension of rule of law in the colonial massacres of Indigenous people in Australia was normalised. The massacres were not considered as mass murder and did not require declaration of martial law (Cunneen 2001: 60-62). The suspension of legal norms characteristic of counter terrorism law is operationalised through social relations between police and policed. The biopolitics, or internalisation, of the policing of race, masks the violent state of crisis of institutional racism. The sovereignty of security police intensifies criminalisation of communities by deploying a range of pre-emptive intelligence measures independent of the courts and traditional carceral systems, such as home detention, informal questioning and warrantless searches. Moreover the recomposition of communities and the cooperation of civil society in recirculating and internalising homogenising power signals the immanent nature of racial state power. An appeal to the restoration of 'normal' criminal law, denies the teleology of whiteness in criminal justice frameworks.

The productive capabilities of policing acquire renewed importance as a site of racialised state practice. Particularly as globalisation erases boundaries between external and internal wars, and the distinctions between military and police apparatus as law and order is integrated into the task of security and defence (Hardt & Negri 2000; McCulloch & Carlton 2006). The ascendancy of neoliberal globalisation, may have brought a de-territorial sovereignty of capital in the liberalisation of money across borders. But it has also consolidated the territory of the nation state through intersecting genealogies of racialised punishment, bolstered by polic-

ing to extend the reach of sovereign power. A detailed analysis of these terrains, while not the subject of this paper, points to the reproductive power of counter terrorism policing as both law making and law preserving violence, in the contemporary racial state.

Terrifying Law – Police as National Managers

Post 9/11 terrorism laws in Australia reproduce racial state power through two related processes. Firstly, the creation of broadly defined pre-emptive offences and new terms of art *to identify multiple racial subjects as potentially suspect*. Secondly, massive reconfigurations of security policing powers to enable removal of non-white others from national space as racialised and criminalised. The laws invest political discipline against multi racial bodies through discretionary terror and expanded police decision making. In the last part of this article I briefly outline key aspects of this framework. The statutory regime since 2001 invests in malleable legal concepts such as 'terrorist act' which at its core criminalises actual or *threatened* political violence anywhere in the world, for any purpose, whether it is against violence originated by oppressive, brutal regimes (Sentas 2006; Emerton 2005). In fact to make out most terrorism offences, there is no need for an actual terrorist act to occur, or for there to be a specific act of violence contemplated (Pettit & Sentas 2005: 283).

The intensification of state violence through police discretion identifies racial subjects in a panoply of new law. For example, under the executive proscription of organisations as 'terrorist', the Attorney General has banned 19 organisations on the recommendation of ASIO.² Criminalisation of 'indirect' membership, funding, training (including humanitarian training) and support for the organisa-

tions, are not dependant on intention or engagement in an act of violence, but on association, where even the emotional or political support for or *identification with* liberation struggle in Palestine or Kurdistan, for example, may attract up to 25 years imprisonment (Sentas 2006). Refugees who have been granted asylum in Australia for their actual or imputed affiliations with the now banned Kurdistan Workers Party (PKK) could face security police surveillance, deportation and potential prosecution (Sentas 2006: 32-37). Furthermore, a separate regime has listed over 1, 600 individuals and organisations as terrorist, (Chong & Sentas 2006: 36) freezing the assets of those who support diverse insurgencies such as the Liberation Tigers of Tamil Eelam (LTTE), the Shinning Path and the People's Liberation Army of the Phillipines (*Charter of the United Nations Act 1945*; see also *Suppression of the Financing of Terrorism Act 2002*).

Suppression of the financing of terrorism laws empower financial institutions to report 'suspicious' financial transactions and thus target ethnic or religious identity. Those who front up to a bank, and look or sound like a 'terrorist', or whose name on paper appears 'connected' to a 'country of concern' and may then be pre-emptively subject to security policing detention regimes (McCulloch & Carlton 2006: 405-407). Security policing interventions are characterised by racial and religious profiling as a substitute for guilt (for discussion of examples of the impact in Australia, see Chong & Sentas 2006; Pugliese 2005; McCulloch & Carlton 2006) Preventative detention and home detention through control orders introduced in the *Anti-Terrorism Act 2005 (Cth)*, also punish in anticipation of crime through the inbuilt logic of racial profiling, simultaneously denied by the state and acknowledged by the police as inevitable (Pugliese 2005: 18-20).

Policing both associative and pre-emptive 'guilt' requires mass surveillance and intelligence, increasing discretionary police contact with predominantly non-white multi-ethnic people and those of the Islamic faith. Legislative measures rely on police discretion and amplified powers of surveillance to identify and decide on racial subjects. For example, an initial order for 48 hour preventative detention for those who may not be suspected of any offence, is authorised by a senior officer of the Australian Federal Police, not a court (Chong & Sentas 2006). New stop and search provisions give state and federal police pre-emptive authority based only on what a person 'might' do, if they are within an executively designated 'security zone' (Pettit & Sentas 2005: 284-285). The phenomena of the ASIO raid, now also flanked by a flotilla of Commonwealth and state police, is invested heavily as a zone of spectral, discretionary state violence to dehumanise those raided.

As pre-emption justified the invasion of Iraq so too the logic of pre-emption in the domestic context is manifest in the raids of many Muslim families in 2001 and 2002, who were not charged with any offence and were racially profiled as suspicious. Some raids involved the authorities pointing guns at both adults and children, raids occurred in the middle of the night with no explanation, and passports were revoked with no reason. (Clelland 2002; Poynting 2004; Trad 2001) A woman occupying one of the Sydney homes raided by Police and ASIO in November 2005 conducted as part of 'Operation Pandanus'³ suffered from a heart attack during the operation (Cubby 2005). After ASIO were granted coercive police-like questioning powers for the first time (*Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Act 2003*), ASIO officers were reported to have threatened a person with detention for three days if the per-

son did not cooperate with a raid (Chong & Sentas 47-48).

Muslim community organisations and individuals have reported being fearful about engaging in any political activity, or even social calls to friends for fear of being under surveillance, or fear that they may inadvertently be 'associating' with someone of interest to the authorities (AMCRAN 2005a, 2005b). Such practices bear the hallmarks of colonial counter insurgency strategies. An anonymous Australian authority said of the June 2005 Operation Pandanus raids, that the stated purpose was to 'rattle the cages, to deter them from taking the next step' (Nicholson 2005). The image of 'ethnics in cages' (Hage 1998) invokes at once the threat of incarceration and excision from national space as dangerous and less than human. The statutory presumption against bail for terrorism charges (*Crimes Act s 15AA*) and the consequent incarceration of the accused in maximum security prisons delivered on this threat.

The racial state delivers its 'terror through police discretion to transform questions of belonging to those of defending territory, both spatial and economic. For example Liz Fekete describes how the anti-Muslim xeno-racism of the European security state operates to make its 'integration' policies of assimilation an extension of counter terrorism law (Fekete 2004). At the same time by rendering citizenship as a security concern, policies which heighten the socio-economic and gendered exclusion of working class Muslim communities are extended. The arrests between November 2005 and April 2006 of 22 Muslim men for alleged terrorism organisation offences resulted for some in the suspension of Centrelink payments to their wives and the freezing of joint bank accounts as extra judicial punishment.⁴

On June 24 2006, the Attorney General announced his intention to conduct an investigation for 'welfare fraud' of those families who have received charitable assistance from the fundraising efforts of the Islamic and Information Services Network of Australasia (IISNA). While non Islamic leftist groups have also raised funds for the families, IISNA was targeted by media reports as a 'hardline' fundamentalist organisation who raised \$50 000 for 'terrorists'. The fundraising efforts of IISNA are represented as inherently suspect within the dominant Islamophobic framework. Moreover, the families of the accused are vilified by virtue of their alleged receipt of 'combined welfare and legal aid payment of 1 million dollars' (Kerbaj 2006). The accused and their families join the extended category of excluded 'unAustralians' – welfare recipients, Indigenous people, and consecutive categories of 'scheming ethnics'.

The Australian Government's attempts to manage Muslim citizens, through the promotion of 'moderate' versions of Islam, the criminalisation of 'radical' Islam through police discretion and the imposition of core Australian values reflect the organising principles of the racial state. Counter terrorism laws are animated by police powers to invigorate the racialisation of social controls as exclusion. However, the policing of 'inclusion' is just as central in the regeneration of white nation. Strategies such as 'community policing' redefine counter terrorism as a self consciously cooperative 'conversation' with Muslim communities rather than an explicitly paramilitary exercise. Such shifts in state power operate to make mechanisms of command and control appear ever more democratic, involving the policed in their own domination.

As the history of colonial rule and Gramsci's theory of hegemony tell us, rule isn't

ever through coercion but also through consensus (Gramsci 1971). The Australian political order is founded on the promulgation of concepts of democracy and freedom as particularly western identities, and as core values, even as these concepts function unevenly for Indigenous, migrant and other atomised populations. Discretionary policing reveals the fundamental character of liberal democracy as a violently racialised and bordered project. It is no accident that state terror reinforces and generates *democratic* racial power. It is an investment in white supremacy.

Author Note

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Legislation

- Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Act 2003 (Cth)*
- The Criminal Code Amendment (Terrorist Organisations) Act 2004 (Cth)*
- Security Legislation Amendment (Terrorism) Act 2002 (Cth)*

*Suppression of the Financing of Terrorism
Act 2002 (Cth)*

Endnotes

¹ For a list of legislation see: www.nationalsecurity.gov.au. 2006-2007 Federal Budget spending includes \$1.6 billion in additional funding over five years, the majority of funding for security policing capabilities, in the Attorney-General's and Justice and Customs portfolio alone. This includes increases to ASIO, AFP intelligence and surveillance capabilities, the establishment of 'Identity security strike-teams'. See: The Hon Philip Ruddock MP, News Release: Law and Justice Overview, 9 May 2006:

² The organisations banned in Australia are: Abu Sayyaf Group, Al Qa'ida, Ansar Al-Islam

Armed Islamic Group, Asbat al-Ansar, Egyptian Islamic Jihad, Hamas's Izz al-Din al-Qassam Brigades, Harakat Ul-Mujahideen, Hizballah External Security Organisation, Islamic Army of Aden

Islamic Movement of Uzbekistan, Jaish-i-Mohammed, Jemaah Islamiyah, Kurdistan Workers Party, Lashkar I Jhangvi, Lashkar-e-Tayyiba, Palestinian Islamic Jihad, Salafist Group for Call and Combat, Tanzim Qa'idat al-Jihad fi Bilad al-Rafidayn (the al-Zarqawi network)

http://www.nationalsecurity.gov.au/agd/www/nationalsecurityhome.nsf/Page/Listing_of_Terrorist_Organisations,

³ A series of high profile security police raids were made on homes in Sydney and Melbourne, on the 20 June followed by another series of raids and arrests on 8 November. At the time of writing, the 22 men have been charged with membership and financing of an unspecified terrorist organisation, and detained on remand in maximum security units while court proceedings are yet to commence. For the 13 men detained in Victoria's Barwon Prison 'Acacia Unit', the last 8 months have been spent in solitary confinement for between 18 to 23 hours a day. Cells are raided by security and police every few weeks and the men are reported to be malnourished. (Abdou and Kent 2006.)

⁴ Personal communication with author, 1 December 2005.