

Submission to:

Committee Secretary
Senate Legal and Constitutional Committee
Department of the Senate
Parliament House
Canberra ACT 2600
Australia

Submission of Free Speech Victoria in Response to the proposed Sedition laws in the Anti-Terrorism Bill 2005

FREE SPEECH VICTORIA, a group of individuals concerned to protect the right of all citizens to freely express their ideas and opinions, has serious objections to the Sedition clauses in the Anti-Terrorism Bill 2005.

Members of Free Speech Victoria believe:

1. There is no proven need for revising the present laws regarding sedition;
 - a. There is no evidence that the issue of sedition has been a contributing factor to the arrest of people charged with terrorism offenses.
2. Proposed modifications of sedition laws will prove counterproductive in the fight against terrorism;
 - a. Laws against public dissent and utterances will force people with those points of view underground, thus making the government less likely to track real threats.
3. New sedition laws will not stop people holding views which may be considered seditious;
4. Reviving sedition laws will have a damaging effect on free speech – an essential ingredient in a free and democratic society.

Accordingly, members of Free Speech Victoria request the Senate to remove these onerous and anti-democratic clauses from the Bill. We believe that they are open to a wide interpretation and if applied literally would have a serious limiting effect on political argument. Clearly, in a democracy such as ours, there is a plurality of views on a number of issues. Thus it is self-evident that some people have no affection for the British royal family; have no confidence in the democratic nature of the Australian constitution; disagree fundamentally with and have no respect for the government of Australia or for the parliament and its members.

Our concern is that under the provisions of this Bill, people having these points of view would be committing a criminal offence if they gave public utterance to their opinions.

We draw your attention to the section of the draft Bill that begins:

4 At the end of section 30A

12 Add:

13 (3) In this section:

14 *sedition intention* means an intention to effect any of the

15 following purposes:

16 (a) to bring the Sovereign into hatred or contempt;

17 (b) to urge disaffection against the following:

18 (i) the Constitution;

19 (ii) the Government of the Commonwealth;

20 (iii) either House of the Parliament;

21 (c) to urge another person to attempt, otherwise than by lawful

22 means, to procure a change to any matter established by law

23 in the Commonwealth;

24 (d) to promote feelings of ill-will or hostility between different

25 groups so as to threaten the peace, order and good

26 government of the Commonwealth.

Free Speech Victoria expresses the strongest opposition to this section of the Anti-Terrorism Bill 2005. It clearly represents an attack on the individual's right to criticise the monarch, the government, the parliament or any group with which he/she is in fundamental disagreement.

Notwithstanding the defence of "in good faith" there should be no such restrictions on the rights of citizens to argue strongly for constitutional change or to make trenchant criticism of any politician, political party or house of parliament. There should be no need to appeal to the "good faith" defence when a fundamental human right is involved. The onus is on the state to justify the abolition of the basic right, not on the individual to justify the exercise of his right.

Citizens do hold strong and prejudiced opinions about other individuals and groups and in making criticism of such groups or organisations they may be judged to be promoting feelings of ill-will or hostility. The only acceptable restriction on the right of free speech in this regard is that the individual ought not be free to advocate the committing of a crime of violence against others. As incitement to commit a crime is already proscribed in law there is no need to include it in this Bill.

Many loyal citizens have strong objections to the present government's foreign and military policy and, under a literal interpretation of the sedition section of the Bill, will be committing an offence if they give public utterance to their objections.

Journalists, media proprietors and radio and television presenters who give space or time to those who advocate violent opposition to the government may also be guilty of sedition, even though only fulfilling their role as purveyors of information to the public.

Satirists and cartoonists, those robust interpreters of Australian ways, may also be vulnerable under the sedition clauses.

The Bill assumes that individuals who are charged with sedition will have to prove that they acted in good faith. But according to the bill this may be an insufficient defence.

(2) In considering a defence under subsection (1), the Court may have regard to any relevant matter, including whether the acts were done:

(a) for a purpose intended to be prejudicial to the safety or defence of the Commonwealth; or

(b) with the intention of assisting an enemy:

(i) at war with the Commonwealth; and

Schedule 7 Sedition

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(ii) specified by Proclamation made for the purpose of paragraph 80.1(1)(e) to be an enemy at war with the Commonwealth; or

(c) with the intention of assisting another country, or an organisation, that is engaged in armed hostilities against the Australian Defence Force; or

(d) with the intention of assisting a proclaimed enemy of a proclaimed country (within the meaning of subsection

24AA(4) of the *Crimes Act 1914*); or

(e) with the intention of assisting persons specified in paragraphs 24AA(2)(a) and (b) of the *Crimes Act 1914*; or

(f) with the intention of causing violence or creating public disorder or a public disturbance.

...the interpretation of “assisting another country, or an organisation, that is engaged in armed hostilities against the Australian Defence Force” would put in jeopardy any person who argued publicly for the defeat of the Australian army in any military action. Clearly there are many loyal Australians oppose Australia’s military role in Iraq, and hope that they do not prevail in their mission. To hold such an opinion is to be a dissenter, not a traitor as the Bill would have them charged.

Even more alarming is the provision in this section for the Attorney General to “proclaim” another country as enjoying the same protections under the Act as Australia. This would make it a crime to criticise the actions of the American military, if the US were to be “proclaimed”, and to express the hope that they are defeated in Iraq. The nations most likely to be “proclaimed” are the US, Britain and Israel -- three nations that many loyal Australians consider to be behaving reprehensibly in the Middle East.

Altogether these sedition clauses represent a serious and unacceptable restraint on freedom of expression. In a confident, free and open democratic nation all points of view have a right to be heard without threat of penalty, such as those prescribed here. A seven year prison sentence for bringing “the Sovereign into hatred or contempt” would be laughably absurd, were not the consequences so serious.

Criminalising dissenting opinion and its expression is the act of a tyranny. To place sanctions on criticism of a foreign monarch, a prime minister or a house of parliament is an affront to the most fundamental of human rights -- the right to hold and to advocate opinions not necessarily shared by the majority. In the end, we of Free Speech Victoria believe the right to speak openly is the greatest strength of a democracy, and the key political element that separates us from the forces of terror.

We of Free Speech Victoria ask most earnestly that the sedition clauses in the Anti-Terror Bill be rejected by the Senate.

For further information, contact:

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