

Women's International League for Peace and Freedom

Ligue internationale des femmes pour la paix et la liberté

Liga Internacional de Mujeres por la Paz y la Libertad

Internationale Frauenliga für Frieden und Freiheit

Consultative Status with United Nations ECOSOC, UNCTAD and UNESCO

Special Consultative Relations with FAO, ILO and UNICEF

International Headquarters Geneva Switzerland

Australian Section Office Brisbane



Submission to inquiry into the provisions of the Anti-Terrorism Bill 2004

From the Women's International League for Peace and Freedom

Introduction:

The Women's International League for Peace and Freedom was established in Europe in 1915. We are an international NGO in consultative status with the United Nations' ECOSOC and UNESCO. WILPF also has special consultative relations with the FAO, ILO and UNICEF. WILPF works for social and racial justice, human rights and an end to wars as a means of dealing with human conflict. This submission is made on behalf of the Australian Section of our organisation.

We refer to the Committee's present inquiry into the Anti-Terrorism Bill 2004 ('the Bill'). We hereby provide a submission to assist the Committee in its inquiry.

We appreciate very much being able to express our concerns in regard to this Bill and thank you for the opportunity.

WILPF is distressed by the terrorist acts that are taking place around the world and we are deeply saddened by the loss of life. We are fully aware that governments must take every precaution to protect their citizens.

WILPF's submission is unequivocally opposed to the Bill. We will deal below with the key changes proposed by the Bill and our reasons for opposing them.

WILPF's Concerns

Proposal to increase the maximum detention/questioning time for persons suspected of 'terrorism' offences to 24 hours

Sections 23C of the *Crimes Act 1914* (Cth) presently empowers the police to detain arrested persons under the age of 18 years and those of Aboriginal and Torres Straits Islander background for a maximum of two hours, and all other arrested persons for a maximum of

four hours. The Act also provides for an extension of the period of detention/questioning by a maximum of eight hours for serious offences if the police are able to satisfy a judicial officer that such an extension is necessary and the questioning is being conducted without undue delay. The Bill proposes to make an extension of questioning time of up to 20 hours permissible in the case of 'terrorism' offences.

It is important to stress that 'terrorism' offences reach far beyond acts like bombing and hijackings; acts which were already punishable by severe penalties before September 11. For example, a 'terrorism' offence is committed by merely possessing a thing in connection with engagement in a 'terrorist act' (*Criminal Code Act 1995* (Cth) s 101.4). 'Terrorist Act', in turn, embraces certain acts of industrial action like picketing by nurses. Thus, a person holding a leaflet promoting picketing by nurses is, arguably, committing a 'terrorism' offence. We are concerned that activists in ours and similar Non Governmental Organisations, who legally take part in rallies and marches, may be considered to be committing a "terrorist act" in the light of the proposed Anti-Terrorism Bill 2004.

As it currently stands, the *Crimes Act* accords with the fundamental principle that any deprivation of personal liberty should be kept to a minimum. No serious justification has been offered for extending the possible detention time, with only vague references to being 'tough on terror'. More than this, it is difficult to see why there should be an extension of this nature when the Australian Security Intelligence Organisation, in conjunction with the Australian Federal Police, can now detain and compulsorily question persons suspected of having information related to a 'terrorism' offence for rolling periods of seven-days under the *Australian Security Intelligence Organization Act 1979* (Cth). Such persons can be questioned for up to 24 hours, or 48 hours if an interpreter is used. During such questioning, such persons have no right to silence and have only a highly circumscribed right to legal representation. Moreover, if detained, they are detained incommunicado, and can be subject to body and strip searches. As things currently stand, if a Madrid-style bombing occurred in Australia, ASIO with the AFP could detain persons not suspected of any criminal wrongdoing and interrogate them for at least 24 hours.

These unprecedented powers already in existence make the present proposal absolutely unnecessary. This aspect of the Anti-Terrorism Bill appears to be a mere grab for power. It should be rejected, as it has not been justified and is unnecessary.

Proposal to broaden the scope of liability under the Crimes (Foreign Incursions and Recruitment Act)

Currently, the *Crimes (Foreign Incursions and Recruitment Act 1978* (Cth) exempts from criminal liability, Australian citizens and residents, who fight with the armed forces of foreign countries. The government's proposed amendments to the Act would make it an offence to

fight with the armed forces of a foreign state while a member of an organisation prescribed by the Attorney-General under that Act, or proscribed pursuant to the *Criminal Code* terrorist organisation provisions (which were recently broadened to allow the Attorney-General to proscribe organisations which have not been listed by the United Nations). Given the breadth of the definition of 'terrorist act' in the *Criminal Code Act 1995* (Cth), any armed force is apt to be declared a terrorist organisation, regardless of whether or not it attacks civilians. This proposed amendment would therefore make the legality of the conduct of Australians fighting with foreign armed forces entirely subject to the political whims of the Australian Government, as it is entirely up to the Government whether a foreign armed force, or its associated organisations, are listed or not. The imposition of serious criminal liability based on the whim of the executive is entirely contrary to the rule of law.

Proposal to broaden the scope of the Proceeds of Crime Act

At present, the *Proceeds of Crime Act 2002* (Cth) permits assets to be confiscated if they are the result of a 'foreign indictable offence,' an offence committed abroad that would be a crime in Australia. The *Anti-Terrorism Bill* would include, as foreign indictable offences, offences tried by United States military commissions. This proposal would thus recognise and legitimate in Australian law the system of military commissions established by the United States Government to try Guantanamo Bay inmates, despite the condemnation of that system by numerous eminent jurists, including retired High Court Justice Mary Gaudron and a serving member of the House of Lords, Lord Steyn.

In Conclusion we refer you to WILPF's submission to the Senate Legal and Constitutional Legislation Committee RE: Security Legislation Amendment (Terrorism) Bill 2002 (No2) and related Bills Australian Security Intelligence Organisation Amendment (Terrorism) Bill 2002 (Dated 6/4/2002) and our letter to parliamentarians calling for rejection of those bills. (Dated 12/2/02) in which we earlier expressed our concerns.

We consistently believe the present Australian laws as well as the ASIO Act are sufficient to deal with the threat of terrorism and possible terrorist acts.

WILPF thanks you for your kind attention to our submission.

Yours sincerely

Mary Ziesak - Joint National Coordinator

11th April 2004