



The Uniting Church in Australia
Synod of Victoria and Tasmania
Justice and International Mission Unit

Submission to the Senate Legal and Constitutional Legislation Committee on the Inquiry into the Provisions of the *Anti-Terrorism Bill 2004*

19 April 2004

The Justice and International Mission Unit, Synod of Victoria and Tasmania, is the Unit within the Synod that assists the Church membership in reflecting and being actively involved with social justice and human rights issues.

The Unit is opposed to the use of terrorism wherever it occurs by anyone, regardless of the motivation of the terrorism. The Unit believes that, through the Gospels, Jesus calls on all his followers to reject the ways of violence and instead put their efforts into radical peace-making initiatives. Therefore, the Unit supports any action to deter terrorism in any form, provided such measures do not violate other basic human rights.

The Unit welcomes Government and community actions to end terrorism and to remove any injustices that may motivate people to commit acts of terrorism. However, where proposed measures to combat terrorism will erode human rights and fundamental freedoms the burden of proof should be on demonstrating the measures to be introduced are needed.

The Unit notes that since the last Parliamentary inquiry into Australian anti-terrorism legislation in 2002 laws have been introduced that:

- Have given the Attorney-General the power to ban any organisation that the Attorney-General regards as 'terrorist';
- Allow ASIO, in conjunction with the Australian Federal Police, to detain people and compulsorily question them; and
- Established offences which prevent public scrutiny of some of the activities of ASIO.

Amendments to the *Crimes Act 1914*

The Unit opposes the proposed increase in the "investigation period" for terrorism offences in the *Crimes Act 1914* to a maximum of 24 hours in the Bill, during which time a suspect can be detained and questioned. We believe that the Government has not provided sufficient evidence to justify the need for this provision.

The Unit is also concerned that it appears that this period of detention can be applied to children.

The extension in the period of detention for questioning proposed under the Bill is justified in the explanatory memorandum on the basis of the complex nature of investigations into terrorism offences, including their international aspect. Yet there are other crimes that also may have similar complexity and international links, such as organised crime or the illicit

drug trade. Investigations into sophisticated tax evasion schemes and money laundering can also be very complex.

Further, the justification for police needing extra powers to detain people suspected of terrorist offences has been removed by ASIO having been granted the power to detain and question people about terrorist offences for rolling periods of seven days. People detained in this way can be questioned for up to 24 hours, which can be increased to 48 hours if an interpreter is used. During such questioning, the detainee does not have the right to silence and has only circumscribed rights to legal representation. The Government has not provided sufficient evidence that the extension of powers granted to ASIO are inadequate.

Amendments to the *Crimes (Foreign Incursions and Recruitment) Act 1978*

The Unit supports the amendments to toughen the law with regard to persons that engage in armed conflict in foreign States while with a terrorist organisation. It is appropriate to deter Australians from being party to armed conflicts overseas, especially as part of terrorist organisations.

Amendments to the *Proceeds of Crime Act 2002 (Cth)*

The Unit opposes the legislation in Section 337A granting legitimacy to US military commissions on the basis that such tribunals fall short of international standards for a fair trial and that they can impose the death penalty. Such a view of the US military commissions has been shared by Amnesty International. The Uniting Church in Australia, Synod of Victoria and Tasmania, vigorously opposes the death penalty and any calls for its reintroduction into Australia. That reflects a long held view that was adopted by the Methodist and Presbyterian Churches since 1962 and reconfirmed by the annual Synod of Victorian Church representatives in 1989.

Dr Mark Zirnsak
Director
Justice and International Mission Unit
Synod of Victoria and Tasmania
Uniting Church in Australia
Melbourne, Victoria