

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

Dear Secretary,

Submission in relation to Anti Terrorism Bill 2005 (Cth)

I understand that the Senate Inquiry into Anti-Terrorism Bill 2005(Cth) will receive written submissions up to Friday 12th November 2005 and tender this letter as a submission to assist the Committee's inquiry.

I have grown up in Australia valuing the democratic institutes of our land and despite my lack of legal training, I am compelled to question whether this Bill has the right balance between the needs of security and the rights and liberties of the individual.

Limitation on Debate

The extremely short time lines for consideration of this Bill prevents both our democratically elected representatives and concerned citizens from giving full analysis to the impacts that the implementation of the Bill will have on our democratic way of life in Australia. On previous occasions in 2002 and 2003 when major terrorism laws came before the Federal Parliament, analysis and extensive debate over a period of months resulted in changes that were more likely to survive High Court challenge.

Lack of Necessity

I protest that the government is rushing this legislation through Parliament without demonstrating why this Bill is necessary. Existing Commonwealth and State and Territory legislation gives sweeping power to the governments to implement "a highly coordinated domestic counter terrorism response strategy" (in Australia's first report to the UN Counter-Terrorism Committee on implementation of Security Council resolution 1373). This coordinated ability was demonstrated on the 8th November when it was confirmed in parliament that Australian Federal police and ASIO with assistance from State police arrested in Sydney and Melbourne 16 people under the amended existing Anti-Terrorist legislation.

Creation of Fear

I would suggest that the language of "terrorism" create fear in the community and makes the people vulnerable to accepting measures hurriedly enacted to give a sense of control over, that which is uncontrollable. At times of a security crisis a nation may easily slide into authoritarianism. The space to question the in correctness of a response becomes delimited and the questioner exposed to the charge of "you're a terrorist lover". I strongly suggest that government refer to "the crime of terrorism" rather than "a war on terrorism" to deliberately reduce the emotive language of terror.

Bill of Rights

The proposed Anti-Terrorism Bill 2005(Cth) has been justified as “best practice” from overseas by the Prime Minister, John Howard. Australia seeks to introduce new powers that will allow innocent people to be jailed, punished without proof and some treated as guilty until proved innocent. These are dangerous laws that erode the foundations of our liberty.

Without the important safeguards that Britain, Canada and the USA have in a Bill of Rights to form a framework against which the law is read; Australia has no protection against terrorism laws undermining the very values of democracy and liberty.

The recent record of the DIMIA wrongfully detaining 220 people demonstrates that government departments are not infallible and a culture of harsh indifference to the inherent dignity of the human person who comes before them can go unheeded.

Trust in a government is not something that can substitute for an enduring form of human rights.

A Bill of Rights would strengthen our political and legal system giving a framework to assess new laws and assess whether in the balance of protection as against basic human rights; the balance is correct and justifiable. The time has come for a Federal Bill of Rights.

Multiculturalism

Successive Australian governments have supported and promoted the central principles of multicultural policies. Within a framework of common values members of different cultural and ethnic groups have the right to retain distinctive identities, equality of opportunity and freedom of religious expression.

All Australians have had their sense of security shaken since 11th September, but for Arab and Muslim Australians there have been distressing consequences.

In his speech to the Castan Centre for Human Rights Law Petro Georgiou identified the slippage and lack of vigorous analysis behind comments such as: “multiculturalism has encouraged Muslims to maintain their identity without becoming part of the community at large; this has led to separatism, the free propagation of extremist views and contempt for the Australia nation and its core values.”

Recent research on Muslim attitudes by Monash University scholar Dr David Wright-Neville found that: “segments of the Victorian communityfeel they are being unfairly targeted by the sorts of counter -terrorist measures that the Government has put in place.”

The Bill’s proposals for preventative detention and control orders are of concern in that they may be applied by security and police agencies against people of a particular ethnic background or religion (racial or religious profiling).

Without the requirement of proper proof before an independent authority; “guilt by suspicion” and “profiling” will heighten the fear and anxiety of Muslim communities.

It needs more than the Prime Minister's, the Attorney General's and the chief of the federal police's assurance that profiling will not be used to identify and act against would be terrorists. How will legislators, police and security agencies "take care that the substance of law and its implementation do not impact unfairly on Muslim and Arab Australians"?

Sedition

Much has been written in the press about the far-reaching and subjective defects in the Sedition provisions of the Bill.

The attempt to re-write the archaic laws of sedition has been so unsatisfactory that the Attorney General has agreed to have his Department review the sedition offences early in the new year. To pass a flawed provision is not logical and strongly points to the need to abandon the provisions of sedition or redraft them at the time of the Senate Inquiry.

The inclusion of the subjective defence of "acting in good faith" is a minefield. My involvement with asylum seekers as a voluntary person in my church may expose me to the risk of a charge of assisting a person associated with terrorist activities!

Strong argument has been presented to abolish the provisions. I concur with this course of action.

Children

I applaud the comments of Justice Alastair Nicholson in a speech to the Post - Graduate Criminology Society, The University of Melbourne 4/11/05, drawing attention to an aspect of the Bill that has drawn little comment so far. That is the effect of the new measures upon children.

Despite the sarcastic comment of Phillip Ruddock in attempting to side step the issues raised by Justice Alastair Nicholson; as a previous Chief Justice of the Family Court of Australia he is eminently qualified to speak of the impact of the proposed new measures.

There are two ways, "first directly if they are between 16-18 years of age and therefore liable to have some of the laws applied to them; and secondly indirectly if their parent or parents are placed under a control order or detained. In this regard it would appear that Australia is again in breach of the 1989 UN Convention on the Rights of the Child, as it has done consistently with the children of asylum seekers". In his paper he examines the impact upon Australian children and finds that under the Convention, "The legislation is in blatant breach of these articles."

Conclusion

If the measures in the Anti-Terrorism Bill 2005(Cth) were to be enacted there is no guarantee that our communities would be safe from acts of terror.

To escalate harsher and harsher security laws in response to each new act of terrorism in the world may well be achieving the terrorists ultimate goal of destroying our ideal of a democratic way of life.

Best practice demands a human rights framework because the danger to liberty and democracy is particularly high with anti-terrorism laws" Professor George Williams AFR 23/9/05.

The government has not made the case that this new legislation is necessary.

The Government has the onerous task of dealing with the tension of balancing the dual objectives of ensuring our intelligence and law enforcement agencies have the powers to deal with terrorism; and upholding our democratic way of life and preserving our basic freedoms. The Anti-Terrorism Bill 2005 fails to strike the right balance.

I urge the Committee to reject this Bill.

Yours sincerely

Sadie Ursula Stevens OAM

Herbert Rhead Stevens AM

9th November 2005