

**AMNESTY
INTERNATIONAL**



AMNESTY INTERNATIONAL AUSTRALIA

ABN 64 002 806 233

Street address:

Postal address:

79 Myrtle Street

Locked bag 23

Chippendale

Broadway

NSW 2008

NSW 2007

T: (02) 83967618

F: (02) 83967677

E: exec.admin@amnesty.org.au

W: www.amnesty.org.au

7 November 2014

Mr Dan Tehan MP
Chair, Joint Standing Committee on
Intelligence and Security
PO Box 6021
Parliament House
Canberra ACT 2600

Dear Mr Tehan,

Inquiry into Counter-Terrorism Legislation Amendment Bill (No.1) 2014

On behalf of Amnesty International Australia's 445,000 supporters, I write to provide Amnesty International's submission to the Committee's inquiry into the Counter-Terrorism Legislation Amendment Bill (No.1) 2014 (the Amendment Bill).

As highlighted in our submission to the Committee's recent inquiry into the Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014, Amnesty International recognises that the primary role of any government is the protection of its citizens and those within its territory. We maintain, however, that protection measures must always be subject to international human rights standards, including the right to a fair trial, freedom of expression and freedom of movement.

Amnesty International previously expressed its concerns at the very short time period allowed for submissions to be made to the Committee on the Foreign Fighters Bill. Amnesty International now reiterates these concerns in relation to the Amendment Bill. With only several days allowed for stakeholders and the Australian public to provide submissions to the Committee, Amnesty International believes that public consultation on the Amendment Bill will be insufficient.

In light of the limited timeframe allowed for submission to the Committee, Amnesty International is unable to submit an exhaustive assessment of the human rights implications of the Amendment Bill. Rather, Amnesty International reiterates our strong opposition to control orders and the expansion of their use as proposed by the Amendment Bill.

As stated in our previous submission to the inquiry on the Foreign Fighters Bill:

"Amnesty International holds that control orders are in breach of a person's right to a fair trial as the imposition of a control order is tantamount to "trying" and "sentencing" a person without the fair trial guarantees required in criminal cases. In addition, Amnesty International is concerned control orders violate the right to liberty and security of the person, the right to freedom from arbitrary detention and the right to freedom of movement, the right to freedom of religion, the rights to freedom of expression and association, and the right to be presumed innocent. Although international human rights law allows for some limitations to these rights under prescribed certain circumstances including national security, Amnesty International does not believe that the use of control orders to restrict the rights and remove the rights of individuals who have not been convicted of any crime can be adequately justified."

Amnesty International raises further concerns that the proposed new grounds upon which an interim control order can be sought are vaguely defined. The Amendment Bill proposes that an interim control order may be applied where there exists:

- a suspicion by a senior AFP member, on reasonable grounds, that the order would substantially assist in preventing the provision of support for or the facilitation of a terrorist act; or
- a suspicion by a senior AFP member, on reasonable grounds, that the person subject to the interim control order, has provided support for or otherwise facilitated the engagement in a hostile activity in a foreign country.

Under such vaguely defined provisions it is conceivable that innocent family members of persons suspected of engaging in terrorist activities or hostile activities in foreign countries may be implicated in support for such acts. Amnesty International is concerned that these new grounds do not prescribe adequate safeguards for such circumstances and could therefore result in the liberties of innocent persons being significantly constrained under interim control orders. The vague language and definitions of these provisions compound the lack of appropriate safeguards in a regime which already fails the rule of law.

Amnesty International reiterates our stated position on the control order regime and opposes the expansion of control order powers as proposed in the Amendment Bill. Amnesty International recommends that control order powers be repealed in their entirety, rather than expanded or extended, and urges the Committee to recommend that any proposed amendments to the control order regime contained in the Amendment Bill not be passed.

Should the Committee require any further information please contact Clare Hodgson,
Government Relations Coordinator, on _____ or via _____

Yours sincerely,

Claire Mallinson
National Director
Amnesty International Australia