

Balwyn VIC

Friday 11 November 2005

To Senate Legal and Constitutional Legislation Committee

Submission on Anti-terrorism Bill 2005

I wish to comment on the proposed new anti-terrorism legislation.

#### Context

If Australia had not got itself involved in the illegal and unjustified invasion and occupation of Iraq, a country that poses no threat to Australia, terrorism would be of less of an issue than in currently is the case. That Australia is a possible terrorist target, therefore stems largely from decisions and policies of the current government.

Hard won human rights and freedoms of a liberal democracy, which is how Australia is usually defined, should not be sacrificed in the fighting terrorism.

When Robert Menzies in speech to House of Representatives, introduced a National Security Bill, 16 September 1939 he said:

'I do not seek, however long the conflict may last, a muzzled opposition. Our institutions, Parliament, all liberal thought, free speech, free criticism, must go on. It would be a tragedy if we found that we had fought for freedom and free belief and the value of every individual soul, and won the war, but lost the things we were fighting for.'

#### Comments and suggestions

1. Existing laws, as pointed by many well informed people, are adequate to deal with any anticipated terrorist action or threat of action. This view is supported by the recent arrests in Sydney in Melbourne, made possible under existing laws and regulations.

2. Increased surveillance in public places, such as through use of video cameras and bag checks, do however seem acceptable invasions of privacy under the current circumstances of heightened concerns over terrorist threats.

3. Particularly disturbing is that the proposed anti-terrorist legislation do not comply with Australia's obligations as a signatory of the International

Covenant on Civil and Political Rights (ICCPR). Among my concerns are that the legislation would breach the ICCPR by:

- a.. violating the guarantee to freedom from arbitrary detention
- b.. not guaranteeing sufficient access to court or judicial review, and
- c.. the possible circumvention of the constitutional separation of powers of the executive and the judiciary.

a) I recommend that this section of the current legislation needs to be significantly modified to avoid these violations and comply with ICCPR obligations.

b) I recommend that is it essential to have an annual review of the legislation and that a bipartisan panel should be appointed to monitor the application of any new laws.

4. As Australia has no Bill of Human Rights, any legislation that violates the civil and political rights of citizens is cause for very grave concern. In place of a Bill of Rights citizens need, and expect, that there to be alternative safe guards to protect existing civil and political liberties.

I recommend the government foreshadows the introduction a Bill of Rights into the federal parliament within the next two years.

5. It seems that in the new legislation 'sedition' is being equated with 'disaffection' with the current government. This is a deeply disturbing potential infringement of freedom of speech. As expressed by the editors of several small magazines in a letter to The Age, 29/10/05, "The proposed changes to laws relating to sedition are open to such broad interpretation that they may readily be used to stymie free and open debate."

This attempt to make criticism of the Government a crime under the sedition provisions of the Crimes Act, is characteristic of totalitarian regimes. It is definitely not acceptable in a democratic society like Australia.

I recommend that this section of the Bill should be deleted.

6. The proposed 10-year sunset clause with a provision for a review of legislation after five years will leave in place legislative difficulties for far too long.

I recommend if the legislation is passed it ought to be subject to a bi-annual review and at most, a three years sunset clause.

Rossllyn Ives