

Committee Secretary
Department of the Senate
PO Box 6100
Parliament House
CANBERRA ACT 2600
AUSTRALIA

31/7/2018

To whom it may concern

Re: SUBMISSION TO THE DEFENCE AMENDMENT (CALL OUT OF THE AUSTRALIAN DEFENCE FORCE)
BILL 2018

I would like to lodge a submission to the Defence Amendment (Call Out of the Australian Defence Force) Bill 2018.

My primary concern regarding the Defence Amendment Bill is the potential for political prisoners to be detained, or even killed. As the founder of a potentially controversial blog¹, I have concerns that people risking everything to expose corruption are vulnerable to these changes, and in the extreme could end up dead in the order of protecting Australia. This is a real fear. The timing of this amendment and lack of media attention to the proposed changes to the bill are also of real concern.

- Key Points of the amendment:
 - One's personal sovereignty could be much more easily usurped by government. Taking this to the logical conclusion: whistle-blowers can be fatally silenced by the government's military arm under these new laws.
 - Abstractness of language creates almost unlimited scope:
 - Under the new laws, you can literally be detained for advocating not to eat x that has been contaminated with y – in other words being an aid to public health – because you threaten the Commonwealth by way of reduced taxes of purchases of x [ref 34.1.a.i]. Under the new laws, you can literally be detained for advocating to eat x that has been contaminated with y – in other words being an aid to the economy – because you are a threat to public health. In other words, the government may shoot-to-kill, by way of the ADF, whomever is seen to be an obstruction of their agenda.
 - Phrases such as “earliest practicable time” may extend infinitely into the future, if a government can get creative with their reasons, and the examples of history favour that likelihood.
 - Numbers are almost wholly absent from the amendment meaning a whistle-blower may be treated with the same disdain as a mass murderer. There is no sense of scale. Government may legitimise any form of repression.
 - Whole states may be barricaded and harassed by people “just following orders”, military check-points everywhere, not unlike modern-day Egypt.
 - Such extreme incursions into a citizen's sovereignty are unprecedented.

- It is absurd to increase military powers before individual rights. Solution: Bill of Rights before extending military powers.
- There is evidence to suggest the very sovereignty of reason may be hijacked when adrenaline courses through the body (“it is more efficient to run or to fight but less able to have superior judgment in an adrenergic load”²).
- Terms of reference:
 - 31. The language used: a “*person who may be detained...who is likely to pose a threat to any person’s life*”; means the government can detain you because they think you are likely to commit suicide. See for example, police filmed breaking into Chelsea Manning’s home (in the United States earlier this year) when the topic of suicide was broached on social media. A situation is foreseen whereby a neighbour calls emergency services, unbeknownst to the family, and before de-escalation, the person has been shot by the military because they posed a threat to their own life.
 - 37.2. You can even argue that infinite extension is possible because technically something that does not end is in no breach. I am not being pedantic here, I am concerned that literally any pretext is possible for infinite martial law under these amendments. Or endlessly continuing the 20 days.
 - 46.1.b. “*The member believes on reasonable grounds that there is insufficient time to obtain the authorisation*” I interpret to mean any whistle-blower can be fatally wounded and blame accorded to the member afterward with little blowback to the government (that may or may not have premeditated it).
 - 46.5.a. This could result in hostile takeover of, for example, WikiLeaks or a Socialist Party office or property for twenty days (or infinitely). This is untenable.
 - 46.7.h. Abrogates the individual’s right to “plead the 5th”, and since we don’t yet have a Bill of Rights, nothing should be demanded militarily of its own citizens without a lawyer. If, for example, a legitimate document exists of an MP engaging in illegal acts, the military should have extermination rights over neither it nor the possessor. This appears to open up that avenue, with undoubtedly the reason deemed classified.
 - 51.1.a. 100% of a state, is a part of the state (i.e. the whole part). It is foreseen that the Commonwealth can usurp a State’s powers, infinitely, even if legislative powers remain in the State’s hands. Example: An online leaker, based in Melbourne, but on the run, releases documents attempting to prove illegal activity of the Federal Government. The Federal Government takes over the state, via the ADF control that the Federal Government insists is warranted, despite vocal protests. The ADF shuts down protests too. The media complies, with the threat of sanctions.
 - 51A.4. Another instance where infinite detention is a possibility.
 - 51N.3.a.i. Anyone in Australia can be killed under this proposal, because the language used in this document legitimises practically every reason you can think of, even a common cold. For example, media propagates a story – true or not – about an avian influenza pandemic. Person has cold. Their shooting was “reasonable” under the circumstances. Even a mild version of this story is allowable under the “threat to public health” statement. “We had to kill him to prevent him doing harm to himself” and other absurd propositions are possible with the loose definitions being promulgated here. You see a person with a gun in your house (i.e. the ADF). You’re half asleep. You attempt to run away. You can be killed now, apparently.
 - 51N.4. The moral calculus of another person’s life now hangs in the balance of an ADF member, possibly straight out of the military academy, in a situation whose call-out

automatically makes political, when police personnel in Australia have on innumerable occasions mistakenly killed our citizens – mentally unstable or not. We must remember, ADF members have political beliefs also. This adds complexity to a moral mathematical equation that should not be their burden to calculate.

- 51Q.2. If the thing in question is software, a person's hardware could be destroyed, for the ADF member could not reasonably be expected to uninstall software another person has authored. A leaking organisation could be wholly destroyed, on the whim of a member without any technical knowledge. All evidence for a future legal case may be unwittingly – or deliberately – destroyed, if the person is even still alive to defend themselves after the member has done what was thought "reasonable".
- 51S. It seems to imply the lack of a route to justice if, or should I say when, someone is mistakenly killed. Good faith will always be found.

A government acting illegally will be able to use the military to quell any uprising, or prevent any revelations being made public about such actions, on the reasonable grounds that it is harming the Commonwealth, even if such eponymous wealth was a misnomer (e.g. plutocracy). I fear, every day, that seekers of truth, of which I have an affinity with Julian Assange, may be some of the first casualties of these new laws. With such government inaction to protect the WikiLeaks founder, I think these aforementioned suspicions are warranted. Making a visit to the Ecuadorian embassy eight years after his incarceration only highlights the egregious level of antipathy. The timing of this amendment, with Assange currently incommunicado and Fairfax Media under acquisition, is suspicious to say the least.

Thank you for the opportunity to be part of the amendment process.

Yours Sincerely

Brendan Dwyer

1 <https://www.maywarble.com.au/blog.html>

2 <https://www.quora.com/How-does-adrenaline-affect-your-ability-to-think-clearly>