

14 November 2005

Committee Secretary

Senate Legal and Constitutional Committee
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Dear Sir/Madam,

Proposed Measures to Further Strengthen Counter-Terrorism Laws

We write to you in relation to *Anti-Terrorism Bill (No.2) 2005 (Cth)* ('**the Bill**'). The Public Interest Law Clearing House ('**PILCH**') is pleased to have the opportunity to comment on the Bill. However, PILCH expresses alarm at the speed with which this legislation has been introduced to the Federal Parliament of Australia, curtailing the ability of many people within the broader Australian community from commenting on and analysing this lengthy and complex piece of legislation that severely curtails and threatens their civil liberties.

The Public Interest Law Clearing House (Vic) Inc

As you may be aware, the Public Interest Law Clearing House (PILCH) is an independent, not-for-profit legal referral service. It seeks to meet the legal needs of community groups/not-for-profit organisations, and individuals from disadvantaged or marginalised backgrounds by facilitating their access to pro bono legal assistance from PILCH members. Its main role is to receive, assess and refer requests for pro bono legal assistance. PILCH's membership represents the diversity of the Victorian legal profession and includes private law firms, the Victorian Bar, the Law Institute of Victoria, corporate legal departments, community legal centres, university law faculties and others in ancillary or related fields.

Submission in Relation to the Bill by the Federation of Community Legal Centres (Vic) Inc

We refer to the submission of the Federation of Community Legal Centres (Vic) Inc ('**the FCLC Submission**'). The FCLC Submission outlines in detail various concerns regarding the Commonwealth government's Bill to purportedly strengthen counter-terrorism laws.

PILCH has reviewed the FCLC Submission and endorses each of the areas of concern identified. PILCH makes the following brief comments in support of the FCLC Submission:

Justification for Legislative Change

PILCH endorses the view expressed in the FCLC Submission that the Federal Government has failed to provide the Australian public with justification for the Bill. Further, the Federal Government has failed to demonstrate how the Bill will more effectively deal with a threat of terrorism in Australia, as well as failing to demonstrate how the current raft of counter-terrorism legislation is deficient.

Discriminatory Impact

PILCH also supports the view expressed in the FCLC Submission that the Bill will disproportionately impact on the Australian Muslim community. We agree with the assertion made in the FCLC Submission that despite assurances from the Federal Government that counter-terrorism laws are not aimed at the Australian Muslim community, it is evident that the Bill will significantly impact on Muslim people, just as the current raft of counter-terrorism laws have.

Sunset Provisions and Review of the Bill

Further, PILCH endorses the view expressed in the FCLC Submission that the 10 year sunset clause is too lengthy when consideration is given to the speed with which this legislation has been introduced to the Federal Parliament of Australia, with limited review or community consultation. PILCH is also concerned that the Bill does not expressly provide for a review after 5 years. PILCH urges that because of the hurried passage of this Bill and the subsequent need for adjustments and unforeseen negative consequences, an independent specialised review committee should be available after a period of 3 years. This review committee should be enshrined into the Bill.

Definition of Terrorist Organisations

PILCH further supports the view expressed in the FCLC Submission that Schedule 1 to the Bill substantially broadens the criteria for proscription, in turn, exposing many more organisations to the possibility of proscription. The broad nature of Schedule 1 has the capacity to restrict freedom of speech, severs the link between proscription and concrete acts of political violence and has the effect of exposing a large cross-section of the Australian community to being charged with terrorism related offences under the *Criminal Code Act 1995* (Cth). PILCH urges further consideration of Schedule 1 to the Bill.

Preventative Detention

PILCH strongly endorses the view expressed in the FCLC Submission that any detention of non-suspects without charge, provided for in Schedule 4 to the Bill, is totally at odds with the Australian criminal justice system. PILCH argues that the detention of non-suspects is a substantial and draconian departure from the long-held democratic principle, 'innocent until proven guilty'. PILCH notes that the Bill allows for recurrent 'Preventative Detention Orders' to be granted, as well as Australian Federal Police not being obliged to advise a detained person of the grounds for making a Preventative Detention Order.

PILCH agrees with the FCLC Submission that Schedule 4 to the Bill is made even more concerning because of the complete absence of judicial supervision or review of these detention powers. Further compounding PILCH's concern, is the fact that legal advice will be restricted. PILCH urges further consideration of Schedule 4 to the Bill.

Sedition

PILCH strongly supports the view expressed in the FCLC Submission regarding sedition. PILCH opposes the extension of sedition offences for prosecuting political or religious opinion as a counter-terrorism measure. This anti-democratic move strikes at the very heart of the Australian notion of freedom of speech. PILCH notes the comments in the FCLC Submission that it is already an offence to threaten politically motivated violence with the intention of intimidating a section of the community. Further, PILCH considers that the extension of sedition laws is a tool of political suppression that is not necessary or warranted.

Concluding Comment

We urge the Federal Government to reconsider the various concerns outlined in the FCLC Submission, together with the various recommendations for amendment.

Further, we call on the Federal Government of Australia to refrain from making 'law on the run' and preventing proper community consultation on pieces of legislation that threaten the civil liberties of the Australian community.

If you have any queries, please contact Paula O'Brien and Emma Hunt on 9225 6680.

Yours sincerely,

Paula O'Brien and Emma Hunt
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