



**Islamic Information & Support Centre of Australia
(IISCA) Inc.**

In association with Ahlus Sunnah Wal Jama'ah Association

ABN: 50592 814755

Parliament of Australia
Parliamentary Joint Committee on Intelligence and Security
Parliament House
Canberra ACT 2600

Friday, 7 July 2006

Dear Sir/Madam

We would like to thank you for your letter dated 16th June 2006, requesting a submission from our organisation on the review of the operational aspects, effectiveness and implications of the laws and/or amendments¹ concerning:

- Security Legislation Amendment (Terrorism) Act 2002
- Border Security Legislation Amendment Act 2002
- Criminal Code Amendment (Suppression of Terrorist Bombings) Act 2002
- Suppression of the Financing of Terrorist Act 2002

The Ahlus Sunnah wal Jama'ah Association – ASWJ of Australia was established around twenty years ago. We are a national body with affiliated organisations in Melbourne, Sydney and Perth. Sheikh Mohammed Omran² is the national leader and is well known for his scholarly knowledge and jurisprudence amongst Muslims. ASWJ is proud of its political independence from external governments and political movements.

ASWJ promotes understanding and awareness of Islam amongst various communities and organisations throughout Australia. It has many affiliates like the Islamic Information and Support Centre of Australia (IISCA). As a mainstream organisation, it has ties with a vast array of Muslim leaders, organisations, communities, and so forth.

ASWJ believes it duty is to work with all members of the Islamic faith in what is fair and good, regardless of cultural background, language, and political ideology.

In principle, our organisation supports the position of the Australian Muslim Civil Rights Advocacy Network – AMCRAN; their submission on this topic will serve as our input. In general, ASWJ agrees with AMCRAN on the findings of the Sheller Inquiry. In addition, we are concerned with the provisions regarding:

¹ Note: The terminology of 'law' refers to both the law and/or amendments to law.

² Sheikh Mohammed Omran is also known Sheikh Abu Ayman.

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1. Issues concerning individual, group and/or organisational relationship(s), especially with regard to informal membership and/or financial support to such an organisation (in the past, present or future).

Although the committee plans to review this provision in 2007, we believe the committee should have an understanding of the issues concerning Muslims especially “memberships” and financial support for Muslim organisations.

If a Muslim does not have religious knowledge pertaining to an affair, he/she is required to seek guidance from those who have the requisite knowledge (Islamic Scholars). Muslims are required to pray five times a day at appointed times, preferably in a Mosque or at least with other Muslims. In addition, Muslim men must attend the Friday midday prayer at a Mosque or place of congregation. At this venue a special sermon is given to the community by an Imam or Sheikh. Muslims view the mosque as being a central part of their daily lives. The activities conducted in the mosque are as important as socialising with their families (extended) and is a part of religious belief. Many Muslim organisations are a part of a Mosque or vice versa and do not have formal memberships. They are open to the public and any Muslim can enter and pray. They generally operate using donated monies, and are managed and run by volunteers or the same people who regularly use the facilities for prayer and worship.

The concept of “informal” membership of an organisation is a particularly important question in this discussion. Muslims in Australia frequently pray in Mosques and donate monies towards the management and administration of facilities used on a regular basis as part of religious activities. We are concerned that a Muslim who is innocently fulfilling his/her basic religious obligations may be considered guilty of association with the activities of the organisation that manages or administers the facilities that he/she utilizes on a regular basis.

Moreover, a Muslim is required to pay Zakat or a poor tax annually of 2.5% of surplus wealth. Most Muslims pay the Zakat directly to the Mosque or community organisation for collection and distribution. Again, it is entirely understandable that there may be concern/fear in the mind of the average Muslim that an individual may become implicated by these new laws merely by having fulfilled their religious obligations.

We believe it is practically infeasible and logically unreasonable to require a practicing Muslim to check a government register before attending, supporting or using a Mosque or organisations’ facilities in the act of worshiping their Creator.



2. The manner in which an organisation falls into one of the categories under the laws concerning the mentioned Act(s) and/or amendments.

Our organisation believes it is worthwhile stressing the communities' concerns in this regard, even though the committee plans to review this issue in detail in 2007. The lack of apparent transparency of process in identifying terrorist organisations/groups may lead to a general reduction of support by Muslims towards their community groups. Moreover, it is widely believed these laws can and will be applied retrospectively. The perception of the average Muslim is that they may fall foul of the law due to previous attendance, relations or support for such an organisation.

Community support groups, which play a crucial role in society, may be disadvantaged by a lack of volunteers and funding. They survive by receiving monetary donations and volunteer time. As the Treasurer, Peter Costello himself stated in the lead up to the Commonwealth games "it's the volunteers which really make this great country function." Muslim organisations that are providing support services to the community may cease to exist and/or may have to reduce the range of services they offer. This impact will not be limited to the Muslim community and will have a flow-on effect to the wider Australian community. For example, invaluable community services such as Muslim marriage counselling and other social work by people respected by the community for their knowledge in the Muslim traditions of marriage.

It is widely believed amongst the Muslim community, these laws will create a veil of secrecy behind which organisations will be associated with terrorism. There are a number of reasons why this process is believed to be fundamentally flawed. One such reason is the process is not subject to the basic checks and balances that is the norm. Further, these assessments do not seek public or more importantly critical commentary from a wide cross-section of the relevant experts³.

The belief amongst Muslims and well-respected members of the legal fraternity is the selection process "is in the hands of a few selected politicians...." and ".... can be subject to lobbyist and other forms of political interference." Furthermore, the determination process is implemented without the normal scrutiny, public debate, advice from experts (from both sides) and consultative processes applying to similar issues of public interest.

³ Refer previous AMCRAN submissions in this regard.



The general lack of confidence in the decision making process, the motivations of decision-makers and the extent of their even-handedness all culminate in a perception that the process is very subjective, with little or no hope for redress once the decision is made.

The handling of immigration and detention by the federal government lends credibility to the aforementioned perceptions. Due to the secretive processes and an on-going culture of unchecked bias within the department, Australian citizens were incarcerated for many months on end and even deported. The extent of abuse of unchecked power has left many lives shattered, leaving a somewhat justified and lasting impression.

These concerns together with those previously mentioned, creates unnecessary angst in the community such as is evident from the commonly quoted perception that “if the government wants to get you, they will”! It is widely believed that an organisation is first associated with terrorism, and then a case is built against it with an underlying assumption of guilt. The onus is then on the organisation to prove its innocence.

Muslims feel that they may be accused of terrorism offences and charged as having committed a crime despite abiding by the law and practicing their constitutional rights to freedom of speech and religious expression.

We believe that although Muslims may have views that differ from mainstream Christian views, they have the same right to express and share their opinions with mainstream society.

3. *Secrecy provisions and the resulting power imbalance of the individual, group and organisation against accusations.*

As stated in our submission dated 3rd January 2006 to the Sheller inquiry. In general, we believe the new laws will not help make Australia a safer country nor protect the community from harm. We believe these laws seriously undermine civil liberties and other freedoms, which have been constitutionally guaranteed since colonization. We feel the rights of the vast majority of law-abiding Muslim citizens and organisations representing Muslim beliefs will be targeted, thereby limiting their lawful service activities, directly and indirectly.

An overwhelming sense of fear has taken hold of the Muslim community regarding the issue of ‘rights to natural justice’ in terrorism-related cases. There is a perception



that the government and its various agencies including law enforcement and security/intelligence are deliberately using severe financial penalties and the like to suffocate legitimate debate and discussion surrounding individual cases.

Furthermore, there is also a belief that elements of the government are capable of abusing their powers by skewing these cases against the defendants using a range of tools at their disposal. These include severe financial penalties to gag/suffocate individual opinion (eg. section 34VAA of the ASIO act) and selective leaking of sensitive and frequently inaccurate information to local media outlets. This misinformation frequently results in the dramatic loss of credibility of individuals involved in these cases to which the Muslim community may not seek redress.

The very act (deliberate or inadvertent) of releasing such information into the public domain may result in a denial of natural justice to the accused individual or organisation.

Once the information becomes public, it destroys their character and/or inhibits their ability to receive a fair trial.

This legislation offers little or no protection for the accused and does not provide for additional funding to help them and/or their families. The legislation under review is verbose and convoluted making it unlikely that the accused will be aware of their rights especially regarding interrogation, interview or arrest. Moreover, innocent family members, friends and relatives are often targeted by invasive journalists who may breach privacy laws, indiscriminately hounding them for information and/or statements that may see them fall foul of these new laws.

In the current climate, journalists are free to make ludicrous statements using “anonymous sources” without the need for substantiation. The only avenue for correction is a costly legal battle, which is beyond the reach of many people. This often only adds to the frustration, isolation and leaves the feeling of denial of natural justice, at a traumatic time.

Examples of two such incidents wherein complaints were made to the AFP and the issues raised were:

1. Arrest of the accused Jack Thomas, where an individual at the AFP⁴ deliberately gave confidential details to the Channel 7 network and camera operators were on site taking live action footage of the arrests. Invasive pictures and sensationalised statements were made to the detriment of the

⁴ AFP – Australian Federal Police.



situation, placing AFP members at risk in addition to promulgating the fervour of anti-Muslim sentiment.

2. Arrest and the aftermath of the June 2005 ASIO / AFP raids in Brunswick where the identities and other private information (including matters related to the operation) of the accused and the charges relating to the events were leaked to the News Corporation network of papers and media.

An example demonstrating the disproportionate bias against Muslims is the comparative situation of the 19 Muslim terrorist suspects reported, November 2005 and that of John Howard Amundsen reported on the 10th of May 2006.

In the case of the Muslim terrorist suspects arrested in November 2005, 'moderate' articles report:

About 500 officers took part in the raids early on Tuesday, in the country's largest ever counter-terrorism operation.

New South Wales police chief Ken Moroney said a "potentially catastrophic attack" had been averted. "I am satisfied that we have disrupted what I would regard as the final stages of a terrorist attack or the launch of a terrorist attack in Australia,"

Victoria's Police Commissioner, Christine Nixon, agrees that police have prevented a major terrorist attack from occurring. "We believe that they were planning an operation," she said. "*We weren't exactly sure when nor, more importantly, what they planned to damage or do harm to.*"

Prosecutor Richard Maidment QC told the city's Magistrate's court the nine formed a terrorist group to kill innocent men and women in Australia.

MELBOURNE man Ahmed Merhi, 20, who is expecting his first child, dreamed of being a suicide bomber: "He wanted to die here. He said he wanted to be a martyr (for Islam). It was quite clear that he wanted to go the way of a suicide bomber," Detective Sergeant Chris Murray told Melbourne Magistrates Court;

A variety of 'moderate' descriptions of the prison facilities and conditions, giving an impression of 'a fair and reasonable detention':

Each is confined in a separate cell of the Banksia high security unit at Barwon Prison.



Their cells are minimally furnished: a shower, toilet and bunk with a "birko" — an electric jug — reading material and small TV. Their neighbours, who they will not see, include some of Australia's hardest and highest-profile criminals, including those charged over gangland killings.

The men will spend most of their days in lockdown, allowed out of their cells for only three or six hours on alternate days. They will be entitled to a single one-hour, non-contact "box visit" with their family each week, although arrangements may be made for an extra visit to let them see their children.

It is an oppressive regime, but it is not solitary confinement, at least according to official definition. "We don't use that word," deputy commissioner for Corrections Victoria Paul Delphine said this week. From now until they reappear to face court again in January, they will be "managed individually".

However, in the case of the alleged terrorist John Howard Amundsen who, it is alleged had purchased and manufactured explosive devices, the media adopted a more cautious approach giving prominence to a spokesperson from the Queensland Council of Civil Liberties:

"We would accept that there must be certain security concerns, but the regime seems ... to be totally over the top," he said.

"No matter what he is charged with ... he is presumed innocent until proven guilty, and to treat him like that just violates that fundamental rule of our legal system."

4. Perceptions amongst the community that freedoms of speech, expression and religious belief have been limited.

Again our submission dated 3rd January 2006 to the Sheller inquiry briefly discussed this concern. The new laws passed in 2002/2003 have not met the greater objective to aid in better protecting Australia from the threat of terrorism. However, together with new anti-vilification laws at the state level, they have unnecessarily impeded lawful freedoms of speech, expression and other religious activities.

The media are quick to sensationalize any issue regarding Terrorism and/or Muslims. The hype generated together with certain members of the community making



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complaints to the relevant authorities in an attempt to discredit Muslim organisations, waste time, money and effort from Muslim organisations, who often operate on shoestring budgets or solely from volunteer donations. More often than not, they would rather operate without the unnecessary attention. Unfortunately, their efforts are diverted from their Muslim community programs towards defence of their organisation's right to exist. The effect is that freedom of speech and religious expression are held in check in order to avoid the unwanted attention.

A recent example of this was the "Books of Hate" campaign, championed by the media. This campaign was levelled against Muslim bookshops who were accused of inciting hatred by selling particular texts albeit these same texts were available in public libraries, at Universities and other bookshops around Australia. The media frenzy together with the involvement of a number of high profile politicians lead to a number of complaints made against Muslim bookshops. Even though the NSW police stated they "would abide by the 'qualified and considered legal opinion' offered by the Commonwealth Director of Public Prosecutions and Australian Federal Police." The complaints had to be heard and the case of vilification discussed at the expense of other community activities.

Muslims believe that freedom of speech is one of the cornerstones of our Australian society. However, they realize that in the current political climate they must carefully consider voicing their beliefs publicly as they may fall foul of the law or someone from the media may take issue with their freedoms. It is widely known that the media tends to sensationalize any issue involving Muslims to further cause divisions within the community between Muslims and non-Muslims (eg. Cronulla riots), ridicule Muslim beliefs or to exacerbate the existing climate of fear. Thereby restricting ones ability to think, speak, believe and practice their religion freely.

In contrast to this constant scrutiny, talkback radio hosts, media personalities, politicians alike seem to have a free hand in abusing, ridiculing and inciting hatred towards Muslims. The regular commentary from John Laws, Alan Jones and Steve Price in Sydney are examples of talkback hosts who seemingly incite open hatred towards Muslims, their beliefs and their culture. All too often, they incite the hatred of their audience, 'egging them on' and then encouraging callers to make derogatory statements about Muslims. These 'Shock-Jocks' as they are commonly referred, deliberately ignore their obligation to censor offensive materials during the 10 second on-air delay. An example of this was during the Cronulla riots, when untruths about the circumstances surrounding the events were deliberately manipulated into a story of Us versus Them. All these elements together with widespread unsubstantiated

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claims increased the heightened tensions, in a volatile situation. In reality, thugs of all religious denominations caused the riots.

The problem is not limited to talk back radio, even the commercial stations are actively encouraging this division within the community. For example the “Today Tonight” program on channel 7 whereby a journalist went on the road with Muslim youth in Lakemba. The ABC Media Watch program aired a wonderful piece highlighting this example of the hypocrisy of the media towards Muslims.

To aggravate the situation for Muslims further, political strategists plan uniform strategies in the party room, which alienate and discriminate against Muslims. For example in late 2005 senior members of the government started the “if you don’t like it get out” campaign⁵. This campaign was aimed exclusively at Muslims of all ages, even Muslim primary school children were not immune to the constant barrage of insults and ridicule caused by the Treasurer Peter Costello, Education minister Dr Brendan Nelson, Backbencher Bronwyn Bishop, Minister for Defence Robert Hill and Bob Carr whilst premier of NSW to name a few.

These statements are very offensive to Australian Muslims. However coupled with the apparent dichotomy of treatments for Muslims, give the average person a reasonable reason to feel discriminated against.

We do not believe the intent of the laws were to restrict freedoms of speech, however the effect is real and they are having the negative effect of silencing dissatisfaction, with the government and more seriously undermining the feeling of Muslims towards exercising their right of being free to express different views and beliefs in Australia.

5. *Heightened levels of angst within Muslim community with politicians, the government and authorities (includes all agent(s) and agencies).*

This area is probably the most difficult to describe as it involves extrapolating a variety of general concerns, specific reactions and personal experiences shared by the Muslim community.

There has been a revival of Islamic beliefs and a large number of youth are turning back to their religion, Islam. The backgrounds of these people commonly referred to as ‘reverts’ are not limited to traditional Muslim families or nationalities. Since the

⁵ The climate created by this campaign was best surmised in the Paul Austin article in The Age newspaper, dated 2nd March 2006 and appropriately title “Don’t turn on the Muslims, says Bracks.”



11th of September 2001, the Bali, Madrid and London bombings have seen a dramatic rise in non-Muslim inquiries and reversion⁶. These events have encouraged people to search for the truth and their investigations reveal the magnitude of horrendous injustices the world over.

As already discussed, the accepted belief that Muslim free speech has been muzzled, is widely accepted by Muslims. The ostracising of Muslim youth from the rest of society and their inability to express their anger is a dangerous development with far-reaching and long-term implications. This unfortunate development sees Muslim youth losing their sense of being an active member of society or being valued by the community. Moreover, the pressure exerted by government, media and various interest groups⁷, has created the current climate that attempts to suppress free speech and discussion at the religious and theological levels. Unfortunately, certain elements of the Muslim community themselves are attempting to re-define their beliefs in an effort to withstand the constant barrage of attacks.

The Muslim youth are most sensitive to such matters, often lacking the maturity of mind to deal with complex issues. They often act before thinking through their desires. This is where respected Islamic or Muslim Scholars⁸ have attempted to capture the hearts and minds of these youth. These respected Scholars teach and educate, making it obligatory for the youth to understand their Islamic duties, the historical context and contemporary application of Islamic texts and jurisprudence. The topics discussed generally cover a variety of issues of interest eg. 'hot topics' like Jihad⁹ and may also include theological conversations covering the differences between comparative or other religions.

Apart from excising freedoms of religious belief otherwise afforded legally and desirably in our pre-2002/2003 new law era, the Muslim youth were made aware of their Islamic obligations, 'to seek and gain knowledge before action'.

The efforts of respected Scholars should have been actively encouraged by the politicians and media, as they were by the Intelligence agencies years prior and after

⁶ Reversion – conversion to Islamic faith and beliefs.

⁷ Interest groups – here applies to both Muslim & non-Muslim groups, including the Prime Ministers hand picked Muslim reference group and other politically active lobbyists and/or groups/associations.

⁸ Muslim Scholars – here relates to people who are knowledgeable in the holy Quran and Sunnah (teaching of the Prophet Mohammed (pbuh)).

⁹ Jihad – a struggle or to strive in Allah (swt) cause. It may describe actively engaging in fighting/warfare but also includes the wearing of the hijab (Muslim woman's headdress).



the events surrounding the 11th of September 2001. Unfortunately¹⁰, heightened political interference, scare mongering using international events and the need to re-align Australia's foreign policy according to the whims of new allies has led to the censorship of free speech and discussion previously afforded to such Muslim Scholars or leaders. This form of 'free speech has been likened to a pressure valve which releases the anger and anguish felt by the Muslim youth'. Muslims believe they are limited in discussing fundamental Islamic principles that have been established for over 1400 years. These principles are critical because they discuss both the injustices and atrocities committed upon Muslims, as well as remedies. The eventual outcome is a cause for concern as the constant disproportionate scrutiny, coupled with the perceived limitations on freedom and the frustrations felt by Muslim youth may force people underground, away from the Scholars that have the required levels of knowledge to correct misunderstandings.

Another concern is the perceived "presumption of guilt until proven innocent" amongst the Muslim community. The new laws give this impression. Muslims believe they have little or no rights compared to others in society, they can be:

- Whisked off of the street and vanish for weeks without trace,
- Detained when charged for lengthy periods of time in solitary confinement¹¹ or other draconian methods of incarceration,
- Held at will, whilst a case is made against them,
- Listen helplessly as politicians, government agencies including AFP, state Police, Public servants etc. make irrefutable statements and/or leak information which denies their ability to receive a fair and balanced trial,
- Tried in secrecy, where evidence will not become public knowledge until the statute of limitations allows the release,
- Incarcerated for disproportionately lengthy sentences¹², when no crime has been committed.

The new laws may be a requirement of the "New World Order" and the "War on Terror". However, the government is quick to implement the laws, without educating the community most affected. The normal scrutinization process usually results in public discussions of the limits of the laws and the rights an individual is afforded as

¹⁰ Some Muslim organisations and Scholars actively discussing topical issues are usually attacked by the media and/or politicians using derogatory terms like firebrand, extremist etc. eg. 'Radicalization of Muslims'.

¹¹ Solitary confinement – usually reserved for people having been tried and convicted, in a court of law for the worst of crimes.

¹² Disproportionately – when compared to the accepted norms of punishment for other crimes.



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a means to protect him/herself from further punishment eg. to remain silent. Moreover, the government has not made any changes to limit the effects on the accused's family from unfair invasions into their private lives. The government appears to have not thought through the impact to Muslims and the Muslim community. Examples of areas we believe could be improved are:

- Educating Muslims about their rights in such matter,
- Tougher penalties for the leaking of sensitive information when someone is accused of a terrorist related crime,
- Methods to expedite terrorist cases to trial,
- Operational frameworks for gathering information about 'thought-crimes', thereby limiting time spent incarcerated whilst a case is developed and/or limiting the maximum amount of time the accused is held in detention before trial,
- Creation of a new class of detention whilst the accused is held awaiting trial, which takes into considerations a crime may not have been committed and the rights of family and friends to visit the detained.
- Additional funding for legal council, proportionate to the severity of the alleged crime,
- Transparency of process in the aftermath of the accused once innocence has been proven with reasonable compensation payments,

The above list is in no way exhaustive, much more discussion and debate is still required.

Another area for concern is the perceived lack of concern or sensitivity by local law enforcement agencies towards verbal and physical attacks or threats made against Muslims, their property and/or businesses. These beliefs have either encouraged Muslims not to make complaints, or decide not to proceed further. Amongst the Muslim community, personal accounts and experiences in this regard circulate freely and often unsubstantiated claims are taken for granted, thereby further discouraging cooperation and/or the seeking of assistance with the relevant authorities.

As an example: During Mothers day there was a verbal and physical attack on a single, mature 50 year old Muslim woman, where a group of two middle aged men around 40-45 years of age and their partners of similar ages taking roses and then the entire rose bush in broad daylight. When the Muslim woman requested they get out of her property, they became verbally abuse and spat at her, making derogatory statements and chasing her inside.

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She called the police several times, as the group had made threats and she feared for her safety as the group warned her not to go to the police, as they knew her address and would return. After the fifth call to the local police station, she was advised the police were very busy and this was not a serious enough matter, they would probably come over sometime during the next day. At the prompting of others, the police did eventually turn up the next day only to advise (after being pressured into action) all they could do was visit the person, the vehicle was registered to and warn them.

The Muslim woman in question has since had several other incidents happen, without taking the matter to the police.

We appreciate the efforts of the PJCIS, welcoming further involvement in matters that can assist the Muslim community. Our organisation will contact you in the near future to confirm our ability to send representatives to attend the scheduled committee hearings, later this month.

Yours Sincerely

Sheikh Mohammed Omran
Secretary General
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