

**Supplementary Submission to the
Senate Legal and Constitutional Committee
Inquiry into the provisions of
Defence Legislation Amendment (Aid to Civilian Authorities) Bill
2005**

We thank you for the opportunity to appear before the Committee for its Inquiry into the provisions of the *Defence Legislation Amendment (Aid to Civilian Authorities) Bill 2005* ('the Bill').

We kindly request that the Committee accept this document as our supplementary submission. It outlines concrete recommendations.

AMCRAN would like to state that these recommendations are not in any way indicative of our endorsement or acceptance of the Bill. On the contrary, they represent steps which AMCRAN submits will bring the legislation more in line with the expectations of a free and democratic society.

Recommendation 1: In view of the absence of justification for the legislation, we recommend that the Bill be rejected in its entirety.

Recommendation 2: In order to provide clarity about the applicability of the legislation and to prevent arbitrary application, the following terms should be clearly defined:

- (a) Domestic violence
- (b) 'Critical' infrastructure

Recommendation 3: In order to ensure proper review, transparency and accountability, the Bill should specifically provide that a decision for a call out (including the grounds) should be made amenable to review by the parliament when it is raised. It should also specify that if the parliament so rules, the call out should be revoked at the earliest possible convenience.

Recommendation 4: In order to ensure proper review, transparency and accountability, decisions to designate infrastructure (under section 51CB) as critical should be subject to judicial review.

Recommendation 5: For the sake of transparency, justice, understanding of the law and removing the inherent conflict of interest of the executive, ADF personnel should be subject to the Commonwealth *Criminal Code* and not the Jervis Bay Territory laws. Further, they should be subject to the normal court system and not the military court system.

Recommendation 6: In order to minimize the potential for misuse and abuse of the call out powers, the powers should not be extended under any circumstances to Reserve personnel. Section 51AA(3) should be a blanket exemption from the use of Reserve personnel.

Recommendation 7: For the sake of transparency, the rules of engagement contained within the Army's Manual of Land Warfare should be made public.

Recommendation 8: Section 51SC recommends that authorizing ministers must have "regard for" international obligations. This should be amended so that authorizing ministers must "comply with" international obligations.

Recommendation 9 (a): Since we are advised that terrorism is a "temporary situation requiring extraordinary laws", should this bill be passed, we request that a 3 year sunset clause be added.

Recommendation 9 (b): In addition, we request that there be a *public* review of the legislation after three years.