

1984 – fiction or reality?

By Clara Davies



George Orwell's *Nineteen Eighty-Four*, published in 1949, is widely regarded as a literary masterpiece. Often described as the definitive dystopian novel, set in a world beyond our imagining, it introduced a range of concepts that even today seem inconceivable and far-fetched. Take, for example, the concept of a 'thought police'. Easy to dismiss as pure fiction? A radical, extreme notion so far from reality that it doesn't warrant consideration? Well, think again. Now the term 'thought police' has real application. Modern Australian society in the past decade has seen the evolution of pre-emptive policing, where a person can be apprehended in anticipation of the possibility that they may commit a crime. Still seem unbelievable? Time to take it one step further. 'Thought crime' – a notion that enables a person to be prosecuted, and potentially convicted, of a criminal offence for merely thinking and talking, as opposed to preparing to act and acting.

On 15 September 2008, in the largest terror-trial Australia has seen to date, seven men were essentially convicted of thought crime. The thoughts and words of these individuals were deemed sufficient for them to be found guilty of criminal offences under Australia's counter-terror laws.

In September 2001, a series of terrorist attacks on the US fundamentally changed the world in

which we live. Predictably, in the aftermath of these events, fear and panic spread throughout societies worldwide, including here in Australia. Understandably, people started to ask questions along the lines of 'are we safe?', 'could this happen on home soil?' and 'how can we protect ourselves?' A tangible yet rational response was required.

A tangible response did follow, but it arguably lacked rationality. The Australian government responded in a hasty and excessive manner. In a climate of growing fear, legislators across the country introduced a raft of counter-terror laws in the absence of any meaningful debate either at parliamentary or community level. Regrettably, many of these laws contain provisions that disregard our fundamental rights, including the right to freedom of speech and freedom of movement.

The Benbrika trial is evidence of the fact that there now exists in this country laws that criminalise thoughts and words. And as the practical effect of these legislative measures becomes apparent, serious questions are being raised as to whether they are proportionate to the risk and, indeed, whether they effectively minimise threats of terrorism in Australia.

'Too safe or too sorry' is an apt catchphrase for our current quandary. It was also the title of the public forum held in the context of the Clarke Inquiry, announced in the wake of the Dr Haneef affair, and aimed at

examining the counter-terror laws, their operation in Australia and the operating procedures of the authorities that administer the laws. And while the concerns raised by Dr Haneef's case are very distinct from those raised by the Benbrika trial, both matters highlight the fundamental problems with counter-terror laws in this country.

In *Nineteen Eighty-Four*, George Orwell wrote about life under a futuristic totalitarian regime in the year 1984. Twenty-four years on, under the guise of national security, have we moved towards a system of totalitarian rule where our government regulates our public and private lives at the expense of our rights? Have our fundamental rights been sacrificed for an illusion of greater safety?

Human rights exist – they are not created. Laws are created – they do not simply exist. Laws should not be enacted at the expense of rights. Laws that challenge or remove the fundamental principles of humanity are intolerable. Rights do not exist to be traded off, balanced out or in any way compromised. Australia's counter-terror laws are not a necessary evil, but merely the thin edge of the wedge. ■

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