

The politics of terrorism in Australia: views from within

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INTRODUCTION

The views from within the Australian parliament on the response to the terrorist attacks in America on 11 September 2001 were enlightening, informative and mostly reassuring. These views highlighted the inbuilt strengths and weaknesses of our political system. The political response of these parliamentarians to those terrorist attacks had links to another time of crisis during World War Two when Australia turned from the United Kingdom (UK), the 'mother country', to the United States of America (USA) for military assistance against a looming Japanese invasion. Then the Australian Prime Minister John Curtin (1942) gave his 'Call to America' speech¹. In the more than sixty years since, the Australian – American relationship has blossomed. It includes regular Australia-United States Ministerial Consultations (AUSMIN), joint military exercises including facilities such as Pine Gap and visits by American naval units to Australia and, more recently, the start of an on-going rotation of US marines through Darwin. Australia's response to the events of 11 September 2001 was in hindsight predictable. Despite Australia's belief in its role as an independent nation state, its citizens still cling to the coattails of the British Empire. The Union Jack adorns a corner of the Australian flag and the Queen of England is the titular head of state. So, whilst Australia hangs onto the perceived political comfort and stability of the English Crown, it is to America that Australia looks for its security. This article includes responses from a number of parliamentarian about the terrorist attacks on the USA on 11 September 2001. This attack was an abhorrent assault on the core values of democracy and freedom in both nations (see, for example, AUSMIN 2002²) but the date has historical overtones. On that day in 1973 President Richard Nixon supported the overthrow of the democratically elected Chilean Government of Salvador Allende.³

1 J Curtin, 'John Curtin's speech to America.' *ABC Radio National Archives*, Sydney 14 March 1942.

Publishing on the Internet. HTTP: <<http://john.curtin.edu.au/audio/00434.htm>> (22/11/2012).

2 AUSMIN Joint Communique, *Australian Government*, Department of Foreign Affairs and Trade, 2002.

Publishing on the Internet. HTTP: <http://www.dfat.gov.au/geo/us/ausmin/ausmin02_joint_communique.html> (8/5/2012).

3 R Zibechi, 'Chile: the other 9/11 anniversary,' *Guardian on-line* 11 September 2010. HTTP:

<<http://www.theguardian.com/commentisfree/2010/sep/11/chile-coup-anniversary-pinochet>> (4/5/2013.)

THE POWER OF LANGUAGE

Using ‘terrorism’ and ‘acts of terror’ interchangeably confuses meanings but there are significant advantages in linking words. Labelling an act an ‘act of terror’ links the perpetrator to the word ‘terrorism’ and justifies, for example, a ‘war on terror’ or a legislative response or both. War is an action word and leaves little doubt about intention. Linking the specificity of ‘war’ to the generality of ‘terrorism’ maximizes political opportunism. Such use of language may facilitate strong action against any act of violence labelled terrorism, and might stand in stark contrast to the response to an act of genocide. Whilst the events of 11 September 2001 were almost universally condemned and spawned a multitude of political and legal responses both internationally and nationally, there has been little agreement about a unifying definition of terrorism. Duffy argues that a lack of a definition may not be significant when the word has political currency and a lack of definition renders the term susceptible to abuse. Responding to the events of 11 September 2001 with a ‘war on terror’ was a clever use of language, specific enough to demonstrate conviction and a means of retribution but vague enough for governments to decide how the war would be fought. In the case of the invasion of Iraq in 2003, a despotic leader whose people needed democracy – a leader who no longer served American interests, and whose human rights abuses left him no sympathy – who in the end suffered the fate of Salvador Allende.

THE CONTEXT

The Australian Government offered unconditional support to the American declaration of a war on terror,⁴ enacting over 54 pieces of related legislation.⁵ This is more than the USA, Canada or the UK.⁶ Australia was not alone, with Prime Minister Tony Blair of Great Britain strongly aligned. Australia’s historical belief that serving major powers protects national security has arguably brought benefits for the nation, such as access to intelligence and increasing opportunities for trade and commerce. But these positives need to be balanced against the risks of always saying ‘yes’ to foreign wars, involving once the UK and now the USA. The alliance has allowed Australian prime ministers to bask in the reflected glory of association with the most powerful leaders in the world. To be sure, Australian leaders are not alone in this quest for power by association. Rawnsley writes that Tony Blair tied Great Britain to America’s fortunes for several reasons including making Blair feel pivotal to historic events on a larger stage.⁷ But does a perceived political benefit always align with the national interest? It seems so when the central theme in the Australian – USA relationship for some ten years has been the war on terror, a theme driven by national

4 M Slater, ‘An Analysis of Australia’s National Strategy in the War on Terror’, *USAWC Strategic Research Project*, Pennsylvania. Publishing on the Internet 2004, HTTP: <<http://www.dtic.mil/cgi-bin/GetTRDoc?AD=ADA424182>> (5/5/2012).

5 G Williams, ‘A decade of Australian anti-terror laws.’ *Melbourne University Law Review*, 2011: 35(3), pp 1136–1176.

6 K Roach, *The 9/11 effect; Comparative anti-terrorism*. Cambridge University Press 2011, p 310.

7 A Rawnsley, *The End of the Party*, Penguin 2010, p.48.

security. It is not unreasonable to question whether national security also covered an economic agenda linked to access to Middle-Eastern oil. Both Australia and the USA need access to reliable supplies of oil.⁸ This article explores Australia's relationship with the USA in the war on terrorism, drawing on interviews with six Australian parliamentarians who regularly made political decisions but were not involved in one of the most significant decisions a democracy can make: the decision to go to war against another nation state. One of the parliamentarians reported below said the decision was not even discussed within the party in power. The decision to join the USA in its war on terror could have been made after wider discussion and advice. Though few senior Australian politicians have seriously questioned and criticised Australia's involvement, the discussion in America has been more forceful, as in Albright's description of the war in Iraq as 'the greatest disaster of American foreign policy' resulting in 'the loss of our moral authority.'⁹ Though offering support to the USA in the war on terror was wise and sensible, offering unconditional support was not. Camus's¹⁰ insights into terrorism and rebellion provide a guide to the risks of this approach, suggesting that revolutions in modern times have led to a reinforcement of State power. One outcome of Australian and American legislative responses indeed has been an increase in state power. However, there was no direct threat to Australia and there was no exit plan.¹¹

The invasion of Iraq fuelled terrorism not least because it was an invasion with historical overtones. Grayling¹² observed that the invasion reaffirmed bin Laden's accusations that America had declared war on Islam, that the presence and actions of Judaeo-Christians in the region were acts of terrorism. When these actions included human rights abuses, bin Laden's modern day Judaeo-Christian crusaders fuelled his accusations. The pain was exquisite: the Coalition of the Willing of the western democracies, on a crusade¹³ for justice against proponents of terrorism, harboured troops who treated suspected terrorists cruelly and inhumanely in response to the injustices of terrorists killing and maiming indiscriminately, many in the name of their god. No overt assessment has been made of the place of religious faith in the decision to invade Iraq, though Thompson¹⁴ noted reports that the invasion was 'like a religious crusade.' The Economist¹⁵ has written that George W. Bush

8 Rawnsley, p.86.

9 H Maher, 'US: Albright Speaks Out on Religion, Politics and Bush,' Radio Free Europe, Publishing on the Internet 13 October 2006. HTTP:<<http://www.rferl.org/content/article/1072013.html>> (11/5/2012).

10 A Camus, *The Rebel*, Vintage International 1991, p viii.

11 Rawnsley, p.180.

12 A C Grayling, *Liberty in the Age of Terror*, Bloomsbury 2010, p 93.

13 See Rawnsley, p 40, wherein he refers to President George Bush's use of the word 'crusade' in his address to the Joint Sessions of Congress soon after 9/11.

14 P Thompson, 'Donald Rumsfeld's holy war: How President Bush's Iraq briefings came with quotes from the Bible,' *Mail Online* 20 May 2009. HTTP: <<http://www.dailymail.co.uk/news/article-1184546/Donald-Rumsfelds-holy-war-How-President-Bushs-Iraq-briefings-came-quotes-Bible.html>> (13/5/2012).

15 The Economist. 'George Bush and God: A hot line to heaven.' *The Economist Online*, 16 December 2004. HTTP: <<http://www.economist.com/node/3502861>> (11/5/2012).

was religious and Prime Minister Blair¹⁶ did not hide his faith and has since converted to Catholicism.¹⁷ Certainly the Australian Prime Minister John Howard has been accused of using others who are religious to pursue policy objectives.¹⁸ It could also be argued that Australia's involvement in the 2003 Iraq invasion was consistent with both American and Australian economic agendas at the time. This may explain in part why Australia went to this foreign war, a war lacking a current resolution of the United Nations Security Council.

Camus¹⁹ saw injustice as a prerogative of governments at the expense of citizens when citizens did not rail against practices that demeaned society. The use of torture and cruel, inhumane and degrading treatment demeans all societies particularly those democracies that publicly oppose such acts. Allies can become implicated in these acts. Camus' argument can be extended to encompass the acts of superpowers and their allies. He found that the use of torture in Algiers not only had 'aroused fifty new terrorists', but that 'such a flouting of honour serve[d] no purpose but to degrade our country in her own eyes and abroad.'²⁰ For Australia, Camus'²¹ comment on the role of intellectuals provides guidance. Intellectuals had choices. One was either to support and excuse as a matter of national honour the spiral of violence by reference to the violence of the other side, or to strive for pacification and try by persuasion to promote principled behaviour. America's allies have opted for the former, while in America the use of legal advice to legitimise enhanced interrogation techniques, which Danner²² termed 'the golden shield', is consistent with Camus's 'support and excuse'. The legal counter-arguments in the form of the New York Bar Association²³, George Williams²⁴ and Philippe Sands QC²⁵ had little or no relevance until President Obama first attained office demonstrating, for a while, that legal principle can trump politics when he released previous secret legal advices supporting enhanced interrogation techniques.

16 T Blair, 'Religion-friendly democracy and democracy-friendly religion.' *The Guardian*, Publishing on the Internet 11 November 2011. HTTP: <<http://www.guardian.co.uk/commentisfree/belief/2011/nov/11/to-ny-blair-democracy-friendly-religion>> (11/5/2012)

17 See, for example: <<http://www.guardian.co.uk/politics/2009/aug/28/blair-conversion-catholicism>> (4/05/2013).

18 M Wallace, 'Religion in Australian Politics', Publishing on the Internet 2007. HTTP: < <http://www.hsnw.asn.au/MaxWallace2.ht>> (10/5/2012), <<http://berkeleycenter.georgetown.edu/resources/quotes/john-howard-on-religious-extremism-on-neil-mitchell-radio>> (11/5/2012), <<http://www.stopthenscp.org/religioninpolitics.htm>> (11/5/2012)

19 A Camus, *Resistance, Rebellion, and Death*; essays. Vintage International 1961. p 114.

20 Camus, 1961, p 115.

21 Camus. 1961, p 115.

22 M Danner, *Stripping Bare the Body*, Black Inc 2009.

23 Association of the Bar of the City of New York & Centre for Human Rights and Global Justice. *Torture by Proxy: International and Domestic Law Applicable to 'Extraordinary Renditions*, New York: ABCNY & NYU School of Law, 2004.

24 G Williams, 'The gaping holes in our laws on torture', *The Sydney Morning Herald*, Publishing on the Internet 6 May 2009. HTTP :< <http://www.smh.com.au/opinion/the-gaping-holes-in-our-laws-on-torture-20090505-atwh.html>> (6/2/2013).

25 P Sands QC, 'Torture Team: the Responsibility of Lawyers for Abusive Interrogation,' *Melbourne Journal of International Law*, 2008: 13.

RESEARCH PARTICIPANTS

Questions focused upon the knowledge or recognition of terrorism as a threat to Australia and Australia's relationship with the USA. The interviews were conducted over a four-month period in late 2011, when parliamentarians were asked forty-one questions relating to the enactment of legislation in response to the 9/11 attacks. Interviews were conducted with six parliamentarians (one in writing), three each from the major parties (Labor, Liberal), each set including one woman, one non-lawyer, and one member of the relevant party committee concerned with terrorism. All were members of parliament in the period 2001–4, five from the House of Representatives, and one from the Senate. Although the sample of this study is small, the information provided is generally consistent with other source material and is confirmed by the off-the-record conversations, official parliamentary transcripts (Hansard) and the very reluctance of some interviewees to go into detail. The interviews add value to the written record contained in official documents such as Hansard and other secondary materials. Though the emphasis in the interviews was on Australia's legislative response to the 11 September 2001 terrorist attacks, what emerged also was a greater understanding of how parliamentarians viewed the political and legislative climate at the time as well as their feelings on the Australian – American alliance. The emerging themes explain why little was said in Australian political circles about allegations of rendition and torture by American personnel. Members shared a consensus that the relationship Howard and Bush was a significant factor in Australia's support of the USA in the war. Not unrelated was the identification by some interviewees who saw American foreign policy as a problem; for example, one Liberal interviewee said he 'didn't go to the media about Iraq because it was difficult for my party at the time.' This response is not inconsistent with other responses about the Howard's dominance of his party room, but it raises a concern about how easy it is for a dominant Australian politician to take a country to war. Kelly²⁶ reports evidence that Howard took no advice and actively discouraged official advice regarding the war on Iraq. Brett observed that not only did Howard dominate his Liberal Party and the Coalition government, his convictions and prejudices limited his government's options.²⁷ More recently Thompson²⁸ reported that Andrew Wilkie, independent Member of Parliament, has called for an inquiry into Australia's decision to send troops to Iraq specifically to examine the 'behaviour' of Howard as Howard had asserted that there were weapons of mass destruction, an assertion that has subsequently been discredited. In a similar vein Rawnsley maintains that Blair excluded most of his cabinet from decision making and used the possibility that Saddam Hussein possessed weapons of mass destruction to dupe his nation into war.²⁹

26 P Kelly, 'John Howard ministers took no advice before joining Iraq war,' *The Australian*. Publishing on the Internet 4 September 2009. HTTP: <<http://www.theaustralian.com.au/news/nation/john-howard-ministers-took-no-advice-before-joining-iraq-war/story-e6frg6nf-1225769329559>> (9/5/2012)

27 J Brett, 'Exit Right: The Unravelling of John Howard,' *Quarterly Essay*, 2007: 28 p.6.

28 J Thompson, 'Wilkie wants Howard to front Iraq inquiry,' *ABC National News*, Sydney. Publishing on the Internet 11 August 2011. HTTP: <<http://www.abc.net.au/news/2011-08-11/wilkie-wants-iraq-inquiry/2834732>> (8/5/2012).

29 Rawnsley, p 204.

A further emerging theme is the impact of party political loyalty in decision-making. For the opposition Labor party considerations of loyalty need to be interpreted from party rules that do not tolerate public dissent but do allow intra-party room dissent. More significant for the decision to unconditionally support America's war on terror and the war in Iraq is how party loyalty played out in the Howard's party room. Party loyalty is seen by some politicians as equivalent to a team sport and one Liberal interviewee directly described politics as a team game, a response that could be reasonably inferred from the responses of other interviewees. Liberal Party interviewees indicated that their party followed their Prime Minister on matters concerned with terrorism and had little if any choice in committing Australians to the war in Iraq. Other Liberal Party interviewees observed that Howard was very close to Bush politically and acted like an autocrat; and that did not bode well for anybody who did not agree with his agenda and saw Howard as a strong leader who wanted a unified vote on terrorism legislation but allowed internal party room debates. Several interviewees from both political parties commented on the potential party pre-selection implications of actively opposing their leader on key issues. National security was a crucial election issue for the Howard Government following the success of the Tampa incident when Howard had successfully taken a minor issue, a foreign vessel rescuing boat people on route to Australia, turned it into a crisis and made it a 2001 election winning issue due in part to an indecisive response by Opposition leader Kim Beazley.³⁰ Anything that could be linked to national security was now a key issue in Australia with Howard deciding the parameters of national security. His power extended to limiting any internal party opposition to the chosen policies because nearly all party members need party support for re-election. One Liberal Interviewee observed that only a few members had any real freedom because their re-election did not depend on party membership. Upper house members or senators especially were very dependent on party support. This interviewee recalled one member reminding the party room not to take away too many human rights.

A consensus view did not emerge on the origins of attack on 11 September 2001 even after the passage of time and ample opportunity for reflection (especially as some interviewees had asked for and received the interview questions in advance). Explanations given included hatred of the USA and the Western way of life, problems with the Middle East, the treatment of Palestinians, and American involvement in Somalia and the Former Yugoslavia and in particular regions dominated by Islam. Cultural and religious differences and the failure of Middle East governments to deliver benefits to their people were issues canvassed. On American foreign policy, interviewees identified America's role as the remaining superpower and saw that its exercise of power could breed hatred of Americans. One Liberal response noted that all nations need to re-assess their foreign policy positions. Though most interviewees did not think Australia's foreign policy was too tied to America's, two parliamentarians, one Labor and one Liberal saw otherwise. The Liberal interviewee explained:

I mean when they came to the party room Howard announced that we were going to join the Americans in Iraq. It wasn't we'll debate this and then think about it. ... Said ... what

³⁰ Brett, p 33.

the hell are we doing in a middle-east war? Do you know the consequences of what this will mean? We will win that war right but the aftermath of that will go on and on and on ... just said ... that is stupid. Why are we doing that, just because the Americans are doing everything?

On the invoking of Australia, New Zealand and United States Security Treaty (ANZUS) all but one interviewee agreed with the Howard government's position. One Labor interviewee argued that the government:

...should not have. We weren't at war number one. The United States wasn't under attack. It was a single event which was certainly very destructive. The United States deserved our sympathy and support for that but to invoke the ANZUS treaty which is really around the question of national security of both countries was to overstate the risk, both to them and to us.

Responses varied on the possibly enhanced risk to Australia given its involvement in the war. There were a number of clear 'yes's' with one interviewee indicating the impossibility of Australia being a lesser target. Another said Australia was already a target. Specifically on involvement in Iraq making Australia a target a Liberal interviewee noted;

I wouldn't go and say that to the press as they would go hysterical, but it's true.

In contrast another Liberal interviewee said;

With respect, your question should be 'more of a target,' as Australia was considered a target for terrorism prior to Sept 11. I do not believe our involvement has increased Australia's attractiveness as a target for terrorists.

This interviewee did not elaborate on the pre-2001 threat, and there is no cogent public evidence any such threat existed. However, the two interviewees who were on the relevant party room committees, including the interviewee who had access to confidential information, ranked the pre-2001 threat as relatively low to very low. One Liberal interviewee had scored the risk to Australia of a terrorist attack prior 11 September 2001 at 3 out of 4 and now at 4 out of 5 adding:

Terrorism remains a threat to the Western World, and while there have been no major attacks on Australian soil, the motivation for extremist groups has increased in the wake of the intervention in Afghanistan, for example.

There were consistent responses to questions about whether or not Australia is safer now than in 2001 and the impact of Australia's involvement in the war on terror and in Iraq. Of interest was the avoidance by one interviewee of the question and the comment by a fellow Liberal that there was 'no imminent threat.' One Labor member observed a greater threat for Australians in Iraq and overseas.

DISCUSSION

Understanding the relationship between Australia and America in the time of John Howard and George W Bush is crucial to ensuring future Australian leaders act solely in the national interest. Not a lot has been written about Howard's relationship with Bush but, considering Rawnsley's analysis of the relationship between George W. Bush and Tony Blair, there may not be much to write. The last time an Australian Prime Minister acted contrary to the wishes of a major ally was when John Curtin turned from the Great Britain to the USA during the Second World War. There is no cogent evidence Australia will not act in accordance with the interests of the USA. This is especially so when presidents like George W. Bush are very good at making allied leaders feel they are really important. Certainly Howard believed he was important in this close relationship, making a heavy investment in this personal friendship.³¹ In demonstrating his support of the relationship Howard did what the Americans wanted in Iraq, and he was not alone. While it is difficult to find any pressing 'national interest' in the 2003 Iraq invasion and aftermath for Australia, save supporting an ally and providing another battlefield for Australian soldiers to refine their not unsubstantial skills, for the Americans it represented unfinished business³², and that should have been obvious to both Howard and Blair. Iraq offered Blair an opportunity to move from a domestically successful politician to a globe-girdling statesman.³³ Howard must also have seen personal political benefits in taking Australia to Iraq. He had already indicted in 2002 after the Bali bombings that Australia would go to Iraq to get those responsible,³⁴ notwithstanding a lack of evidence linking Iraq to Bali. Howard's government was damaged by his government's alleged payment of bribes to Saddam Hussein's regime to facilitate the sale of Australian wheat.³⁵ Maybe his newfound international status provided a means to limit future potential damage from these sales. However, if Iraq represented at one level unfinished business for the USA³⁶, at another level it was a means to publicly import democratic ideals and benefits to a society used to despotic leaders and tribal loyalties – whilst quietly reinforcing oil security. By 2007 when public support for involvement in Iraq had dropped significantly Clarke observed Howard changing tack to 'staying the course' to enhance Australian security, demonstrating that he was the leader for making hard decisions.³⁷

31 Brett, p.34.

32 Rawnsley, p.39.

33 Rawnsley, p.48.

34 T Allard and M Baker, 'PM's vow: we'll get the bastards,' *Sydney Morning Herald*, Publishing on the Internet 21 October 2002. HTTP: <<http://www.smh.com.au/articles/2002/10/20/1034561389678.html>> (5/05/2013).

35 R Baker, 'Canberra's Cole evidence flawed' *The Age*, Publishing on the Internet 17 November 2006. HTTP: <<http://www.theage.com.au/news/national/canberras-cole-evidence-flawed/2006/11/16/1163266712917.html>> (5/05/2013).

36 Rawnsley, p 39 – The Bush Administration saw 9/11 as an opportunity to deal once and for all with Saddam Hussein.

37 M Clarke, 'Issues in Australian Foreign Policy,' *Australian Journal of Politics and History*, 2008, 54(2): p 275.

Australia's national security is not necessarily endangered by going to war or by ignoring acts of an ally that breach human rights and the rule of law. However, as noted earlier by Camus regarding similar events, such acts jeopardise Australia's long-term security because those subject to injustice may use such injustice as a rallying cry. What is revealed in interview responses is a general consensus that the relationship between the Australian prime minister and the American president was a significant factor in the linking of Australia's fortunes in the war on terror and Iraq to the fate of the USA. Several interviewees identified American foreign policy as a problem. The power of Howard over the government was a double-edged sword. While strong, decisive leaders are lauded this can become a disadvantage and he was eventually to lose both an election and his own seat. Still, Howard knew something about influencing the perceptions of Australians; as a released Wiki leaks cable noted, Labor party officials 'have told us that one lesson Gillard took from the 2004 elections was that Australians will not elect a PM who is perceived to be anti-American.'³⁸

John Howard did receive personal political gratification for supporting America when acknowledged by President George W. Bush as a 'man of steel' after Australia joined the coalition of the willing in invading Iraq. In contrast, Tony Blair was awarded America's highest civilian honour, the Congressional Gold Medal.³⁹ Bush's praise did elevate Howard to warrior status, something Walter⁴⁰ observed Howard apparently craved. Their administrations favoured a political orthodoxy that has been described by Walter⁴¹ as 'neo-liberalism – that particular brand of free-market fundamentalism, extreme capitalism and excessive greed which became the economic orthodoxy of our time.' In Australia, Howard was considered by many as being a politically astute especially as an economic manager. Following September 11 this astuteness extended to national security. Offering America immediate unconditional support in its proclaimed war on terror reinforced Howard's status as a strong leader. His close relationship with Bush gave the impression that he was close to the decision maker, the leader in the war on terror. The implication for Australia's future security lies in ensuring that such a close relationship does not lead to rash decisions to engage Australia in wars more about political self-interest than Australia's national interest. This is a delicate balancing act as a minor player on the world stage. While a counter-argument exists – that invading rogue states denies terrorists a base – this is misplaced without United Nations support. Likewise the use of the supposed existence of weapons of mass destruction without United Nations support also fails. Today both wars are still unresolved. Even though the Coalition of the Willing is now withdrawing, the security situation within Afghanistan and Iraq remain unstable after some ten years. Going to war is a significant event for any nation state and it is a reasonable assumption that such decisions are made carefully and on advice of military planners and experts with achievable positive outcomes.

38 The Australian, Read All The Australian Wikileaks Cables.' *The Australian* National Affairs, Canberra 15 December 2010. Publishing on the Internet. HTTP: <<http://www.theaustralian.com.au/national-affairs/australian-wikileaks-cables/story-fn59niix-1225971723172>> (30/1/2013).

39 Rawnsley, p 202.

40 J Walter, *What were they thinking? The Politics of Ideas in Australia*, University of New South Wales Press, 2010, pp 315–6.

41 Walter, pp 3–4.

Australia had also gone to war against Iraq with the United States in 1998. The manner in which Australia went to that war can be distinguished from the second Iraq War. Ramsey⁴² noted at the time that although Howard said it was 'the hardest decision I have taken as a Prime Minister,' the reality was that saying no would have been hard, as Australia always says yes. Ramsey went on to note:

Bill Clinton phoned John Howard last weekend. Clinton phoned a second time three days ago on Tuesday, to say thank you. Howard was waiting in his office. So were the cameras that would record the moment for posterity and for the voters. Photos of John Howard standing to attention behind his desk, talking to the most powerful man in the world, were all over newspaper front pages next day... getting into wars you can't lose. They usually make political leaders look good.⁴³

Recent revelations in *The Australian* by Wiki leaks seem to support this view. Labor opposition leader K.E. Beazley in 2006 was reported to have said that 'Australians remained obsessed with the United States, and followed Washington's every move, perhaps to a fault. Australia's actions clearly fell under its ANZUS obligations to respond to the 9/11 attacks on the U.S.'⁴⁴ However, the cables also noted that he would remove Australia's troops from Iraq. This latter point suggests that there may have been serious political and public debate if Howard had taken the issue to the Australian parliament. But doing that would have exposed the government to questions about how and why before it could act, when just acting demonstrated strength and decisiveness to maximise political benefits. It will be interesting to read the relevant Cabinet papers from that time. For example, did ensuring access to Middle-East oil feature, was there a discussion about the need to democratise Iraq or a serious debate about engaging Iraq while still fighting in Afghanistan?

An unresolved question is whether or not the relationship required Australian politicians to ignore serious breaches of human rights by the USA as a condition of being an active party to the war on terror. By the time of the decision to join the USA in Iraq Australia had among other things already activated ANZUS following 11 September 2001 and sent troops to fight in Afghanistan. In contrast, in America there was no universal acceptance of Australia. For example, there is evidence the loss of wheat sales to Iraq following the Australian Wheat Board scandal arose largely from American disclosures resulting in American farmers supplanting Australian farmers in supplying wheat to Iraq.⁴⁵ Additionally, the US-Australia Defence Trade Co-operation Treaty was not warmly received by the United States Senate Committee on Foreign Relations, notwithstanding Australian status as a close ally of the United States. The then Vice-President of the United States of America wanted to know

42 A Ramsey, *A Matter of Opinion*. Sydney: Allen & Unwin 2009, p 210.

43 Ramsey, 2009, p 210.

44 *The Australian*: 'Read All The Australian Wikileaks Cables.' *The Australian National Affairs*, Canberra. Publishing on the Internet 15 December 2010. HTTP: <<http://www.theaustralian.com.au/national-affairs/australian-wikileaks-cables/story-fn59niix-1225971723172>> (30/1/2013).

45 R Baker, 'Canberra's Cole evidence flawed.' *The Age*, 17 November 2006. Publishing on the Internet. HTTP: <http://www.theage.com.au/news/national/canberras-cole-evidence-flawed/2006/11/16/1163266712917.html> (5/05/2013).

how the treaty would control who had access to sensitive information.⁴⁶ But the Americans need not have been too concerned, as Australian anti-discrimination tribunals have agreed that sometimes there can be exemptions to Australian laws to facilitate the American view.⁴⁷ There is some evidence that Australia ignored American breaches of human rights, in particular the use of enhanced interrogation techniques, a euphemism for torture. While much has been written in America about the legality, morality, ethics and constitutional issues raised by using torture against terrorists or suspected terrorists, debate in Australia has been limited. A perusal of the literature reveals a significant majority of American academics and jurists strongly oppose their government's use of torture. Scharf⁴⁸ lays the foundations of the torture debate at the feet of the then Vice President Dick Cheney, noting he 'was a strong proponent of the principle *Inter Arma Enim Silent Leges* (in times of war the law must be silent)...believ[ing] that the president had to be unshackled from the constraints of international law in order to successfully combat the new terrorist threat...' Koh⁴⁹ is highly critical of the dual policies of the Bush Administration on the use of torture being public opposition while silently approving its use under the guise of legal authority. Koh⁵⁰ also condemns the torture memos for their undermining the doctrine of individual criminal responsibility. Thompson⁵¹ reports that the Australian government was certainly aware of allegations of torture contained in an International Committee of the Red Cross (ICRC) report of October 2003 and at Abu Ghraib. Loewenstein⁵² showed that Australian defence force Major O'Kane was working within Abu Ghraib drafting responses to Red Cross allegations of abuse. While there was no evidence that he witnessed abuses revealed in photos that emerged in April 2004, the Howard Government was alerted at least by April 2004 about allegations that Australia's allies, the Americans, were abusing prisoners. The Howard Government did not make Major O'Kane available either for questioning by a Senate inquiry in May 2004 or for the United States congressional hearings, despite a personal request from Democrat leader Nancy Pelosi to Prime Minister John Howard. Major O'Kane as a military lawyer wrote a legal memorandum dated 27 August 2003 in which he noted that the techniques used by the Americans, namely sleep management, dietary manipulation and sensory deprivation, substantially complied with the Geneva Conventions,

46 L Allam, 'American security laws based on where person was born mean some Australia's can't work in defence industries in Australia. It's against our laws - but it's like it or lump it.' *ABC Radio National*, Background Briefing, Sydney. Publishing on the Internet 24 August 2008. HTTP: <<http://www.abc.net.au/rn/backgroundbriefing/stories/2008/2339793.htm>> (12/9/11).

47 *Australian Capital Territory Human Rights Commission v. Raytheon Australia Pty Limited, Aerospace Technical Services Pty Limited, Australian Maritime Surveillance Pty Limited, Aeronautical Consulting Training And Engineering* [2009] ACTSC 55 (15 May 2009).

48 M P Scharf, 'The Torture Lawyers,' *Duke Journal of Comparative and International Law*, 2010: 20 pp 389-0.

49 H Hongju Koh, 'Can the President Be Torturer in Chief?' *Indiana Law Journal*, 2006: 81 p 1145.

50 Hongju Koh, pp 1145 & 1152.

51 G Thompson, 'Australia's ties to Abu Ghraib.' *ABC Radio National*, Sydney. Publishing on the Internet 4 July 2011. HTTP: <<http://www.abc.net.au/7.30/content/2011/s3260829.htm>> (28/9/2011).

52 A Loewenstein, 'Australia and Abu Ghraib; a cosy relationship.' *Blog*. Publishing on the Internet 5 July 2011. HTTP: <<http://antonyloewenstein.com/2011/07/05/australia-and-abu-ghraib-a-cosy-relationship>> (28/9/2011).

later on explaining they did not comply because there were no time limits.⁵³ The head of Australia's Defence Legal Service, Air Commodore Simon Harvey reported O'Kane's advice had concluded techniques were consistent with the Geneva Conventions and the government did not correct Harvey's statement and would not release O'Kane's advice without consulting the United States of America.⁵⁴

Australia was also in the unique position of being the only democracy that did not seek to remove a citizen from Guantanamo Bay in Cuba, notwithstanding that an Australian, David Hicks, had not committed an offence against Australian law and for some fourteen months the United States of America could not find an offence with which to charge him. David Hicks and subsequent Guantanamo Bay inmate, Mamdouh Habib, have alleged that they were subject to torture whilst detained in Guantanamo Bay. This matter was picked up by Smith⁵⁵ who reported an interview between reporter Mark Davis and Australia's Attorney General Phillip Ruddock on 7 July 2004 wherein Ruddock, in effect, abandoned Habib, an Australian citizen, to alleged rendition and torture by officials of the USA. The Gillard Labor government⁵⁶ announced it had settled out of court legal proceedings initiated by Habib in Australia seeking compensation for, amongst other things, allegedly being tortured. Earlier, however, Philippe Sands QC⁵⁷ had considered the role of lawyers in torture with no mention of Australians. He noted, however, that it was the legal advice of American lawyers on torture and enhanced interrogation techniques that enabled the use of these techniques. Other reports do not mention Habib, but are concerned with David Hicks. Klein and Barry⁵⁸ note that the International Committee of the Red Cross received a report from David Hicks in 2002 alleging he was tortured. A subsequent sworn affidavit was made by Hicks in 2004 as were allegations by his father on national television that his son had been sexually abused by American officials. Klein and Barry do however raise the response and growing concern of the United Kingdom to allegations of human rights abuses at Guantanamo Bay⁵⁹. *The Australian*⁶⁰ has reported that the Head of MI6 in the United Kingdom has publicly stated his agents were not involved in torture amid allegations of British links to mistreatment of terror suspects held overseas. There is now an investigation, the Gibson

53 G Namey, 'Australian military lawyer's advice on interrogation techniques at Abu Ghrab.' *Public Interest Advocacy Centre Ltd Sydney*. Publishing on the Internet 1 July 2011. HTTP: <<http://military.piac.asn.au/story/australian-legal-advice-on-interrogation-techniques-abu-ghraib-torture>> (28/9/2011).

54 Namey.

55 G Smith, 'US-arranged torture of Australians.' *The Guardian*, London. Publishing on the Internet 14 July 2004. HTTP: <<http://www.cpa.org.au/z-archive/g2004/1191torture.html>> (6/2/2013).

56 The Howard Government was a liberal/national party coalition that lost the 2007 federal elections. The new Labor Government was led by Kevin Rudd who subsequently lost the prime ministership to Julia Gillard in an internal party ballot.

57 Sands QC, p 13.

58 N Klein & L Barry, 'A human rights perspective on diplomatic protection: David Hicks and his dual nationality,' *Australian Journal Human Rights*, 2007: 13(1).

59 Klein & Barry, p 20.

60 *The Australian*. 'MI6 chief John Scarlett denies agents are involved in torture,' *The Australian News*, Sydney. Publishing on the Internet 10 August 2009. HTTP: <<http://www.theaustralian.news.com.au/story/0,25197,25908474-2703,00.html>> (11/08/2009).

inquiry, and the UK Prime Minister David Cameron⁶¹ has written to the head of the inquiry about investigating the possibility of political links to British security agents using rendition and torture activities that will examine documents found in Libya.⁶² Mark Danner⁶³ says, referring to America, that torture 'is at the heart of the deadly politics of national security.' Camus noted that metropolitan France

was unable to think of any policies other than those which consisted in saying to the French in Algeria: 'Go ahead and die; that's what you deserve' or 'kill them; that's what they deserve.'

Australians were reminded that terrorists are a threat with the Bali bombings and the attack on the Australian Embassy in Jakarta. At home this risk was best demonstrated by the government's treatment of a medical practitioner, Dr Haneef, in 2007. Not only was Haneef held for twelve days before being charged with providing support to a terrorist organisation, the Howard government's minister of immigration, a former lawyer, revoked his visa on character grounds when the charges were found to be unsustainable.⁶⁴ A case study on the case notes that nearly all the news stories at the time mentioned Dr Haneef's religious affiliation as a Muslim.⁶⁵ Both the Clarke Inquiry⁶⁶ and the Federal Court⁶⁷ found the minister's actions on Haneef's visa ranged from mystifying to wrong. Michael Head cast doubt on the Clarke Inquiry that found no evidence of the Howard Government bringing political influence to bear in the Haneef matter.⁶⁸ One could speculate that being Indian and a follower of Islam failed the same test refugees fail under Australia's borders security policies: they are not like us. They became a threat the Howard Government was happy to promote when possible, linking boatpeople or refugees to terrorism.⁶⁹ This would also be consistent with comments made by the interviewed parliamentarians about being seen to be tough on persons who may pose possible threats, to send a message both to terrorists

61 D Cameron, *Letter*, 10 Downing Street London. Publishing on the Internet 6 July 2010. HTTP:

<http://www.cabinetoffice.gov.uk/sites/default/files/resources/pm-letter-gibson_0.pdf> (6/2/2013).

62 P Wintour, 'Torture inquiry to investigate UK-Libya rendition claims. Publishing on the Internet, *The Guardian* 5 September 2011. HTTP: <<http://www.guardian.co.uk/world/2011/sep/05/torture-inquiry-investigate-uk-libya-rendition>> (9/9/2011).

63 Danner, p 552.

64 See, for example: <<http://www.lawcouncil.asn.au/programs/criminal-law-human-rights/anti-terror/haneef.cfm>> (7/05/2013).

65 Jacqui Ewart, The reporting of the Dr Mohamad Haneef story, Case Study – Dr Haneef at 26. HTTP: <<http://www.reportingdiversity.org.au/docs/DrHaneefcasestudy.pdf>> (22/02/2012)..

66 See: <[http://pandora.nla.gov.au/pan/84427/20090121-0022/www.haneefcaseinquiry.gov.au/www/inquiry/rwpattach.nsf/VAP/\(3A6790B96C927794AF1031D9395C5C20\)_Volume+1+FINAL.pdf/\\$file/Volume+1+FINAL.pdf](http://pandora.nla.gov.au/pan/84427/20090121-0022/www.haneefcaseinquiry.gov.au/www/inquiry/rwpattach.nsf/VAP/(3A6790B96C927794AF1031D9395C5C20)_Volume+1+FINAL.pdf/$file/Volume+1+FINAL.pdf)> (22/02/2012) at viii.

67 *Haneef v Minister for Immigration and Citizenship* [2007] FCA 1273. HTTP: <<http://www.austlii.edu.au/au/cases/cth/FCA/2007/1273.html>> (22/02/2012).

68 M Head, 'What the Haneef Inquiry Revealed (and did not),' *Alternative Law Journal* 2009: 34 p. 244.

69 See, for example; In 2001; Phillip Adams, Late Night Live, *Radio National* 18 September 2001, Are Refugees Terrorists? HTTP: <<http://www.abc.net.au/radionational/programs/latenightlive/are-refugees-terrorists/3489830>> (7/05/2013) and in 2009; WA today.com.au, WA News 22 October 2009 'Call to dump Wilson Tuckey over boat people 'terrorist' comments.' HTTP: <<http://www.watoday.com.au/wa-news/call-to-dump-wilson-tuckey-over-boat-people-terrorist-comments-20091022-ha69.html>> (7/05/2013).

and to those likely to be affected – a minority – within Australia. A Labor Interviewee observed that the terrorism legislation was ‘based on the principle that most of the people likely to be affected by these bills are not us, they are people on the margins of society, people who are already partially excluded.’ Politics is also about drip feeding concern and uncertainty for political advantage. Targeting anyone who looks different makes this easier.

CONCLUSION

Interviewing Australian politicians about Australia’s response to the events of 11 September 2001 explained not only how key political decisions were made but demonstrated the strength of the Australian – America alliance. Some of these decisions demonstrate an unhealthy national willingness to ignore policies of Australia’s new protector in the interests of national security. Opinion among the interviewed parliamentarians is divided over Australia’s involvement in the war on terror and more so in Iraq. There is consensus on the role of political parties and political leaders on shaping policy especially policy concerned with the war on terror. Australia’s response to the war on terror has supported the American policies. While much is said in the media about the successes of the war on terror, both Iraq and Afghanistan seem to lack political and security stability even after ten years of war. In Australia, citizens are seemingly better protected because of our American alliance and the significant legislation enacted to protect Australians from terrorists. Ironically, this same legislation also provides a potential means to encumber citizens not unlike Camus’s observations on governments using a crisis to increase their power at the expense of citizens. Parliamentarians and citizens might reflect Camus’s observations considering the interview responses on Howard’s prime ministership. More importantly for the future there has also been a lack of political debate within Australia about Australian support of American policies that breach human rights and the rule of law. What is generally accepted are the advantages Australia gains from this relationship. Not often mentioned are the strategic advantages America gains from its access to Australia. In the end Australia should be more critical of their senior politicians who promote a crisis for political advantage and willingly link themselves to allies who breach human rights under the guise of defeating terrorism. Both Australia and America have strong, active democracies and need at all times to act consistently with democratic principles.