



Islamic Information & Support Centre of Australia (IISCA) Inc.

In association with Ahlus Sunnah Wal Jama'ah Association

ABN: 50592 814755

Committee Secretary
Senate Legal and Constitutional Committee
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

Friday, August 28, 2009

To the Committee Secretary

Subject: Submission for the Anti-Terrorism Laws Reform Bill 2009

Dear Sir/Madam

In the name of Allah, Most Beneficent, Most Merciful.

On behalf of Ahlus Sunnah wal Jama'ah Association of Australia, we extend our sincere greetings.

Peace be upon you.

We would like to thank you for the opportunity to make a submission on behalf of our organisation on the review the above. Our organisation has made similar submissions previously regarding the operational aspects, effectiveness and implications of the laws and/or amendments¹ concerning the introduction and amendments to the anti-terrorism laws 2002 onwards.

The Ahlus Sunnah wal Jama'ah Association – ASWJ of Australia was established around twenty years ago. We are a national body with affiliated organisations in Melbourne, Sydney and Perth. Sheikh Mohammed Omran² is the national leader and is well known for his scholarly knowledge and jurisprudence amongst Muslims. ASWJ is proud of its political independence from external governments and political movements.

ASWJ promotes understanding and awareness of Islam amongst various communities and organisations across Australia. It has many affiliates like the Islamic Information and Support Centre of Australia (IISCA). As a mainstream organisation, ASWJ has over 10 direct affiliates nationwide and it has close ties with a vast array of Muslim leaders, organisations, communities and so forth.

ASWJ believes it duty is to work with all members of the Islamic faith in what is fair and good, regardless of cultural background, language, and political ideology. Historically, ASWJ supports the position of the Australian Muslim Civil Rights Advocacy Network – AMCRAN. In addition, we would like to raise additional issues concerning the Anti-Terrorism Laws Reform Bill 2009.

¹ Note: The terminology of 'law' refers to both the law and/or amendments to law.

² Sheikh Mohammed Omran is also known Sheikh Abu Ayman.



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Since the introduction of these laws, many Muslims and non-Muslims have expressed concerns that these laws were quickly put together and passed for political gain, without the normal consultative process that calls for detailed reviews and thorough examination by a variety of legal and other community experts. Further, the use of these new laws that appear draconian in nature and discriminatory in practice have been further exacerbated by the media's relentless "beat-up" of any story that has anything to do with Islam and/or involves a "Muslim"³. It has become very difficult for Muslims to receive a "fair go" by oft-repeated media frenzy and arguably Muslims are denied the right to natural justice, as appears the case with the recent round of anti-terrorism related arrests on 4th August 2009. Justice Reardon the presiding magistrate, knew about the charges after having read the details in the Australian Newspaper, prior to attending the court.

The ASWJ organisation (2006) predicted these laws would lead to widespread anxiety, intimidation and create fear within the Muslim community, as Muslims felt concern over being targeted unfairly due to their beliefs. The Dr. Mohammed Haneef debacle and the abuse of ASIO powers with intimidation in the Izhar Ul-Haque case have further exacerbated fears and given justification to anxieties.

ASWJ supports the Greens' initiative putting forward an amendment to the Anti-Terrorism Reform Bill 2009. Further, ASWJ urges the government to seriously consider the withdrawal and/or revocation of the former government's anti-terrorism laws as they can be misused discriminatorily without sufficient controls and transparency of process in place. The proposed amendment installs a governance framework to minimise the improper interpretation of the anti-terrorism laws against Muslim and other minority groups. ASWJ believes the anti-terrorism laws were unnecessary and that the existing laws were adequate or could have been modified to accommodate for terrorism related offences. The existing criminal codes/laws have been scrutinised and stood the tests of time and process, with proper control, process and transparency being clearly defined, understood and practiced. Further, ASWJ supports any amendment(s) that restrict, provide stricter controls and/or processes limiting the loose interpretation and/or manipulations of the anti-terrorism laws.

ASWJ strongly supports the following amendments:

1. The proposal to repeal the sedition offences, as these laws were loosely worded and could be practiced discriminatorily, impeding and/or causing the cessation of legitimate dissent and other similar freedoms.
2. The proposal to repeal of the offence of "possessing things connected to a terrorist act" and the offence of "association with a terrorist organisation or its members", as these offences are incredibly vague and far reaching, as was illustrated in the Dr. Haneef case.
3. The proposed amendments to the definition of "terrorist act", as the current definition is also quite vague, and allows for people to be targeted on the basis of their religious or political beliefs.

³ Muslim – refers to anyone with a Muslim name, is identified as a Muslim, whether they practice the religion/not and/or comes from a Muslim family heritage.



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4. The proposal to the repeal of the “dead time” provision, as well as the repeal of the “presumption against bail for terrorism offences” that allowed for the excluding of investigative periods for police detention, as was used to unfairly and improperly detain Dr. Haneef.

ASWJ urges the government to reconsider its current position and repeal the vast majority if not all of the anti-terrorism laws, passed by the former Howard government. These laws have adversely affected the civil rights of Australian Muslims. ASWJ requests that the current committee reviewing the anti-terrorism laws review the submission and recommendations made by ASWJ to the PJCIS⁴. Further, we request that the committee makes the recommendation to review additional areas that are not mentioned in the amended Bill. In our opinion, other amendments that should be reconsidered and/or repealed are:

1. ASIO's compulsory questioning powers should be repealed as they undermine personal freedoms, create widespread confusion and can easily be abused.
2. The system for banning “terrorist organisations” ought to be repealed entirely, as it can be arbitrarily applied in an undemocratic manner that limits personal choice and freedoms. It is our opinion that this legislation, had it been in place decades ago would have stopped legitimate Australian support that brought about the end of the Apartheid regime in South Africa.
3. The legislation regarding the collection of funding for a Terrorist organisation, that has no limitations on time and makes that, which is a religious obligation of giving alms in anonymity into potentially a chargeable act under the current legislation. As Muslims require the giving of alms to be done with secrecy ie. being ignorant of where the money is distributed and/or used to ensure that one gives for God alone and not for worldly recognition.
4. The installation of additional safeguards that ensure transparency of process, allowing independency of reviews and the power to take immediate actions and redress the abuse of power given under the anti-terrorism laws. These governance measures should consider:
 - 4.1. To address difficulties of performing an independent review of across Department, State and Federal boundaries. These jurisdictional boundaries between the Commonwealth, the States and/or departments limit an individual’s right to redress procedural and/or criminal wrongs committed by law enforcement agencies, especially where multiple law enforcement and/or intelligence agencies are involved. For example the current debacle where restrictive operational information was leaked and published by “The Australian” newspapers editor and Cameron Stewart in the midst of the execution of the warrants. Complaints need to be made to three separate organisations⁵. The committee should consider increasing probing powers for independent reviews that are empowered across

⁴ PJCIS – Parliamentary Joint Committee on Intelligence and Security

⁵ Victoria Police Ethical standards [referenced <http://www.police.vic.gov.au>]; Office of Police Integrity [referenced <http://www.opi.vic.gov.au>] and Commonwealth Ombudsman [referenced: <http://ombudsman.gov.au/commonwealth>]



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state boundaries and/or have access to all collected information with jurisdictional inquiry-ability.

4.2. The establishment of an independent arbitration mechanism to quickly review process and act promptly to correct/redress abuses of power afforded under the anti-terrorism legislation ie. when things go wrong – accidentally or intentionally. The Arbitrator's objective would be to:

4.2.1. Review all the information in an objective rather than emotional manner,

4.2.2. Allocate compensation to the victim(s) and/or

4.2.3. Recommending disciplinary and/or criminal proceeding(s) be brought against those responsible for deliberate abuse of the anti-terrorism laws.

4.2.4. Have the authority to place injunctions against media outlets, in the matter of national security / anti-terrorism related offences.

ASWJ generally supports the amendments proposed in the Anti-Terrorism Reform Bill, giving an in-principle endorsement of support for the motion that this Bill be passed through Parliament before any consideration is given to the Attorney-General's proposed amendments. ASWJ urges members of the committee to recommend to the Senate to seriously consider our concerns and act in a manner that is best for all Australians with sincerity of conviction and faith in Allah.

Our organisation on behalf of the Australian Muslim community, would like to thank all committee members for this opportunity to represent our concerns. We would be grateful, if the Parliamentary Secretary could extend our sincere appreciation to all the individual committee members, as we are delighted to serve our country and community.

We appreciate the efforts of the committee, welcoming further involvement in matters that can assist the Muslim community. Our organisation is more than willing to participate in this process and attend the committee hearings.

Yours Sincerely

Mustafa Kocak
Senior Advisor on behalf of
Sheikh Mohammed Omran
Secretary General
Ahlus Sunnah wal Jama'ah Association of Australia